

CHAPTER 927 - Storm Sewers^[12]

Sections:

Footnotes:

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Cross reference— Untreated sewage - see Ohio R.C. 3701.59; Interference with sewage flow - see Ohio R.C. 4933.24; Sewer connections and rental rates - see S. & P. S. Ch. 921; Surface water discharge - see S.U. & P.S. Ch. 925

927.01 - APPROVAL OF PLANS; INSPECTION.

No storm sewer shall be constructed within the corporate limits of the City of Gahanna and connected to the public storm sewer system of such City of Gahanna, unless and until the City Engineer or his designee has approved the plans, specifications and profiles for the same, and not until the builder has arranged for inspection of the construction of the same by the City Engineer or his designee.

(Ord. 0161-2014. Passed 11-17-14.)

927.02 - GENERAL.

The purpose of the stormwater management provision contained in this chapter and other related provisions contained elsewhere in the Code is to provide for effective management and financing of a stormwater system within the City of Gahanna.

- (a) In order to accomplish the purpose of the effective administration of a stormwater system within the City of Gahanna, the chapter shall:
- (1) Establish and maintain fair and reasonable stormwater management service charges for each lot or parcel in the City of Gahanna which bears a substantial relationship to the cost of providing stormwater management services and facilities. Such service charges shall be charged because each property contributes to stormwater runoff and benefits from effective management of stormwater by the City of Gahanna.
 - (2) Ensure that similar properties pay similar stormwater management service charges which reflect the area of each property and its intensity of development, since these factors bear directly on the peak rate of stormwater runoff.

Charges for residential properties (one dwelling unit) shall reflect the relatively uniform effect that such development has on runoff. Charges for all other properties shall be in proportion to residential properties, utilizing both relative area and intensity of development in setting rates.

- (3) Provide a mechanism for consideration of specific or unusual service requirements of some properties, and special and general benefits accruing to or from properties as a result of providing their own stormwater management facilities.
- (4) Provide for a service charge adjustment process to review stormwater charges when unusual circumstances exist which alter runoff characteristics, when either service or benefit varies from a normal condition or is of greater significance than contribution to runoff or to

periodically ensure that rates reflect the current costs of effective stormwater management; and

- (5) Utilize stormwater management funds throughout the City of Gahanna, except where activities or facilities are clearly unusual and in excess of the normal level of service Citywide and where developers are responsible for providing any new stormwater facilities required for their project.
- (b) In order to maintain its effectiveness, this chapter shall:
- (1) Establish a mechanism for appeals and amendments to its provisions.
 - (2) Provide a procedure for abatement of conditions or activities which are not in the interest of public health, safety or welfare.
 - (3) Provide for its continuous validity through severability of its various portions; and
 - (4) Provide penalties for violations of its provisions.

(Ord. 0161-2014. Passed 11-17-14.)

927.03 - DEFINITIONS.

For the purpose of this chapter, the words and phrases shall be defined as follows, unless the context clearly indicates or requires a different meaning:

- (a) *Abatement* means any action taken to remedy, correct, or eliminate a condition within, associated with or impacting a drainage system.
- (b) *Appeals Board*. The Water and Sewer Internal Review Board shall be the Appeals Board.
- (c) *City Engineer* means a professional engineer designated by and representing the City of Gahanna.
- (d) *Council* means the Council of the City of Gahanna, Ohio.
- (e) *Credit* means an on-going (as long as the various circumstances which produced the credit have not changed) reduction in a utility service charge given for certain qualifying activities which reduce either the impact of increased stormwater runoff or reduces the City of Gahanna's costs of providing stormwater facilities.
- (f) *Detention facility* means a facility which, by means of a single control point, provides temporary storage of stormwater runoff in ponds, parking lots, depressed areas, rooftops, buried underground vaults or tanks, etc., for future release, and is used to delay and attenuate flow.
- (g) *Developer* means a person, firm, partnership or corporation, which otherwise improves a specific parcel or tract of land, performs construction work of any kind in the "project area" as defined in this section or holds or is required to obtain a "permit" as defined in this section.
- (h) *Director*. The "Director" shall be the Director of Public Service.
- (i) *Embankment* means the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; a fill or the material used to make an embankment. This can be caused when earth, sand, gravel, rock, or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface or cut and shall include the conditions resulting therefrom.
- (j) *Engineer, professional* means a person holding a certificate of registration under O.R.C. §§ 4733.14 or 4733.19.
- (k) *Equivalent Residential Unit (ERU)* means a value of measured impervious area and is equal to the average amount of impervious area of typical single family residential properties within the City of Gahanna.

