

## **ORDINANCE NO. 2015-037**

**AN ORDINANCE ENACTING NEW CODIFIED CHAPTER 935 KNOWN AS THE ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) FOR THE CITY OF FINDLAY, OHIO.**

BE IT ORDAINED by the Council of the City of Findlay, State of Ohio:

SECTION 1: That a new Chapter 935 of the Codified Ordinance of the City of Findlay, Ohio be and the same is hereby enacted to be known as the illicit discharge and illegal connection control to the Municipal Separate Storm Sewer System (MS4) to read as follows:

### **CHAPTER 935 Illicit Discharge and Illegal Connection Control**

#### **935.01 PURPOSE AND SCOPE**

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of Findlay Ohio 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 the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process mandated by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:

- A. To implement one of the six minimum control measures identified in the MS4 General Storm Water permit (OHQ000002) issued by Ohio EPA as incorporated into the City of Findlay's Storm Water Management plan;
- B. To prohibit Illicit Discharges and illegal connections to the MS4; and
- C. To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

#### **935.02 APPLICABILITY**

This Chapter shall apply to all premises within the City of Findlay and all discharges to the MS4 owned or operated by the City of Findlay. The definitions in section 931.06 of the Codified Ordinances of the City of Findlay shall apply throughout this Chapter.

#### **935.03 DISCLAIMER OF LIABILITY**

Compliance with a provision of this Chapter shall not relieve any Person from responsibility for damage to any Person otherwise imposed by law. The provisions of this Chapter are promulgated to promote 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.

**935.04 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY**

- A. Where this Chapter is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City of Findlay or its Authorized Agent, 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 Person to maintain a nuisance on their property, and compliance with the provision of this Chapter shall not be a defense in any action to abate such a nuisance.
- D. Failure of the City of Findlay or its Authorized Agent to observe or recognize unsightly conditions or to recommend corrective measures shall not relieve a Person from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Findlay, its officers, employees, or agents being responsible for any conditions or damage resulting therefrom.

**935.05 RESPONSIBILITY FOR ADMINISTRATION**

The City of Findlay or its Authorized Agent shall administer, implement, and enforce the provisions of this regulation.

**935.06 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; 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; discharges or flows from fire-fighting activities, and other Storm Water discharges. If any of these aforementioned discharges are deemed by the City of Findlay or its Authorized Agent to be contaminated they will be prohibited. The aforementioned discharges are exempt until such time as they are determined by the City of Findlay to be significant contributors of Pollutants to the MS4.
  - 2. Discharges specified in writing by the City of Findlay or its Authorized Agent as being necessary to protect public health and safety.

3. Discharges from off-lot household sewage treatment systems permitted by the City of Findlay or Hancock County Health Department for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29-02(G) until such time as the Ohio EPA issues a NPDES permitting mechanism for residential 1,2, or 3 family dwellings. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the City of Findlay or Hancock County Health Departments.
- B. Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connection to the MS4 is prohibited.
1. The City of Findlay or its Authorized Agent has the right to require the modification of any non-compliant structure which 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.

**935.07 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS**

- A. Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The City of Findlay shall establish a program to detect and eliminate Illicit Discharges and illegal connection to the MS4. This program shall include: the mapping of the MS4, including MS4 outfalls and home sewage treatment systems; the routine inspections of Storm Water outfalls to the MS4; and the systematic investigation of potential sources, including but not limited to any residential, commercial, industrial or institutional facilities ("Facilities"), of any dry weather flows discovered as the result of these inspections.
- B. Inspection of Residential, Commercial, Industrial, or Institutional Facilities.
1. The City of Findlay or its Authorized Agent, upon proper identification and upon stating the purpose and necessity of an inspection, may enter at reasonable times upon any private or public property, real or personal, to inspect or investigate, obtain samples, and examine or copy any records to determine compliance with this Chapter and the rules adopted under it. The City of Findlay or its Authorized Agent may apply for, and any judge of a court of record may issue, an appropriate search warrant necessary to achieve the purposes of this Chapter if entry is refused or the inspection or investigation is refused, hindered, or thwarted. The City of Findlay or its Authorized Agent shall be permitted to enter and inspect any Facilities subject to this Chapter as often as may be necessary to determine compliance with this regulation.
  2. The City of Findlay or its Authorized Agent 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 of Findlay or its Authorized Agent.

3. The City of Findlay or its authorized agent shall have the right to require the Facility owner/operator to install monitoring processes, reporting and/or 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. In the event of a violation, the equipment shall be installed and maintained at the owner/operator's expense. All devices used to measure Storm Water flow and quality shall be calibrated by a qualified contractor and the calibration inspection data shall be submitted to the City of Findlay or its Authorized Agent to ensure the accuracy of the equipment.
4. 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 of Findlay or its Authorized Agent and shall not be replaced. The costs of clearing such access shall be borne by the Facility owner/operator.

No Person shall cause unreasonable delay in allowing the City of Findlay or its Authorized Agent access to a Facility subject to this Chapter for the purposes of Illicit Discharge inspection.

5. Any costs incurred by the City associated with these inspections mentioned in section 4, above, may be assessed to the Facility owner/operator as determined by the City of Findlay or its Authorized Agent.

#### **935.08 ENFORCEMENT**

A. Notice of Violation. When the City of Findlay or its Authorized Agent finds that a person has violated a provision of this Chapter, the City of Findlay or its Authorized Agent may order compliance by written Notice of Violation (NOV). Such notice must specify the violation and shall be hand delivered, and/or sent by registered or certified 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 illegal connections;
3. The 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 Best Management Practices.

If abatement of a violation and/or restoration of affected property are required, the Notice of Violation shall set forth a deadline 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.

Any Person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

- B. Administrative Hearing or Referral for Enforcement: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the City of Findlay may schedule an administrative hearing to determine reasons for non-compliance and to determine the next enforcement activity, or refer the matter to the City Attorney for civil or criminal enforcement, or both. In the case of an administrative hearing, notice of the hearing shall be hand delivered and/or sent by registered mail or certified mail.
- C. Injunctive Relief: If any Person has violated or continues to violate the provisions of this Chapter, the City of Findlay may petition for a preliminary or permanent injunction restraining the Person from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.

#### **935.09 REMEDIES NOT EXCLUSIVE**

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the City of Findlay or its Authorized Agent to seek cumulative remedies.

#### **935.99 PENALTY**

- A. Any Person who has failed to comply with an order of the City or has violated any provision of this Chapter, regulations, or rules of the City, or orders of any court of competent jurisdiction may be subjected to the imposition of a civil penalty. This penalty shall be in an amount not exceeding one thousand dollars (\$1,000) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- B. Any Person violating any provision of this chapter shall be liable to the City for any expense, loss or damage caused by such violation or discharge. The City shall bill the Person for the costs incurred by the City for any cleaning, repair or replacement work caused by the violation or discharge.
- C. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall be punished by the imposition of a civil penalty of not more than one thousand dollars (\$1,000).

SECTION 2: This Ordinance shall be in full force and effect from and after the earliest period provided by law.

James P. Slouso  
PRESIDENT OF COUNCIL  
Sydia Michaelle  
MAYOR

PASSED: May 19, 2015

ATTEST: Devin Debra  
CLERK OF COUNCIL

APPROVED: May 19, 2015