

CITY OF FRANKLIN, OHIO
ORDINANCE 2021-03

REPEALING IN ITS ENTIRETY CHAPTER 924 TITLED “ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL” OF THE CODIFIED ORDINANCES OF THE CITY OF FRANKLIN, OHIO, AND ENACTING A NEW CHAPTER 924, TITLED “ILLICIT DISCHARGE DETECTION AND ELIMINATION”

WHEREAS, the City of Franklin must comply with the Clean Water Act and directives of the Ohio Environmental Protection Agency;

WHEREAS, as a result, the City’s regulations regarding Illicit Discharges must be updated to remain in compliance with updates to the Clean Water Act;

WHEREAS, the City of Franklin has engaged since 2019 Warren County Soil and Water Conservation District to administer the requirements of the Clean Water Act and, more specifically, the requirements the City adheres to as a Municipal Separate Storm Sewer System;

WHEREAS, this ordinance update is one proposed by the Warren County Soil and Water Conservation District to allow it to effectively and efficiently streamline enforcement not only for the City of Franklin, but other entities within Warren County for which it performs similar services.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Franklin, Ohio, a majority of the members elected thereto concurring, that:

Section 1. Existing Chapter 924 of the Codified Ordinances of the City of Franklin, Ohio, attached hereto as Exhibit A, is repealed in its entirety.

Section 2. The attached Exhibit B, Chapter 924, titled “Illicit Discharge Detection and Elimination,” replaces the repealed Chapter 924 and is enacted into law. Said Chapter shall be added to the Codified Ordinances of the City of Franklin under Part Nine – Streets, Utilities and Public Service Code, Title Three – Utilities.

Section 3. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 4. This Ordinance shall become effective on May 5, 2021.

INTRODUCED: March 15, 2021

ADOPTED: April 5, 2021

Khristi Dunn

ATTEST: _____
Khristi Dunn, Clerk of Council

Brent W. Centers

APPROVED _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2021-03 passed by that body on April 5, 2021.

Lynette Dinkler

Approved as to form: _____
Lynette Dinkler, Law Director

Khristi Dunn

Khristi Dunn, Clerk of Council

EXHIBIT A

CHAPTER 924

~~Illicit Discharge and Illegal Connection Control~~

- ~~924.01 Purpose and scope.~~
- ~~924.02 Applicability.~~
- ~~924.03 Definitions.~~
- ~~924.04 Disclaimer of liability.~~
- ~~924.05 Conflicts, severability, nuisances and responsibility.~~
- ~~924.06 Responsibility for administration.~~
- ~~924.07 Discharge and connection prohibitions.~~
- ~~924.08 Monitoring of illicit discharges and illegal connections.~~
- ~~924.09 Enforcement and penalties.~~
- ~~924.10 Penalties not exclusive.~~

~~924.01 PURPOSE AND SCOPE.~~

~~(a) The purpose of these regulations is to provide for the health, safety and general welfare of the citizens of the City of Franklin through the regulation of illicit discharges to the municipal stormwater sewer system (MS4). These regulations establish methods for controlling the introduction of pollutants into the storm water system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process, as required by the Ohio Environmental Protection Agency (Ohio EPA).~~

~~(b) The objectives of these regulations are to prohibit illicit discharges and illegal connections to the MS4, and to establish legal authority to carry out inspections, monitoring procedures and enforcement actions necessary to ensure compliance with these regulations.~~

~~(Ord. 2009-20. Passed 9-21-09; Ord. 2011-18. Passed 10-3-11.)~~

~~924.02 APPLICABILITY.~~

~~These regulations shall apply to all residential, commercial, industrial and/or institutional facilities responsible for discharges to the MS4 and on any lands within the corporate limits of the City of Franklin; excepting those discharges generated by activities detailed in Section 924.07(a)(1) to (a)(3) of this Chapter.~~

