

- (2) Illicit discharges enter the storm water drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this Ordinance and implementing the same will address many of the deleterious effects of illicit discharges.
- (4) 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.

SECTION 1.03 PURPOSE 48.0103

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the storm water drainage system and natural water bodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connections to the storm water drainage system and natural water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Ordinance.
- (4) To provide appropriate remedies for failure to comply with this Ordinance.

SECTION 1.04 APPLICABILITY AND GENERAL PROVISIONS 48.0104

This Ordinance shall apply to all discharges entering the storm water drainage system and natural water bodies generated on any developed and undeveloped lands within the Village.

SECTION 1.05 DEFINITIONS 48.0105

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized Enforcement Agency: The Village of Michiana, and/or any persons or agencies designated to act as the Authorized Enforcement Agency by the Village Council of the Village of Michiana.

Best Management Practices (BMPs): Structural devices or nonstructural practices that are designed to prevent pollutants from entering storm water flows, to direct the flow of storm water, or to treat polluted storm water flows. Many BMPs may include, but

shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) shall be as determined by the Village Engineer.

Clean Water Act: The Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Discharge: means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a storm water drainage system or natural water body.

Discharger: Any person or entity who directly or indirectly discharges storm water from any premises or property. Discharger also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in, a violation of this Ordinance.

Drain: Any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive storm water or groundwater, either on a temporary or permanent basis.

Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.

Drainage way: A drain, water body, or flood plain.

EPA: The U.S. Environmental Protection Agency (EPA).

Flood plain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, that has been or may be covered by flood water.

Hazardous Materials: Any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Connection: Any method or means, or conduit for conveying an illicit discharge into a natural water body or a storm water drainage system.

Illicit Discharge: Any discharge to a water body or a storm water drainage system that does not consist entirely of storm water, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this Ordinance.

MDEQ: Michigan Department of Environmental Quality.

National Pollutant Discharge Elimination System (NPDES) Permit: A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

Non-Storm Water Discharge: Any discharge to the storm water drainage system or a water body that is not composed entirely of storm water.

Person: An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

Pollutant: The term pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act. Pollutant also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.

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

Property Owner: Any person having legal or equitable title to property or premises or any person having or exercising care, custody, or control over any property or premises.

State of Michigan Water Quality Standards: All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

Storm Drain: A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, groundwater, and drainage.

Storm Water Drainage System: Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads, or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying storm water.

Storm Water Pollution Prevention Plan: A document, that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm drain or storm water drainage system, and/or a water body to the maximum extent practicable.

Storm Water Runoff (or Storm Water): The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

Toxic Material: Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a property or premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.

Water Body: A river, lake, stream, creek, or other watercourse or wetlands.

ARTICLE II PROHIBITIONS AND AUTHORIZATIONS 48.0200

SECTION 2.01 PROHIBITED DISCHARGES 48.0201

- (1) It is unlawful for any person to discharge, or cause to be discharged, to a storm water drainage system or water body, directly or indirectly, any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a storm water drainage system or water body.
- (2) Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (3) The Authorized Enforcement Agency is authorized to require dischargers to implement pollution prevention measures, using Storm Water Pollution Prevention Plans and BMPs, as determined necessary by the Authorized Enforcement Agency to prevent or reduce the discharge of pollutants to a storm water drainage system or water body.
- (4) The discharge prohibitions of this section shall not apply to any non storm water discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided 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 storm water drainage system.

SECTION 2.02 PROHIBITED ILLICIT CONNECTIONS 48.0202

- (1) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of) an illicit connection.

- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of this Ordinance, and regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

SECTION 2.03 AUTHORIZED DISCHARGES

48.0203

The following non storm water discharges are permissible, provided they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:

Water supply line flushing.

Landscape irrigation runoff.

Diverted stream flows.

Rising groundwater.

Uncontaminated groundwater infiltration to storm drains.

Uncontaminated pumped groundwater.

Discharges from potable water sources.

Foundation drains.

Air conditioning condensate.

Irrigation water.

Springs.

Water from crawl space pumps.

Footing drains and basement sump pumps.

Lawn watering runoff.

Waters from non-commercial car washing.

Flows from riparian habitats and wetlands.

Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.

Residual street wash water.

Discharges or flows from emergency fire fighting activities.

Discharges specifically authorized in writing by the Authorized Enforcement Agency as being necessary to protect public health, welfare, and safety or the environment.

SECTION 2.04 STORAGE OF HAZARDOUS OR TOXIC MATERIALS IN DRAINAGE WAY 48.0204

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a Drainage way, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a storm water drainage system, or water body.

ARTICLE III INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING 48.0300

SECTION 3.01 INSPECTION AND SAMPLING 48.0301

The Authorized Enforcement Agency may inspect and/or obtain samples from discharger's property or premises as necessary to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the properly identified representatives of the Authorized Enforcement Agency to enter the property or premises of the discharger at all hours necessary for the purposes of such inspection, or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The Authorized Enforcement Agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's property or premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a property or premises is a violation of this Ordinance.

