

Celina, OH Code of Ordinances

CHAPTER 935

Storm Water Pollution Prevention Plan and Site Development

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935.01 PURPOSE AND SCOPE.

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the City of Celina through the regulation of illicit discharges to the municipal separate storm sewer system (MS4). This regulation establishes methods for controlling the introduction of pollutants into the MS4 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). The objectives of this regulation are:

- (a) To prohibit illicit discharges and illegal connections to the MS4.
- (b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.
- (c) Reduce impacts due to soil erosion and sedimentation caused by construction activities.
- (d) Reduce damage to the receiving streams and drainage systems caused by increases in sedimentation discharged from development activities.
- (e) Reduce worsening of the quality of the receiving waters.

935.02 APPLICABILITY.

This regulation shall apply to all residential, commercial, industrial, development area or institutional facilities responsible for discharges to the MS4 and on any lands in the City of Celina, except for those discharges generated by the activities detailed in Section 935.07(a)(1) to (a)(3) of this regulation.

935.03 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings indicated. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular. Where terms are not defined in this code they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.

- (a) Applicant: means the developer, owner or contractor applying for the zoning permit.
- (b) Best Management Practices (BMPs): means 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 of leaks, sludge or water disposal, or drainage from raw materials storage.

- (c) Channel: means a natural stream that conveys water or man-made structure or ditch excavated for the flow of water.
- (d) City: means the City of Celina, Ohio.
- (e) Clean Water Act: means the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) and any subsequent amendments thereto and its aim is to control and regulate the discharge of pollutants into all waters.
- (f) Conservation: means the wise use and management of natural resources.
- (g) Denuded Area: means a portion of land surface on which the vegetation or other soil stabilization features have been removed, destroyed or covered and which may result in or contribute to erosion and sedimentation.
- (h) Development Area: means any tract, lot or parcel of land where an earth disturbing activity is to be performed in accordance with a single plan of development.
- (i) Division of Soil and Water Conservation: means the Mercer County section of Ohio Department of Agriculture- Division of Soil and Water Conservation, organized under Ohio Revised Code Chapter 1515 and transferred to Chapter 940.
- (j) Earth-Disturbing Activity: means any clearing, grubbing, grading, excavating, filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed.
- (k) Engineering Department: means an authority of the City of Celina, Ohio.
- (l) Environmental Protection Agency or United States Environmental Protection Agency: means the United States Environmental Protection Agency (USEPA), including but not limited to the Ohio Environmental Protection Agency (OEPA), or any duly authorized official of said agency.
- (m) Erosion: means the process by which the land surface is worn away and relocated by the action of water, wind, ice or gravity.
- (n) Erosion and Sediment Control Practices: means conservation measures used to control wearing away and movement of soils and includes structures, vegetation and management techniques.
- (o) 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.
- (p) Grading: means earth-disturbing activity such as excavation, stripping, cutting, filling, stockpiling, dumping or any combination thereof.
- (q) Grubbing: means removing, clearing or scalping material such as roots, stumps or sod.
- (r) Hazardous Material: means 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.
- (s) Illicit Discharge: 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 noted in Section 935.07 of this regulation.
- (t) Illegal Connection: means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
- (u) Municipal Separate Storm Sewer System (MS4): municipal separate storm sewer 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):
  - 1. Owned or operated by a state, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over sewerage, 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;
2. Designed or used for collecting or conveying storm water;
  3. Which is not a combined sewer; and
  4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.
- (v) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: means a permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (w) Notice of Intent (NOI): means an application form submitted to the Ohio Environmental Protection Agency (OEPA) whereby the applicant certifies their intent to comply with general permit requirements of the NPDES permit.
- (x) Notice of Termination (NOT): means a form submitted to the Ohio Environmental Protection Agency (OEPA) whereby the applicant notifies the OEPA that the earth disturbing activities are complete and permanently stabilized to ends your responsibilities under a permit or when control of the site has been transferred to another operator.
- (y) OEPA: means the Ohio Environmental Protection Agency.
- (z) Off-Lot Household Sewage Treatment System: means a system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm water or surface water conveyance or system.
- (aa) Owner/Operator: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- (bb) Permit Holder: Person or entity with a zoning permit.
- (cc) Person: means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency; the Federal government or any combination thereof.
- (dd) Pollutant: means 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.
- (ee) Riparian Zone: means a vegetated corridor or buffer zone adjacent to a stream or wetland area which functions to remove agricultural or landscaping nutrients or pesticides from storm runoff water before said water reaches the stream or wetland.
- (ff) Sediment: means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface.
- (gg) Sediment Barrier: means a sediment control device such as a geo-textile silt fence or filter strip, usually capable of controlling only small flow rates and as defined in "Rainwater and Land Development", (latest edition) Ohio's Standards for Storm Water Management Land Development and Urban Stream Protection (available from Ohio Department of Natural Resources, Division of Soil and Water Conservation).
- (hh) Sediment Control: means the limiting of sediment transport by controlling erosion or detaining sediment-laden water, allowing sediment to settle out and the implementing of Best Management Practices (BMPs).