~~(Ord. 2009-20. Passed 9-21-09; Ord. 2011-18. Passed 10-3-11.)~~

~~924.03 DEFINITIONS.~~

~~The words and terms used in this Chapter, unless otherwise expressly stated, shall have the following meaning:~~

~~(a) Best Management Practices (BMP's): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage.~~

~~(b) City or Community: The City of Franklin, Ohio, its officers, employees, designated representatives, boards and commissions.~~

~~(c) Environmental Protection Agency (EPA): The United States EPA and/or the State of Ohio EPA, or any duly authorized official of said agencies.~~

~~(d) Floatable Material: In general this term means any foreign matter that may float or remain suspended in the water column and includes, but is not limited to, plastic, aluminum cans, wood products, bottles and paper products.~~

~~(e) Hazardous Material: Any material including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.~~

~~(f) Illicit Discharge: As defined at 40 C.F.R. 122.26 (b)(2), means any discharge to an MS4 that is not composed entirely of storm water; except for those discharges to an MS4 pursuant to a NPDES permit or as otherwise noted in Section 924.07 of this Chapter.~~

~~(g) Illegal Connection: Any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.~~

~~(h) Municipal (Separate) Stormwater Sewer System (MS4): As defined at 40 C.F.R. 122.26(b)(8), a municipal separate stormwater sewer system means a conveyance or system of conveyances, including roads with drainage systems, municipal street, catch basins, curbs, gutters, ditches, man made channels or storm drains that is:~~

- ~~(1) Owned or operated by a state, city, town, borough, county, parish, district, municipality, township, district, association or other public body that was created by, or pursuant to, state law and that has jurisdiction over sewage and/or industrial wastes, including special districts under state law such as a sewer district or similar entity, or a Native American tribe or an authorized Native American tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharge to waters of the United States;~~
- ~~(2) Designed or used for collecting or conveying storm water;~~
- ~~(3) Not a combined sewer; and~~
- ~~(4) Not part of a Publicly Owned Treatment Works (POTW), as defined at 40 C.F.R. 122.2.~~

~~(i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by the EPA, or by a state under authority delegated pursuant to 33 USC Section 1342(b), that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group or general area wide basis.~~

~~(j) Off Lot Discharging Home Sewage Treatment System: A system designed to treat home sewage on site and discharge treated wastewater effluent off of the property into a storm water or surface water conveyance or system.~~

~~(k) Owner/Operator: Any individual, agent, firm, association, organization, corporation, or partnership or other entity recognized by law that alone, jointly, or severally with others:~~

- ~~(1) Has legal or equitable title to any premises, building, structure, dwelling or dwelling unit, with or without accompanying actual possession thereof; or~~
- ~~(2) Has charge, care or control of any premises, building, structure, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee or guardian of the estate of the beneficial owner.~~

~~The person(s) shown on the records of the Warren County Recorder to be the owner(s) of a particular property shall be presumed to be the person(s) in control of that property.~~

~~(l) Pollutant: Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure and noxious or offensive matter of any kind.~~

~~(m) Premises: A lot, plot or parcel of land with its appurtenances, building, dwellings and/or structures thereon, and including any yards.~~

~~(n) Storm Water: Any surface flow, runoff and/or drainage consisting entirely of water from any form of natural precipitation that results from such precipitation.~~

~~(o) Wastewater: The spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions.~~

~~(Ord. 2009-20. Passed 9-21-09; Ord. 2011-18. Passed 10-3-11.)~~

~~924.04 – DISCLAIMER OF LIABILITY.~~

~~Compliance with the provisions of this Chapter shall not relieve any person from responsibility for damage to any persons or property otherwise imposed by law. The provisions of this Chapter are promulgated to promote the health, safety and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.~~

~~(Ord. 2009-20. Passed 9-21-09; Ord. 2011-18. Passed 10-3-11.)~~

~~924.05 – CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.~~

~~(a) Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City, shall prevail.~~

~~(b) If any clause, section or provision of this Chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.~~