- (l) *Excavation* means the difference between a point on the original ground and designated point of lower elevation on the final grade; cut or the material removed in excavation. This can be caused when earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.
- (m) *Facilities* means various drainage works that may include inlets, conduits, manholes, energy dissipation structures, public stormwater open channels, outlets, retention/detention basin, and other structural components.
- (n) *Grading* means any stripping, cutting, filling, stockpiling, or any combination thereof and shall include the land in its cut or filled condition.
- (o) *Impervious area* means land areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop, and other materials, or artificially compacted so as to provide, in the judgment of the Director, a non-pervious surface.
- (p) *Municipal* means property or facilities owned by the City of Gahanna, Ohio.
- (q) *Notice* means a written or printed communication conveying information or warning.
- (r) *Order* means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) or any matter issued by the Director or person designated by them pursuant to any provisions of this chapter.
- (s) *Owner* means any person or other legal entity which has rightful or legal title to real property.
- (t) *Permit* means the "stormwater management permit" required by this chapter.
- (u) *Premises* means a lot or parcel and the buildings and improvements situated thereon.
- (v) *Private* means property or facilities owned by individuals, corporations, and other organizations and not by municipal, county, township, state or federal government.
- (w) *Project area* means the land lying within the geographical limits of the tract(s) or parcel(s) under consideration and on which the work is to be performed.
- (x) *Public stormwater open channel* means all open channels which convey, in part or in whole, stormwater, and are owned, operated or maintained by the City; or a stormwater open channel which has a permanent drainage/stormwater easement owned by the City of Gahanna and drains an area which includes City-owned property or right-of-way. A public stormwater open channel does not include roadside ditches which convey only immediate right-of-way drainage.
- (y) *Public* means property or facilities owned by municipal, county, township, state, or federal governments.
- (z) *Retention facility* means a facility which provides storage of stormwater runoff and is designed to eliminate subsequent surface discharges.
- (aa) *Storm, stormwater* means rainfall runoff, snow melt runoff and surface runoff and drainage. "Storm" and "stormwater" as used in this chapter are interchangeable terms.
- (bb) *Storm sewer, storm drain* means a sewer or drain which carries stormwaters, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water. Storm sewers begin at the grating or opening where water enters the structure, through the sewer and conduits to the outlet structure where water enters a channel or natural watercourse.
- (cc) *Stormwater Management Code* means Chapter 1193 of the Codified Ordinances of the City of Gahanna.
- (dd) *Stormwater Management Design Manual* means the latest edition of the Handbook of Design Methods, Standards, and Requirements for the Design, Construction, Maintenance and Use of Stormwater Facilities published by the Mid-Ohio Regional Planning Commission.

- (ee) *Stormwater management system* means all man-made facilities, structures, and natural watercourses used for collecting, transporting, detaining, storing or disposing of stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to any and all of the following: inlets, conduits, and appurtenant features, canals, creeks, public stormwater open channels, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basin, dams, floodwalls, levees, and pumping stations.
- (ff) *Total area* means the square footage of a lot or parcel measured or estimated by using the outside boundary dimensions, in feet, converted to acres (one acre equals 43,560 square feet), to obtain the total enclosed area, without regard for topographic features of the enclosed surface, as used in Section 927.17 for the purpose of determining the rate class for lot(s) or parcel(s) of real property. The boundary dimensions in feet of the enclosed surface area may be established by either of the following methods selected by the utility for each lot or parcel:
 - (1) On-site or photogrammetric measurements of the apparent outside boundary dimensions of the lot or parcel of real property made by the City of Gahanna or on its behalf; or
 - (2) Computation of the area using dimensions of lot or parcel of real property and/or existing area measurements which are set forth and contained in the records of the office of the County Recorder or Auditor.
- (gg) *Utility* means the Stormwater Management Utility provided for by this chapter.
- (hh) *Watercourse* means a permanent or intermittent stream, river, brook, creek, public stormwater open channel, swale or ditch for water whether natural or manmade.

(Ord. 0161-2014. Passed 11-17-14.)

927.04 - ORGANIZATION OF THE UTILITY.

- (a) The Utility shall be administered by the Director who shall have the responsibility for planning, developing, and implementing stormwater management or sediment control plans; financing, constructing, maintaining, rehabilitating, inspecting, and managing existing and new stormwater facilities; collecting fees and charges for the utility; implementing and enforcing the provisions of this Code; and other related duties.
- (b) The Utility may avail itself of the services of other City of Gahanna departments necessary for the discharge of its responsibilities.

(Ord. 0161-2014. Passed 11-17-14.)

927.05 - STORMWATER FACILITIES.

- (a) The Utility shall monitor the design, operation, maintenance, inspection, construction and use of all storm sewers, storm drains, and stormwater facilities in the City of Gahanna. The Utility shall be responsible for the design and construction of public stormwater facilities in the City of Gahanna and shall inspect, operate and maintain them as prescribed in Section 927.10.
- (b) The Utility may accept overriding responsibility for permanent maintenance of stormwater facilities designed to control erosion when the benefiting area involves two or more property owners. The Utility may require facilities to be designed to reduce maintenance costs and will require adequate easements.

