

CITY OF GROSSE POINTE PARK
Ordinance No. 216

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GROSSE POINTE PARK BY REVISING AND AMENDING CHAPTER 23, ARTICLE II, OF THE CODE OF THE CITY OF GROSSE POINTE PARK TO ADD DIV. 6, SECTIONS 23-114 THROUGH 23-123 – STORMWATER DISCHARGE CONTROL

THE CITY OF GROSSE POINTE PARK ORDAINS:

Section 1. Chapter 23 of Article II of the Code of the City of Grosse Pointe Park is amended to add Division 6, Sections 23-114 through 23-123, entitled “Stormwater Discharge Control,” as follows:

Division 6. Stormwater Discharge Control

Sec. 23-114. Purpose.

(a) The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Grosse Pointe Park through the regulation of stormwater and non-stormwater discharges to the municipal separate storm sewer system to the maximum extent practicable as required by federal and state law.

(b) This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(c) The objectives of this ordinance are:

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

(d) This ordinance shall apply to all water entering the municipal separate storm sewer system generated on any developed and/or undeveloped lands unless explicitly exempted by the Director of the Department of Public Service.

(e) The City of Grosse Pointe Park shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the City Manager to persons or entities acting in the beneficial interest of or in the employ of the

City. Except as otherwise provided herein, the Director of the Department of Public Service shall, acting under the supervision of the City Manager, administer, implement and enforce the provisions of this ordinance.

(f) The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance 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. 23-115. Definitions.

The following words and phrases, when used in this ordinance, shall have the following meaning ascribed to them:

Authority. The word “authority” shall mean the Director of the Department of Public Service or his/her designee.

Best management practices (BMPs). The words “best management practices (BMPs)” shall mean those schedules of activities, prohibitions or 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 separate stormwater conveyance systems. BMPs also include treatment devices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The words “Clean Water Act” shall mean the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Illicit connection. The words “illicit connection” shall mean a physical connection to the municipal separate storm sewer system that conveys or may convey illicit discharges into the system and/or is not authorized or permitted by the City; or any drain or conveyance connected from a commercial or industrial land use to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the authority.

Illicit discharge. The words “illicit discharge” shall mean any discharge (or seepage) to the municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to a NPDES permit or as otherwise exempted by Section 23-116(b)(4) of this ordinance.

Municipal separate storm sewer system (MS4). The words “municipal separate storm sewer system (MS4)” shall mean those facilities located within the City and owned or controlled by the City or the county drain commissioner or the county board of road commissioners or the Michigan Department of Transportation by which stormwater may be collected and conveyed to the waters of this state, including any streets or roads with

drainage systems, inlets, curbs, gutters, storm pipes and retention, detention or infiltration basins, which are not part of the publicly-owned sanitary sewage collection system.

National Pollutant Discharge Elimination System (NPDES). The words “national pollutant discharge elimination system (NPDES)” shall mean a permit issued by the federal Environmental Protection Agency 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-stormwater discharge. The words “non-stormwater discharge” shall mean any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater.

Stormwater. The word “stormwater” shall mean 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 (SWPPP). The words “stormwater pollution prevention plan (SWPPP) shall mean 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.

Sec. 23-116. Prohibition of illicit discharges.

(a) No person shall discharge or cause to be discharged into the municipal separate storm sewer system or watercourses any materials, including any pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(b) The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance, provided that they do not result in a violation of State of Michigan water quality standards:

- a. Water line flushing.
- b. Landscape irrigation runoff.
- c. Diverted stream flows.
- d. Rising groundwaters.
- e. Uncontaminated groundwater seepage into storm sewers.
- f. Uncontaminated pumped ground water (except for groundwater cleanups not specifically authorized by NPDES permits).

- g. Discharges from potable water sources if authorized by the director of public service.
- h. Foundation drains.
- i. Air conditioning condensation.
- j. Irrigation waters.
- k. Springs.
- l. Water from crawl space pumps.
- m. Foundation and footing drains and basement sump pumps.
- n. Lawn watering runoff.
- o. Waters not containing soaps or detergents from noncommercial car washing.
- p. Flows from riparian habitats and wetlands.
- q. Dechlorinated swimming pool waters (less than one ppm chlorine) if authorized by the director of public service.
- r. Residual street wash waters.
- s. Uncontaminated industrial wastes if authorized under an NPDES permit and authorized by the director of public service.
- t. Flows from firefighting and fire training activities.
- u. Any other water source not containing pollutants if authorized by the director of public service.