~~(c) This Chapter shall not be construed as authorizing any Owner/Operator to maintain a nuisance on their property, and compliance with the provisions of this Chapter shall not be a defense in any action to abate such nuisance.~~

~~(d) Failure of the City to observe or recognize hazardous or unsightly conditions, or to recommend corrective measures, shall not relieve the Owner/Operator from the responsibility for the condition or damage resulting therefrom and shall not result in the City, its officers, employees or agents being responsible for any condition or damage resulting therefrom.~~

~~(Ord. 2009-20. Passed 9-21-09; Ord. 2011-18. Passed 10-3-11.)~~

~~924.06 – RESPONSIBILITY FOR ADMINISTRATION.~~

~~The City shall administer, implement and enforce the provisions of this Chapter. The City may contract with the Warren County Board of Health or other outside agency to conduct inspections, monitor and assist with enforcement actions.~~

~~(Ord. 2009-20. Passed 9-21-09; Ord. 2011-18. Passed 10-3-11.)~~

~~924.07 – DISCHARGE AND CONNECTION PROHIBITIONS.~~

~~(a) Prohibition of Illicit Discharges. No Owner/Operator shall discharge, or cause to be discharged, any illicit discharge into the City's MS4. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited; except as herein described:~~

~~(1) Waterline flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the City to be significant contributors of pollutants to the MS4.~~

~~(2) Discharges specified, in writing, by the City as being necessary to protect public health and safety.~~

~~(3) Discharges from off lot discharging home sewage treatment systems permitted by the Warren County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29-02(6), until such time as the Ohio EPA issues an NPDES permitting mechanism for residential one-, two- or three-family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Warren County Board of Health.~~

~~(4) In compliance with the City's Storm Water Management Regulations, discharges from all off lot discharging home sewage treatment systems must either be eliminated or have coverage under an~~

~~appropriate NPDES permit, issued and approved by the Ohio EPA. When such permit coverage is available, discharges from off lot discharging home sewage treatment systems will no longer be exempt from the requirements of this Chapter.~~

~~(b) Prohibition of Illegal Connections. The construction, use, maintenance or continued existence of illegal connections to the MS4 is prohibited. This prohibition expressly includes, but is not limited to, illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. An Owner/Operator is considered to be in violation of this regulation if the Owner/Operator connects a line conveying illicit discharges to the MS4, or allows such connection to continue. (Ord. 2009 20. Passed 9 21 09; Ord. 2011 18. Passed 10 3 11.)~~

~~924.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS.~~

~~(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The City shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This Program shall include the mapping of the MS4 (including MS4 outfalls and home sewage treatment systems); the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial and institutional facilities for the sources of any dry weather flows found as the result of these inspections.~~

~~(b) Inspection of Residential, Commercial, Industrial or Institutional Facilities.~~

~~(1) The City shall be permitted to enter and inspect facilities subject to this Chapter as often as may be necessary, at reasonable times and upon reasonable notice to the Owner/Operator, to determine compliance with this Chapter. This right of entry shall be subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the City is authorized to pursue recourse as provided by law including, but not limited to, seeking an administrative search warrant, injunctive relief and/or criminal remedies.~~

~~(2) The City shall have the right to set up at facilities subject to this Chapter such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the City.~~

~~(3) The City shall have the right to require the facility's Owner/Operator to install sampling and/or monitoring equipment as the City deems necessary. This sampling and/or monitoring equipment shall be maintained at all times in safe and proper operating condition by the Owner/Operator at the Owner/Operator's expense. All devices used to measure storm water flow and quality shall be calibrated by the City to ensure their accuracy.~~

~~(4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or monitored shall be promptly removed by the facility's Owner/Operator at the written or oral request of the City and shall not be replaced. The cost of clearing such access shall be borne by the facility Owner/Operator.~~

~~(5) Unreasonable delays in allowing the City access to a facility subject to this Chapter for the purposes of illicit discharge inspection may be a violation of this Chapter.~~

