

**STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CHARTER TOWNSHIP OF BLOOMFIELD**

**ORDINANCE NO. 677**

AN ORDINANCE TO AMEND CHAPTER 14, ENVIRONMENT, OF THE CHARTER TOWNSHIP OF BLOOMFIELD CODE OF ORDINANCES, AS AMENDED, TO ADD ARTICLE VII, MUNICIPAL SEPARATE STORM SEWER SYSTEM, TO ESTABLISH REGULATIONS FOR SEPARATE STORM SEWER SYSTEMS.

**THE CHARTER TOWNSHIP OF BLOOMFIELD ORDAINS:**

**Section 1 of Ordinance**

Chapter 14, Environment, is hereby amended to add Art. VII, Municipal Separate Storm Sewer System, to read as follows:

**ARTICLE VII. - MUNICIPAL SEPARATE STORM SEWER SYSTEM**

**Sec. 14-147. - Purpose**

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

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (c) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.

**Sec. 14-148. - Definitions**

For the purposes of this article, the following shall mean:

*Authorized enforcement agency* means the Township, through its Public Works Department by its Director of Public Works and his/her authorized representatives, which shall specifically include all inspectors and code enforcement, and any other individual designated by the Township Supervisor to enforce this article. Where applicable the terms may also mean the director of the Michigan Department of Environment, Great Lakes and Energy (EGLE) or his/her designated official, and/or the United States Environmental Protection Agency (EPA) Administrator or his/her designated official.

*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 directly or indirectly to stormwater, receiving waters, or stormwater 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* means the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

*Construction activity* means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of five acres or more requiring an issued permit and small construction activities impacting one to five acres of land deemed to operate under a national permit. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*County* means the County of Oakland.

*Hazardous materials* 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.

*Illegal Discharge* means any direct or indirect non-stormwater discharge to the storm drain system or body of water, except as exempted in this article.

*Illicit Connections* means either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter 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 authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the authorized enforcement agency.

*Industrial activity* means activities subject to NPDES industrial permits as defined in 40 CFR § 122.26(b) (14).

*MS4* means the municipal separate storm sewer system.

*National Pollutant Discharge Elimination System (NPDES) Stormwater 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.

*Non-Stormwater discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, 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* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking areas.

*Storm sewer system or storm drainage system* means publicly-owned or privately-owned facilities by which stormwater 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.

*Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Stormwater pollution prevention plan* means 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 stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Township* means the Charter Township of Bloomfield.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

#### **Sec. 14-149. - Applicability**

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by this ordinance.

### **Sec. 14-150. - Enforcement, Responsibility for Administration**

The Township shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the Township may be delegated in writing by the Township Supervisor to persons or entities acting in the beneficial interest of or in the employ of the agency.

### **Sec. 14-151. - Compatibility with other Regulations**

This article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provisions of this article impose restrictions different from those imposed by any other ordinance, rule, regulation, or provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

### **Sec. 14-152. - Minimum Standards**

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **Sec. 14-153. – Discharge Prohibitions**

- (a) *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 stormwater.
- (b) *Exemptions to the Prohibition of Illegal Discharges.* The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
  - (1) The following discharges are exempt from discharge prohibitions established by this article if they are identified as not being a significant source of pollutants and/or a significant contributor to violations of state water quality standards: waterline flushing and discharges from potable water sources, landscape irrigation or lawn watering runoff, diverted stream flows and flows from riparian habitats and wetlands, rising groundwater and springs, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, noncommercial washing of vehicles, dechlorinated swimming pool water from single-, two- or three-family residences, fire-fighting activities, and any other water source not containing pollutants.
  - (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
  - (3) Dye testing is an allowable discharge, but requires authorization from the Michigan Department of Environment, Great Lakes and Energy (Rule 97 certification of approval) and a verbal notification to the authorized enforcement agency prior to the time of the test.

- (4) The prohibition shall not apply to any non-stormwater 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 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 drain system.
- (c) *Prohibition of Illicit Connections*
- (1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
  - (2) 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.
  - (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
  - (4) Improper connections in violation of this article must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Township.
- (d) *Prohibition of direct dumping or disposal of materials into the MS4.* The direct dumping of materials or discharges into the MS4 is prohibited except for those illicit discharges identified as not being a significant contributor to violations of water quality standards.

**Sec. 14-154. – Right of entry**

The Director of Public Works or other authorized enforcement agency shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing of suspected non-stormwater discharges in accordance with the provisions of this article. Refusal of reasonable access to the Director of Public Works and/or representatives of the authorized enforcement agency to any part of the premises is a violation of this article.

**Sec. 14-155. - Watercourse Protection**

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 lessee shall maintain existing privately owned structures within or adjacent to the watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**Sec. 14-156. - Suspension of Storm Sewer System Access**

- (a) *Suspension due to illicit discharges in emergency situations.* The Township or other authorized enforcement agency 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 or this state. If the violator 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 MS4 or waters of the United States or this state, or to minimize danger to persons.

- (b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency 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 authorized enforcement agency.

#### **Sec. 14-157. - Industrial or Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES stormwater 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 authorized enforcement agency prior to the allowing of discharges to the MS4.

#### **Sec. 14-158. – Requirements to prevent, control, and reduce storm water pollutants by the use of best management practices.**

The Director of Public Works or his/her designee will require best management practices 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 United States. 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.

#### **Sec. 14-159. - 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 stormwater, 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 immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency 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 authorized enforcement agency within three (3) 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 (3) years.

### **Sec. 14-160. - Enforcement**

- (a) *Notice of Violation.* Whenever the Township or authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this article, the Township or authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of illicit connections or discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) The payment of a fine to cover administrative and remediation costs; and
  - (6) The implementation of source control or treatment BMPs.
- (b) *Abatement of violation.* If abatement of a violation and/or restoration of affected property is 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 done by the Township or its designee at the violator's expense.

### **Sec. 14-161. - Enforcement Measures**

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the authorized enforcement agency may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Township or designated contractor to enter upon the premises for the purposes set forth above.

### **Sec. 14-162. - Cost of Abatement of the Violation**

Within thirty (30) days after 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 decision of the Township, 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 Township by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of one percent (1%) above prime per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

### **Sec. 14-163. - 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 article is deemed a threat to public health, safety, and welfare, and is declared a nuisance, public nuisance and nuisance per se 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.

**Sec. 14-164. - Remedies Not Exclusive**

The remedies listed in this article 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.

**Section 2 of the Ordinance**

Should any section, subdivision, sentence, clause or phrase of this ordinance, be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

**Section 3 of the Ordinance**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

**Section 4 of the Ordinance**

The provisions of this ordinance shall take effect on the 30<sup>th</sup> day of July, 2023, upon publication.

**Section 5 of the Ordinance**

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Bloomfield at a meeting thereof duly called and held on the 24<sup>th</sup> day of July, 2023, and ordered to be given publication in the manner prescribed by the Charter Township of Bloomfield.

**CERTIFICATION**

I hereby certify that the foregoing Ordinance was adopted by the Board of Trustees of the Charter Township of Bloomfield at a meeting held on the 24<sup>th</sup> day of July, 2023, and that the original of this Ordinance is on file in my office.

Martin C. Brook, Township Clerk

Introduced: June 26, 2023

Published: July 2, 2023

Adopted: July 24, 2023

Published: July 30, 2023