

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

112.01	Purpose / Intent
112.02	Definitions
112.03	Applicability
112.04	Responsibility for Administration
112.05	Severability
112.06	Ultimate Responsibility
112.07	Discharge Prohibitions
112.08	Suspension of MS4 Access
112.09	Industrial or Construction Activity Discharges
112.10	Monitoring of Discharges
112.11	Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices
112.12	Watercourse Protections
112.13	Notification of Spills
112.14	Enforcement
112.15	Appeal of Notice of Violation
112.16	Enforcement Measures after Appeal
112.17	Cost of Abatement of the Violation
112.18	Injunctive Relief
112.19	Compensatory Action
112.20	Violations Deemed a Public Nuisance
112.21	Remedies Not Exclusive
112.99	Penalty

112.01 PURPOSE / INTENT

The purpose of this codified ordinance is to provide for the health, safety and general welfare of the citizens of the Village of Holland Ohio through the regulation on non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This codified ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the regulations of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this codified ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user
2. To prohibit illicit connections and discharges to the municipal separate storm sewer system.
3. To establish legal authority to carry out all inspections, surveillance and monitoring procedures necessary to ensure compliance with this codified ordinance.

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

112.02 DEFINITIONS

For the purpose of this codified ordinance, the following shall mean:

- A. 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.
- B. Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.
- C. Construction Activity. Activities subject to NPDES Construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavation and demolition.
- D. 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.
- E. Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the Village Engineer or any drain or conveyance connected from a commercial or industrial land use to a storm drain system which has not been documented in plans, maps, or equivalent records and /or approved by an authorized enforcement agency.
- F. Industrial Activity. Activities subject to NPDES Industrial permits as defined in 40 CFR, Section 122.26(b) (14).
- G. National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 US § 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.
- H. Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

- I. Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or the owner's agent.
- J. Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to the following: 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, so that the same may cause or contribute to pollution; floatables, pesticides, herbicides, and fertilizers; hazardous substances and wastes, sewage, fecal coli form 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.
- K. Premises. Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and paring strips.
- L. Storm Drainage System. Publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human made or altered drainage channels, reservoirs and other drainage structures.
- M. Storm Water Pollution Prevention Plan. A document which describes the Best Management Practices 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, Storm Water Conveyance Systems, and/or Receiving waters to the maximum extent practicable.
- N. Wastewater. Any water or other liquid other than uncontaminated storm water, discharged from a facility.

112.03 APPLICABILITY

This codified ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

112.04 RESPONSIBILITY FOR ADMINISTRATION

The Village Engineer shall administer, implement and enforce the provisions of this codified ordinance. Any powers granted or duties imposed upon the Village Engineer may be delegated in writing by the Mayor to persons or entities acting in the beneficial interest or in the employ of the Village of Holland.

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

112.05 SEVERABILITY

The provisions of this codified ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this codified ordinance, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this codified ordinance.

112.06 ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this codified ordinance are minimum standards; therefore, this codified ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

112.07 DISCHARGE PROHIBITIONS

1. Prohibition of Illegal Discharges

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses, any materials, 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. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except as described as follows:

- A. The following discharges are exempt from discharge prohibitions established by this codified ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems) crawl space pumps, air conditioning condensation, springs, non commercial washing of vehicles, natural riparian habitat or wetland flow, swimming pools (if dechlorinated – typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.
- B. Discharges specified in writing by the Village Engineer as being necessary to protect public health and safety.
- C. Dye testing, however, a verbal notification is required to be given to the Village Engineer prior to the time of the test.
- D. The prohibitions 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 Federal Environmental Protection Agency, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

that written approval has been granted for any discharge to the storm drain system.

2. Prohibition of Illicit Connections

- A. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- C. A person is considered to be in violation of this codified ordinance if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

112.08 SUSPENSION OF MS4 ACCESS

1. Suspension Due to Illicit Discharges in Emergency Situations

The Village Engineer 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 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Village engineer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

2. Suspension Due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this codified ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village Engineer will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a hearing for reconsideration.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to the Section without the prior approval of the authorized enforcement agency.

112.09 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 Village Engineer prior to the allowing of discharges to the MS4.

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

112.10 MONITORING OF DISCHARGES

1. Applicability – this section applies to all facilities that have storm water discharge associated with industrial activity, including construction activity.
2. Access to Facilities
 - A. The Village Engineer shall be permitted to enter and inspect facilities under this codified ordinance as often as may be necessary to determine compliance with this codified ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 - B. Facility operators shall allow the Village Engineer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
 - C. The Village Engineer shall have the right to set up on any permitted facility, such devices as are necessary in his opinion to conduct monitoring and or sampling of the facility's storm water discharge.
 - D. The Village Engineer has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
 - E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Village Engineer and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - F. Unreasonable delay in allowing the Village Engineer access to a permitted facility is a violation of a storm water discharge permit and of this codified ordinance. A person who is the operator of a facility with a DNPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this codified ordinance.

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

- G. If the Village Engineer has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be violation of this codified ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this codified ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

112.11 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Village Engineer will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be a part of a storm water pollution prevention plan (SWPP) for compliance with requirements of the NPDES permit.

112.12 WATERCOURSE PROTECTIONS

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessees shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

112.13 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 illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the U.S., 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

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

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 Village Engineer in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village Engineer 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 on site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be maintained for three years.

112.14 ENFORCEMENT

1. Notice of Violation

Whenever the Village Engineer finds that a person has violated a prohibition or failed to meet a requirement of this Codified ordinance, the Village Engineer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- A. the performance of monitoring, analyses, and reporting;
- B. the elimination of illicit connections or of discharges;
- C. that violating discharges, practices, or operations shall cease and desist;
- D. the abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- E. payment of a fine to cover administrative and remediation costs; and
- F. the implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be performed by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.

112.15 APPEAL OF NOTICE OF VIOLATION

Any person receiving a Notice of Violation may appeal the determination of the Village Engineer. The notice of appeal must be received within 14 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the Notice of Appeal, The decision of the municipal authority or their designee shall be final.

112.16 ENFORCEMENT MEASURES AFTER APPEAL

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

If the violation has not been correct pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 7 days of the decision of the municipal authority upholding the decision of the Village Engineer, then representatives of the Village of Holland shall enter upon the subject private property and are authorized to take any and all necessary measures to abate the violation and/or restore the property as authorized by law. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

112.17 COST OF ABATEMENT OF THE VIOLATION

Within 14 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest to objecting to the amount of the assessment within 7 days of the abatement. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Village by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 8 percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

112.18 INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision, or fail to comply with any of the requirements of this codified ordinance. If a person has violated or continues to violate the provisions of this codified ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations, or compelling the person to perform abatement or remediation of the violation.

112.19 COMPENSATORY ACTION

In lieu of enforcement proceedings penalties and remedies authorized by this codified ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as, storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

112.20 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 codified ordinance are considered a threat to public health, safety, and welfare, and are 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.

112.21 REMEDIES NOT EXCLUSIVE

CHAPTER 112
Illicit Discharge and Connection

As enacted on 8/10/2010 by Ordinance No. 19-2010

The remedies listed in this codified ordinance are not exclusive of any other remedies available under any applicable federal, state or local laws, and it is within the discretion of the Village of Holland to seek cumulative remedies.

112.99 PENALTY

Any person that has violated or continues to violate this codified ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$150.00 per violation per day and/or imprisonment for a period of time not to exceed 14 days.

The Village of Holland may recover all attorneys' fees court costs, and other expenses associated with enforcement of this codified ordinance, including sampling and monitoring expenses.