~~(6) Any costs associated with these inspections shall be assessed to the facility Owner/Operator. If such costs are not paid within thirty (30) days of the date of the invoice sent to the Owner/Operator, the City may cause a lien to be placed upon the property of the facility.~~

~~(Ord. 2009 20. Passed 9 21 09; Ord. 2011 18. Passed 10 3 11.)~~

~~924.09 ENFORCEMENT AND PENALTIES.~~

~~(a) Notice of Violation and Correction Order.~~

~~(1) When the City finds that a premises is in violation of any provision of this Chapter, or that an Owner/Operator has violated any provision of this Chapter or has failed to meet any requirement of this Chapter, the City may order compliance by written Notice of Violation and/or Correction Order. Such notice must specify the violation and shall be hand delivered and/or sent by certified mail to the Owner/Operator of the premises. Such Notice and/or Order may require the following actions:~~

~~— A. The performance of monitoring, analyses and reporting;~~

~~B. The elimination of illicit discharges or illegal connections;~~

- ~~C. The "cease and desist" of any violation discharges, practices or operations;~~
- ~~D. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and/or~~
- ~~E. The implementation of source control or treatment BMPs.~~

- ~~(2) If abatement of a violation and/or restoration of affected property is required, the Correction Order shall set forth a deadline within which such remediation or restoration must be completed. Said Order shall further advise that should the Owner/Operator fail to remediate and/or restore within the established deadline, legal action for enforcement may be initiated.~~
- ~~(3) Any Owner/Operator receiving Notice of Violation and/or Correction Order must meet compliance standards within the time established in the Notice of Violation and/or Correction Order.~~

~~(b) Appeals: Any Owner/Operator who is adversely affected by the issuance of a Notice of Violation and/or Correction Order under this Chapter may appeal to the Appeals Board. Such appeal shall be in writing and shall be filed within twenty (20) days of the issuance of the Notice of Violation and Correction Order.~~

~~(c) Prosecution of Violations. Upon the failure of any Owner/Operator to comply with a Notice of Violation and Correction Order, or upon a violation of any section of this Chapter, the City may institute the appropriate proceeding, whether in law or in equity, to penalize, restrain, correct or abate such violation.~~

~~(d) Penalties. Unless otherwise provided in this Chapter, the penalties for failure to comply with a Notice of Violation and Correction Order, and/or for a violation of this Chapter shall be as follows:~~

~~Whoever violates this section is guilty of an unclassified misdemeanor, and in addition to any other penalties allowed by law, the Court shall fine the person as follows:~~

- ~~(1) On a first offense, not less than twenty five dollars (\$25.00);~~
 - ~~(2) On a second offense within one (1) year, not less than fifty dollars (\$50.00);~~
 - ~~(3) On a third offense within one (1) year, not less than one hundred dollars (\$100.00);~~
 - ~~(4) On a fourth offense within one (1) year, not less than two hundred dollars (\$200.00);~~
 - ~~(5) On a fifth offense within one (1) year, not less than four hundred dollars (\$400.00);~~
 - ~~(6) On a sixth offense within two (2) years, not less than six hundred dollars (\$600.00);~~
 - ~~(7) On a seventh offense within two (2) years, not less than eight hundred dollars (\$800.00);~~
 - ~~(8) On an eighth offense or higher within two (2) years, not less than one thousand dollars (\$1,000).~~
- ~~Each day the violation continues shall be considered a separate offense. The application of the penalties herein described shall not prevent the abatement of prohibited conditions.~~
- ~~(Ord. 2009 20. Passed 9 21 09; Ord. 2011 18. Passed 10 3 11.)~~

~~924.10 PENALTIES NOT EXCLUSIVE.~~

~~The penalties listed in this Chapter are not exclusive of any other remedies available under any applicable Federal, State or local law, and it is within the discretion of the City to seek cumulative remedies. If an Owner/Operator has violated or continues to violate this Chapter, the City may institute an appropriate action, whether in law or in equity, to restrain, correct or abate a violation, or petition for an injunction, to any court of competent jurisdiction.~~