(Ord. 0161-2014. Passed 11-17-14.)

927.06 - MULTIPLE FUND PROJECTS.

Where a public improvement is funded by the City of Gahanna and other agencies or organizations, and storm drainage is not a primary part of that project, the Utility's responsibility for the storm drainage costs shall be in proportion to the City of Gahanna's share of the total cost of the project unless otherwise determined by Council.

(Ord. 0161-2014. Passed 11-17-14.)

927.07 - PRIVATE FACILITIES.

Any owner of private property upon which stormwater drainage facilities exist for the purpose of collecting, conveying, retaining or detaining stormwater within that property and which are not public facilities pursuant to Section 927.08, shall be responsible for the maintenance of these facilities as required to ensure proper operation, maintaining property in litter-free manner; and maintaining grass and weeds.

When the Utility accepts responsibility for design, construction, inspection, operation or maintenance of private facilities in accordance with Section 927.08, all expenses incurred therewith shall be the responsibility of the Utility.

The City of Gahanna reserves the right to cooperatively work with property owners in an area to fix a common problem related to stormwater. This means that financial arrangements may be agreed to between the City of Gahanna and property owners which result in an equitable arrangement that benefits all parties.

(Ord. 0161-2014. Passed 11-17-14.)

927.08 - PUBLIC FACILITIES.

The Utility shall be responsible for stormwater drainage facilities, and watercourses on all streets, boulevards, sidewalks, curbing, streets, and other municipal property and public easements, and highway structures and appurtenances belonging to the City of Gahanna.

Where public facilities and watercourses are located in easements on private property, the owner of the property is responsible for aesthetic maintenance such as lawn mowing, litter pick-up, and the like. The owner shall neither place nor allow structures or plantings that interfere with the operation and maintenance of such drainage facilities and watercourses.

(Ord. 0161-2014. Passed 11-17-14.)

927.09 - ANCILLARY IMPROVEMENTS.

The Utility may authorize the construction of curbs, pavements, public stormwater open channels, watercourses, conduits, culverts, or other structures on municipal property or public easements necessary to properly operate and maintain new and existing stormwater facilities.

(Ord. 0161-2014. Passed 11-17-14.)

927.10 - ROUTINE AND REMEDIAL MAINTENANCE.

The Utility shall provide for inspection and routine maintenance of facilities that have been accepted for maintenance by the Utility. Maintenance may include catch basin cleaning, grating and casting repair, bridge surface drainage systems cleaning, public stormwater open channel clearing, erosion repair, and other incidentals. The Utility shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public. Remedial maintenance of bridge surface drainage systems shall remain the responsibility of agencies other than the Utility.

(Ord. 0161-2014. Passed 11-17-14.)

927.11 - LAND AND FACILITIES AFFECTED BY LANDS OUTSIDE THE CITY OF GAHANNA.

Where stormwater drains from lands outside the City of Gahanna, facilities within the City of Gahanna shall be designed in accordance with this chapter as if the entire drainage area was within the City of Gahanna, as determined by the Director or the Director's designee.

(Ord. 0161-2014. Passed 11-17-14.)

927.12 - RULES AND REGULATIONS.

In order to accomplish the purpose of this chapter to protect the drainage facilities, improvements, and properties owned and maintained by the City of Gahanna, to secure the best results from the construction, operation and maintenance thereof, and to prevent damage and misuse of any of the drainage facilities, improvements or properties within the City of Gahanna, the Utility shall utilize existing rules, regulations or codes and may make and enforce additional rules and regulations that are approved by Council. The purpose of the rules and regulations shall be:

- (a) To prescribe the manner in which storm sewers, watercourses, public stormwater open channels, and other stormwater facilities are to be designed, installed, adjusted, used, altered or otherwise changed;
- (b) To recommend inspection and certain other fees permitted by this chapter;
- (c) To prescribe the manner in which such facilities are operated;
- (d) To facilitate the enforcement of this chapter;
- (e) To prescribe the collection procedures and timing of service charge bills;
- (f) To protect the City of Gahanna stormwater management system, improvements, and properties controlled by the Utility, and to prescribe the manner of their use by any public or private person;
- (g) To protect the public health, safety and welfare.

(Ord. 0161-2014. Passed 11-17-14.)

927.13 - RIGHT OF ENTRY FOR SURVEY, EXAMINATION AND MAINTENANCE.