- (ii) Sensitive Area: means an area or water resource (as delineated prior to Storm Water Pollution Prevention Plan approval) that requires special management because of its susceptibility to sediment pollution or because of its importance to the well-being of the surrounding communities, the region or the State and includes:
  - Ponds, wetlands or small lakes with less than five acres of surface area;
  - Small streams with gradients less than ten feet per mile and with average annual flows of less than three and one-half feet per second containing sand or gravel bottoms;
  - Drainage areas of a locally or State designated scenic river, and
  - Slopes in excess of twenty-five percent. (4H: IV)
- (jj) Settling Facility: means a settling pond, meeting or exceeding the design specifications of a temporary sediment basin as defined in “Rainwater and Land Development”, (latest edition) Ohio’s Standards for Storm Water Management Land Development and Urban Stream Protection (available from Ohio Department of Natural Resources, Division of Soil and Water Conservation).
- (kk) Settling Pond: means a storm water runoff detention structure, such as a sediment basin or sediment trap, which detains sediment-laden runoff, allowing sediment to settle out.
- (ll) Sheet and Rill Flow: means water runoff in a thin, uniform layer, or in rills, which is of small enough quantity to be treated by sediment barriers.
- (mm) Sloughing: means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.
- (nn) Soil: means erodible earth material.
- (oo) Storm Water: any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (pp) Storm Water Management: is the development of a plan to reduce pollutant runoff of rainwater or melted snow into streets, lawns and other sites and the improvement of water quality.
- (qq) Storm Water Pollution Prevention Plan (SWPPP): means a plan of the Development Area showing the proposed implementation of Best Management Practices, as defined in paragraph (b)(2) hereof.
- (rr) Storm Water Runoff: means surface runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
- (ss) Stream: means a body of water running or flowing on the earth's surface or the channel in which such flow occurs. Flow may be seasonally intermittent.
- (tt) 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.
- (uu) Water Resources: means all streams, lakes, ponds, wetlands, watercourses, waterways, drainage systems and all other bodies or accumulations of surface water, which are situated wholly or partly within the City except those private waters which do not combine or affect a junction with natural surface waters.
- (vv) Wetlands: means those areas of land with sufficient moisture, soil type and supporting vegetation consistent with the definition of the United States Army Corp of Engineers (USACE). An ecological resource specialist who is on the Ohio Department of Transportation (ODOT) pre-qualifications list shall identify these areas.
- (ww) Zoning Permit: means the permit to start construction after plans for construction have been approved by the Planning Commission.

#### 935.04 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by the law. The provisions of this regulation 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.

#### 935.05 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

a. Where this regulation 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 regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

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

d. Failure of the City 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 there from, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting there from.

#### 935.06 RESPONSIBILITY FOR ADMINISTRATION.

The Engineering Department shall administer, implement, and enforce the provisions of this regulation and shall be known as the responsible official.

#### 935.07 DISCHARGE AND CONNECTION PROHIBITIONS.

(a) 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 below:

- (1) 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; de-chlorinated 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.
- (2) Discharges specified in writing by the City as being necessary to protect health and safety.
- (3) Discharges from off-lot household sewage treatment systems permitted by the Mercer 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 OEPA issues a NPDES permitting mechanism for residential family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Mercer County Board of Health.