~~(Ord. 2009 20. Passed 9 21 09; Ord. 2011 18. Passed 10 3 11.)~~

EXHIBIT B

CHAPTER 924

Illicit Discharge and Illegal Connection Control

924.01	Title.	924.11	Suspension of MS4 Access
924.02	Statutory Authority.	924.12	Industrial or Construction Activity Discharges
924.03	Purpose.	924.13	Monitoring for Illicit Discharges and Illicit Connections
924.04	Applicability.	924.14	Notification of Spills
924.05	Disclaimer of Liability.	924.15	Enforcement
924.06	Conflicts, Severability, Nuisances and Responsibility.	924.16	Appeal of Notice of Violation
924.07	Definitions.	924.17	Cost of Abatement of the Violation
924.08	Administration.	924.18	Violations Deemed a Public Nuisance
924.09	Prohibition of Illicit Discharges	924.19	Remedies not Exclusive.
924.10	Prohibition of Illicit Connections		

924.01 TITLE

These regulations and amendments thereto, shall be cited as the City of Franklin (City) Illicit Discharge Detection and Elimination regulations and may hereinafter be referred to as “these regulations”.

924.02 STATUTORY AUTHORITY

These regulations are promulgated in accordance with Section 4 of Article XVIII of the Ohio Constitution and chapter 3745-39 of the Ohio Administrative Code to implement Phase II of the storm water program of the National Pollutant Discharge Elimination System established in 40 C.F.R. Part 122.

924.03 PURPOSE

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-storm water discharges to the City’s municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the NPDES permit process. The objectives of this ordinance are:

- a) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user;
- b) To prohibit illicit connections and discharges to the MS4;
- c) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this ordinance.

924.04 APPLICABILITY

These regulations are intended to conform to the requirements found in the Ohio Environmental Protection Agency (Ohio EPA) Phase II General Permit for Municipal Separate Storm Sewer Systems (MS4) and the associated OEPA Construction General Permit. As the OEPA permits are routinely updated, any inconsistencies in the requirements, definitions or verbiage between these regulations as compared to the OEPA permits shall assume the current permit language prevails.

This ordinance shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the City, except for those discharges generated by the activities detailed in Section 200 (a) to (c) of this ordinance.

924.05 DISCLAIMER OF LIABILITY

Compliance with the provisions of these regulations shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of these regulations are promulgated to promote the health, safety and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.

924.06 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of these regulations should be considered minimum requirements, and where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

If any clause, section, or provision of these regulations is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

These regulations shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of these regulations shall not be a defense in any action to abate such a nuisance.

Failure of the City or its designated agent to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

924.07 DEFINITIONS

For the purposes of these regulations, the following terms shall have the meaning herein indicated; otherwise, words or terms not defined, or interpreted by these regulations or statutory or administrative law, shall have their customary meaning as interpreted by Ohio common law, or in the event no common law exists then as found in the most recent editions of published dictionaries.

Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act - The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Environmental Protection Agency - The United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (Ohio EPA) or any duly authorized official of said agency.

Floatable Materials - Any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.

Hazardous Materials - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Household Sewage Treatment System (HSTS) - A system designed to treat household sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.

Illicit Connection - Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4.

Illicit discharge - Any discharge to the Stormwater System not composed entirely of stormwater except the following: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(b)(20)], uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, charity car wash events, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, home sewer treatment systems that discharge in accordance with Warren County Combined Health District Codes and permits, and discharges or flows from fire-fighting activities.

Industrial Activity - Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4) - As defined at 40 C.F.R. 122.26 (b)(8), means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is:

Owned or operated by a State, County, town, borough, , parish, district, municipality, township, district, association, or other public body (created by or pursuant to State law) having jurisdiction over sewage, industrial wastes, including special districts under State law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States; designed or used for collecting or conveying storm water; Which is not a combined sewer; and which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.

Non-Storm Water Discharge - Any discharge to the storm drain system that is not composed entirely of storm water.

NPDES – National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.