(2) Discharges specified in writing by the City as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge but requires a verbal notification to the Director of the Department of Public Service 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 of the Director of the Department of Public Service has been granted for any discharge to the municipal separate storm sewer system.

Sec. 23-117. Prohibition of illicit connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the MS4 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 ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Sec. 23-118. Suspension of discharges to municipal separate storm sewer system.

- (a) Suspension due to illicit discharges in emergency situations. The City may, without prior notice, suspend municipal separate storm sewer system 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 the public, or to the municipal separate storm sewer system or waters of the United States. If the person fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize the damage to the MS4 or waters of the United States, or to minimize danger to the public.
- (b) Termination due to detection of illicit discharge. Any person discharging to the municipal separate storm sewer system in violation of this ordinance may have their municipal separate storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination of its access to the MS4. The violator may petition the authority for reconsideration and hearing.
- (c) A person who reinstates a municipal separate storm sewer system access to premises terminated pursuant to this ordinance without the prior approval of the City shall be guilty of a misdemeanor punishable as provided by section 1-8(a) of this Code.

Sec. 23-119. 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 City prior to the allowing of the discharges to the municipal separate storm sewer system.

Sec. 23-120. Access to facilities.

- (a) The City shall be permitted to enter and inspect premises subject to regulation under this ordinance as often as may be necessary to determine compliance with this 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 City.

(b) Facility operators shall allow the City 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 stormwater, and the performance of any additional duties as defined by state and federal law.

(c) The City shall have the right to set up on any premises such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's stormwater discharge.

(d) The City has the right to require any 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 stormwater flow and quality shall be calibrated timely to ensure their accuracy.

(e) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the owner at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the owner.

(f) Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is an operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(g) If the City has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this 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 ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 23-121 Requirements to prevent, control, and reduce stormwater pollutants by the use of best management practices.

(a) The City may impose requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the United States.

(b) 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 separate storm sewer system or watercourses through the use of structural and/or non-structural BMPs.

(c) 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 nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(d) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this ordinance. The BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with the requirements of the NPDES permit.

(e) New development and redevelopment projects that disturb one (1) or more acres, including projects less than one (1) acre that are part of a larger common plan of development or sale, and that discharge into the MS4, shall provide BMPs capable to treat the first one inch of runoff from the entire site such that the discharge does not exceed a concentration of Total Suspended Solids of 80 milligrams per liter (mg/l). The owner shall ensure long-term operation, maintenance, repair, and replacement of all necessary BMPs in perpetuity.

Sec. 23-122. 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 illicit discharges or pollutants discharging into stormwater, the MS4 or waters of this state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of 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 non-hazardous materials, said person shall notify the City in person or by phone no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three business days of the phone notice. If the discharge or 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 years.

Sec. 23-123. Sanctions for violation.

(a) Except as provided by Sec. 23-118(c), and notwithstanding any other provision of the City's laws, ordinances, and regulations to the contrary, a person who violates any provision of this ordinance (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the authority under this ordinance) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$500 per day for each infraction and not more than \$5,000 per day for each infraction, plus costs and other sanctions.

(b) Increased fines may be imposed for repeat offenses. As used in this ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this ordinance shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than \$2,000, plus costs.

(2) The fine for any offense that is a second repeat offense, or any subsequent repeat offense shall be not less than \$5,000, plus costs.

(c) Subject to the minimum fine amounts specified in Sections 23-123(b), above, the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this ordinance: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(d) Notwithstanding any other provision of the City's laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the City's Municipal Violations Bureau, as applicable) for violations of this ordinance: the City manager, the director of public services, and any police officer.

(e) Except as otherwise provided by this ordinance, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or, pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

(f) Any person who (1) at the time of a violation 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 authority 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 authority 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.

(g) The authority is authorized, after giving reasonable notice and opportunity for compliance,

(1) to correct any violation of this ordinance or damage or impairment to the stormwater drainage system caused by a discharge, and

(2) to bill the person causing the violation or discharge for the costs of the work to be reimbursed.

The costs reimbursable under this ordinance shall be in addition to fees, amounts or other costs and expenses required to be paid to the City under other sections of this ordinance.