When such permit coverage is available, discharges from off-lot household sewage treatment systems shall comply with such OEPA NPDES permit requirements.

- (b) Prohibition of Illegal Connections. The construction, use maintenance, or continued existence of illegal connections to the MS4 is prohibited.
- (1) This prohibition expressly includes, without limitation, 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.
  - (2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

#### 935.08 ENFORCEMENT.

- (a) Notice of Violation Where a violation of this code is found to exist, a written notice from the Engineering Department shall be served upon the owner/operator responsible for the

correction thereof. Said notice shall specify the violation or violations committed, what must be done to correct same and a reasonable period of time to correct or abate said violation. Such notice may require the following actions:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit discharges or illegal 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.

Service of said notice shall be by certified mail addressed to the owner/operator of the subject facility or premises or to the tax mailing address as indicated by the records of the Mercer County Treasurer, or by hand delivery to the owner/operator of the subject facility or premises. In the event no tax mailing address exists or notice cannot be delivered, notice shall be considered served by publication of a notice in a newspaper of general circulation.

#### 935.09 FAILURE TO COMPLY.

Whenever the owner/operator of any facility or premises fails, neglects or refuses to comply with any notice of violation within the time period specified in said notice, the Engineering Department shall proceed as provided in Sections 935.99

#### 935.10 PROJECTS TO WHICH THIS CHAPTER APPLIES.

This chapter applies to earth disturbing activities involving new, relocated or expanded underground cables, pipelines, residential or commercial subdivisions, industrial, commercial and public areas, and all other land uses not specifically exempted as described in section 935.12.

#### 935.11 PROJECTS TO WHICH THIS CHAPTER DOES NOT APPLY.

This chapter does not apply to:

- a. Land disturbing activities related to producing agricultural crops or silvicultural operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (1501): of the Ohio Administration Code).
- b. Earth disturbing activities involving an area less than one acre, unless such earth disturbing activity impacts a stream or wetland for which BMP's shall be implemented.

#### 935.12 ZONING PERMIT REQUIREMENT.

The applicant for a zoning permit, for projects as defined in Section 935.15, shall include a Storm Water Pollution Prevention Plan as described in this chapter, and as required by the OEPA.

#### 935.13 SPECIFIC CONTENTS OF STORM WATER POLLUTION PREVENTION PLAN.

The plan shall be prepared and stamped by a Registered Professional Engineer, and submitted to the City on a scaled site plan for the particular site development and approved by the City prior to beginning any earth disturbing activities. The following specific information shall be included in the Storm Water Pollution Prevention Plan (SWPPP):

- a. The development area and all pertinent surrounding features, including water resources, sensitive areas and existing storm water conveyance systems for waters entering and leaving the development area.
- b. Separate Municipal storm sewer system or storm water management structure, such as a detention basin, if storm waters will be discharging into it.
- c. Existing and planned locations of buildings, roads, utilities, parking facilities, staging and waste area(s) which may affect proposed erosion and sediment control practices and storm water management facilities.
- d. Borrow, spoil and topsoil stockpile areas and sensitive areas.
- e. Proposed storm water pollution practices.
- f. The plan for protection, enhancement or replacement of riparian zones around any stream, waterway or wetland contained on the site.

#### 935.14 MINIMUM REQUIREMENTS FOR STORM WATER POLLUTION PREVENTION PLAN.

- (1) The minimum standards set forth below are general guidelines and shall not limit the right

of the City to impose, at any time, additional, more stringent requirements, nor shall the criteria limit the right of the approving authority to waive, in writing, individual requirements.