Site owner, property owner or owner – Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.

Pollutant - Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Water - Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Wastewater - Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

924.08 ADMINISTRATION

The City will follow the Warren County Illicit Discharge Detection and Elimination Manual (IDDE Manual) that outlines the County's approach to identify and addressing illicit discharges from the MS4.

924.09 PROHIBITION OF ILLICIT DISCHARGES

No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as described as follows:

a) Water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensate; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from firefighting activities. These discharges are exempt until such time as they are determined by the City to be significant contributors of pollutants to the MS4.

b) Discharges specified in writing to the City, or it's designated agent, as being necessary to protect public health and safety.

c) Dye testing is an allowable discharge but requires a notification to the City, or it's designated agent, prior to the time of the test.

d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

924.10 PROHIBITION OF ILLICIT CONNECTIONS

The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. A person is considered to be in violation of this ordinance if the person connects a line conveying illicit discharges to the MS4 or allows such a connection to continue.

924.11 SUSPENSION OF MS4 ACCESS

The City or it's designated agent may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the City or it's designated agent may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City, or it's designated agent, will notify a violator of the proposed termination of its MS4 access. The violator may petition the City or it's designated agent for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City or it's designated agent.

924.12 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4.

924.13 MONITORING FOR ILLICIT DISCHARGES AND ILLICIT CONNECTIONS

The City has established a program to detect and eliminate illicit discharges and illicit connections to the MS4. This program includes the mapping of the MS4, including MS4 outfalls and receiving waters and household sewage treatment systems connected to the MS4; the routine inspection of storm water outfalls to the MS4, and a process to

identify and eliminate any discovered illicit discharges.

a) The City, or its designated agent, shall be permitted to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.

b) The City, or its designated agent, shall have the right to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's storm water discharge, as determined by the City.

c) The City, or its designated agent, shall have the right to require the facility owner/operator to install monitoring equipment as necessary. This sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the facility owner/operator at the owner/operator's expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

d) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the City or its designated agent and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.

e) Unreasonable delays in allowing the City, or its designated agent, access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.

f) If the City, or its designated agent, is refused access to any part of the facility from which storm water is discharged, and the City demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the City may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief from any court of appropriate jurisdiction.

924.14 NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4 said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City or its designated agent in person or by phone no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City or its designated agent within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

924.15 ENFORCEMENT

a) Notice of Violation. When the City, or its designated agent, finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the City or its designated agent may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice may require the following actions:

- 1) The performance of monitoring, analyses, and reporting;
- 2) The elimination of illicit discharges or illicit connections;
- 3) That violating discharges, practices, or operations cease and desist;
- 4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; or
- 5) The implementation of source control or treatment BMPs.

b) If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline, determined at the discretion of the enforcing agent, within which such remediation or restoration must be completed. Said Notice shall further advise that, should the facility owner/operator fail to remediate or restore within the established deadline, a legal action for enforcement may be initiated.

c) Any person receiving a Notice of Violation must meet compliance standards within the time established at the discretion of the enforcing agent in the Notice of Violation.

d) Injunctive Relief: It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation. If an owner/operator has violated or continues to violate the provisions of this regulation, the City or its designated agent may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation or other appropriate relief. The court may order the implementation of control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule of this regulation or administrative order issued under these regulations shall be considered a separate violation subject to a civil fine.

924.16 APPEAL OF NOTICE OF VIOLATION

Any person aggrieved by requirement, determination, or any other administrative action or inaction by the City or its designated agent in relation to these regulations may appeal to the court of common pleas. Such an appeal shall be made in conformity with the Ohio Revised Code Chapters 2505 and 2506.

924.17 COST OF ABATEMENT OF THE VIOLATION

Within 30 days after the City's, or its designated agent's, abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the City, or its designated agent, or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City or its designated agent by reason of such violation.

924.18 VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

924.19 REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies, including criminal penalties as authorized in section 743.99 of the Ohio Revised Code where applicable.