SECTION 3.02 STORM WATER MONITORING FACILITIES 48.0302

If directed in writing to do so by the Authorized Enforcement Agency, a discharger of storm water runoff from any property or premises shall provide and operate equipment or devices for the monitoring of storm water runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water drainage system, as specified by the Authorized Enforcement Agency. The Authorized Enforcement Agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

SECTION 3.03 ACCIDENTAL DISCHARGES 48.0303

Any discharger who accidentally discharges into a storm water drainage system or a water

body any substance other than storm water or an authorized discharge shall immediately notify the Authorized Enforcement Agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the Authorized Enforcement Agency within five (5) days. The written report shall specify all of the following:

- (1) The composition of the discharge and the cause thereof.
- (2) The exact date, time, and estimated volume of the discharge.
- (3) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
- (4) The names and telephone numbers of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

SECTION 3.04 RECORD KEEPING REQUIREMENT 48.0304

Any person that violates the requirement of this Ordinance or that is subject to monitoring under this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any property or premises connected with the violation or subject to monitoring.

ARTICLE IV ENFORCEMENT 48.0400

SECTION 4.01 SANCTIONS FOR VIOLATION 48.0401

- (1) Violation: Any person who (1) knew or should have known that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the Authorized Enforcement Agency under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the Authorized Enforcement Agency regarding matters regulated by this Ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the

court.

SECTION 4.02 FAILURE TO COMPLY; COMPLETION

48.0402

The Authorized Enforcement Agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this Ordinance or damage or impairment to the storm water drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the Authorized Enforcement Agency under other sections of this Ordinance.

SECTION 4.03 EMERGENCY MEASURES

48.0403

If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the Authorized Enforcement Agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the Village for all of such costs.

SECTION 4.04 COST RECOVERY FOR DAMAGE TO STORM WATER DRAINAGE SYSTEM

48.0404

Any person who discharges to a storm water drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this Ordinance, produces a deposit or obstruction or otherwise damages or impairs a storm water drainage system, or causes or contributes to a violation of any federal, state, or local law governing the Village, shall be liable to and shall fully reimburse the Village for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the Village as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence or noncompliance. The costs that must be reimbursed to the Village shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the Village in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.
- (2) All costs to the Village of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the Village, or any Village representative, by any

governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedence, or noncompliance.

- (4) The full value of any Village staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the Village legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance, or otherwise enforcing the requirements of this Ordinance.

SECTION 4.05 COLLECTION OF COSTS; LIEN

48.0405

- (1) Costs incurred by the Village pursuant to Sections 4.02, 4.03, 4.04, and 4.06(1) shall constitute a lien on the premises or premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or as otherwise authorized by law. Any such charges that are delinquent for six (6) months or more may be certified to the New Buffalo Township Treasurer, who shall enter the lien on the next tax roll against the property or premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Village shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.
- (2) The failure by any person to pay any amounts required to be reimbursed to the Village as provided by this Ordinance shall constitute an additional violation of this Ordinance.

SECTION 4.06 SUSPENSION OF ACCESS TO THE STORM WATER DRAINAGE SYSTEM

48.0406

- (1) Suspension due to illicit discharges in emergency situations. The Authorized Enforcement Agency may, without prior notice, suspend access to the storm water drainage system to any property or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm water drainage system or a water body. If the property or premises owner fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or the environment, or to minimize danger to persons, and bill the property or premises owner for the costs incurred by the Village.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the storm water drainage system in violation of this Ordinance may have their access to the system terminated, if the Authorized Enforcement Agency determines that such

termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a discharger of the proposed termination of access. It shall be unlawful for any person to reinstate access of the storm water drainage system to a property or premises terminated pursuant to this section without the prior written approval of the Authorized Enforcement Agency.

SECTION 4.07 APPEALS

48.0407

Any person who has been cited for a violation of this Ordinance or has been ordered to take action to comply with the provisions of this Ordinance may appeal in writing to the Village Council of the Village of Michigan, not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Village Council shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the Village Council may consider the recommendations of the Authorized Enforcement Agency and the comments of other persons having knowledge or expertise regarding the matter. In considering any such appeal, the Village Council may grant a temporary variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the Ordinance provisions being appealed will present or cause unnecessary hardship for the property or premises owner appealing; provided, however, that unnecessary hardship shall not include the need for a property or premises owner to incur additional reasonable expenses in order to comply with the Ordinance; and
- (2) The granting of the relief requested will not prevent accomplishment of the goals and purposes of this Ordinance, nor result in less effective management of storm water runoff.

SECTION 4.08 JUDICIAL RELIEF

48.0408

The Village may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Ordinance or of any permit, order, notice or agreement issued or entered into under this Ordinance. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The Village may also seek collection of fines, penalties and any other amounts assessed and due to the Village that remain unpaid.

SECTION 4.09 CUMULATIVE REMEDIES

48.0409

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued, or entered into under this Ordinance, shall not preclude the imposition by the Village, the Authorized Enforcement Agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal

inconsistency or conflict between this Ordinance and any other provision of any other ordinance, the provisions of this Ordinance shall control.

SECTION 6.05 EFFECTIVE DATE

48.0605

This Ordinance shall become effective fifteen (15) days, following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.