- (2) In order to control soil erosion and sediment pollution of water resources, the owner or the person responsible for the development area shall include these minimum practices to maintain the level of conservation established by the following standards:
- a. All soil erosion and sediment control practices shall be functional throughout all phases of earth disturbing activity. Settling facilities, perimeter controls, and other practices intended to trap sediment shall be implemented as the first step of grading and within seven (7) days from the start of grubbing. They shall continue to function until the development area is permanently re-stabilized.
  - b. Denuded areas shall have soil stabilization applied within no more than seven (7) days if they are to remain dormant for more than forty-five (45) days. Permanent or temporary soil stabilization shall be applied to denuded areas within no more than seven (7) days after final grade is reached on any portion of the site.
  - c. Sheet and rill flow runoff from denuded areas shall be diverted to a settling pond or treated by a geotextile silt fence or other approved sediment barrier. The total runoff flow treated by a sediment barrier shall not exceed the design capacity for that sediment barrier.
  - d. All storm sewer inlets that accept water runoff from the development area shall be protected so that sediment-laden water will not enter the storm sewer without first being filtered or otherwise treated to remove sediment, unless the storm sewer system drains to a settling facility. Geotextile fabric under grates is not acceptable.
  - e. Working In or Crossing Streams:
    - i. Streams including bed and banks shall be re-stabilized immediately after in channel work is completed, interrupted, or stopped. To the extent practicable, construction vehicles shall be kept out of streams. Where in-channel work is necessary, precautions shall be taken to stabilize the work area during construction to minimize erosion.
    - ii. If a live (wet) stream must be crossed by construction vehicles regularly during construction, a temporary stream crossing shall be provided. Temporary stream crossings shall have hydraulic capacity and/or overflow capability to prevent upstream flooding.
  - f. Measures shall be taken to prevent soil and other solids and pollutants from being transported onto surfaces where runoff is not checked by sediment controls, or onto public roads. Minimize such tracking by installing gravel construction entrances. Where such materials are transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day, or more frequently as required by the Engineering Department. Said materials shall be removed from paved surfaces by shoveling or sweeping. Street washing shall be allowed only after shoveling or sweeping has removed most sediment.
  - g. Sloughing and Dumping.
  - h. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until ground cover is achieved which, in the opinion of the Engineering Department, covers eighty percent (80 %) or more of the soil surface and provides adequate cover and is mature enough to control soil erosion satisfactorily and to survive adverse weather conditions.
  - i. All temporary erosion and sediment control practices shall be disposed of within thirty days after final site stabilization is achieved or after the temporary practices are no longer needed, unless otherwise authorized by the Engineering Department. Trapped sediment shall be permanently stabilized to prevent further

erosion, or removed from the site.

- j. All erosion and sediment control practices shall be designed and constructed to minimize maintenance requirements. They shall be maintained and repaired as needed to assure continued performance of their intended function. Sediment and erosion controls shall be inspected by the applicant or his designee once every 7 days and within 24 hours of 0.5 inch or greater rainfall amount. The applicant or his designee must keep a written log of these inspections. This log should indicate the date of inspection, name of inspector, weather conditions, observations, actions taken to correct any problems and the date action was taken. Upon a request of the Engineering Department the owner shall submit these documents.
- k. During construction of underground utility lines, pipes etc. Trench dewatering devices shall discharge in an approved manner that will not adversely affect water resource or off-site property.
- l. If the construction site is subject to Ohio EPA's National Pollutant Discharge Elimination System (NPDES) Permits, a copy of all the required inspection sheets shall be submitted to the City or Engineering Department within 2 working days of the date that the inspection was conducted.

#### 935.15 CONSTRUCTION REQUIREMENTS.

- (a) A NOI shall be submitted to the OEPA. A copy of this
- (b) All permitted earth-disturbing activities shall be subject to site inspection by the Engineering Department, to determine compliance with this chapter until the site has applied for a N.O.T.
- (c) The City Planning and Zoning Commission may grant a variance from the provisions of this chapter where the applicant or permit holder can show the compliance with all or part of such provisions is not appropriate. A variance may be granted if the probability of off-site damage is slight because of exceptional topographic or other physical conditions of the development area. The issuance of a variance does not eliminate obligations to meet Ohio Environmental Protection Agency Requirements. Requests for variances shall be submitted in writing to the City Planning Commission and shall include justification for the granting of the variance.

#### 935.99 PENALTY.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter shall be guilty of a minor misdemeanor, and shall be fined not more than One Hundred Fifty Dollars (\$150.00) for each offense. Each day the violation exists shall be deemed a separate offense.