After presenting proper credentials and securing permission, the Director or the Director's designees, including contractors and their employees or consultants and their employees, may enter upon lands within the City of Gahanna to make surveys and examinations to accomplish the necessary findings to establish a Master Plan, for detailed analysis to prepare final plans and specifications for proposed improvements or for inspection or maintenance of stormwater facilities.

(Ord. 0161-2014. Passed 11-17-14.)

927.14 - FUNDING.

Funding for the Utility shall include, but not be limited to:

- (a) Stormwater Management Service Charges;
- (b) *Direct Charges*. This charge will be collected from owners, developers and other responsible parties for the cost of designing and constructing stormwater facilities, and for administrative costs

and related expenses where the utility designs and/or constructs or contracts for the construction of such facilities, including costs associated with abatement procedures undertaken by the Utility;

- (c) *Direct Assessment.* This charge will be collected from owners in localized areas that desire stormwater drainage facilities not considered a part of the regional development or where an improvement is desired ahead of the priority status;
- (d) Other income obtained from federal, state, local and private grants, or revolving funds.

(Ord. 0161-2014. Passed 11-17-14.)

927.15 - STORMWATER UTILITY FUND.

All revenues generated by or on behalf of the Utility including stormwater management service charges and direct charges shall be deposited in the Stormwater Management Fund and used exclusively for Utility purposes.

Ord. 0161-2014. Passed 11-17-14.)

927.16 - STORMWATER MANAGEMENT SERVICE CHARGE.

A stormwater management service charge is imposed on each lot and/or parcel of land within the City of Gahanna, and the owner thereof, excepting only streets, boulevards, sidewalks, curbing, street crossings, grade separations, and other public ways and easements, and highway structures belonging to the City of Gahanna, state and federal government. If individual adjacent lot(s) or parcel(s) are all owned by the same owner, they shall be considered to be a single parcel for determination of service charges.

- (a) Public road and freeway rights-of-way shall be exempt from the stormwater management service charge because they function as part of the stormwater collection and conveyance system. Private rights-of-way will be charged as described herein.
- (b) Properties that have existing stormwater detention facilities may have their stormwater management service charges reduced as determined by the Utility, in accordance with generally accepted engineering standards and practices to more accurately reflect the contribution to runoff from the property and the level of service provided to such property. The detention facilities must be in accord with the hydrologic, hydraulic, and structural design requirements of the rules and regulations. Facilities of a temporary nature will not be allowed a decrease in their charges.
- (c) The Utility may reduce or waive requirements for an individual detention/retention basin if a common or regional basin of adequate design is available or if the Utility is reasonably certain one will be constructed and if the major drainage system from the project area to such common or regional basin is such that the public health, safety and welfare will not be in jeopardy.

(Ord. 0161-2014. Passed 11-17-14.)

927.17 - CLASSIFICATION OF PROPERTY AND ERU ASSIGNMENT AND RATE.

All properties having impervious area within the City of Gahanna shall be assigned an equivalent residential unit (ERU) or a multiple thereof, which will be at a minimum one ERU. There shall be two classifications of property for determination of the stormwater management service charge-variable charge:

- (a) *Class R.* Single family residential properties assigned one ERU. The annual stormwater management service charge for Class R lot(s) shall be in accordance with the following schedule:

2012: Class R: \$12.00 per quarter less any applicable credits.

Beginning 2013: Class R: \$13.00 per quarter less any applicable credits.

- (b) *Class C.* All properties having an impervious area which are not single family residential properties assigned by the Director an ERU multiple based upon the properties estimated impervious area (in square feet) divided by 3064 square feet (one ERU) calculated to the second decimal place. The annual stormwater management charge for Class C lots and parcels shall be calculated as follows:

2012: Class C: \$12.00 per ERU per quarter less any applicable credits.

Beginning 2013: Class C: \$13.00 per ERU per quarter less any applicable credits.

- (c) Quarters shall consist of three-month periods with billings commencing on a schedule to be determined by the Director of Public Service. The quarter bill, including all penalties, shall be due and payable 30 days from the date of mailing. A ten percent penalty shall be assessed to all accounts paying after the due date. The Director of Public Service or the Director's designee has the authority under this chapter to waive the above ten percent penalty after review of the facts presented.

(Ord. 0161-2014. Passed 11-17-14.)

927.18 - COLLECTION OF STORMWATER MANAGEMENT SERVICE CHARGE.

The stormwater management service charge shall be paid, by the owner of each lot or parcel which is subject to this charge, on a periodic basis. Partial payments may be accepted. In accepting such partial payments, the amount owing shall be considered delinquent and the moneys paid shall be applied in the following order:

- (a) Refuse;
- (b) Penalty/miscellaneous;
- (c) Stormwater management;
- (d) Sewer improvement;
- (e) Water improvement;
- (f) Columbus Consent Order;
- (g) Sewer; and
- (h) Water.

(Ord. 0161-2014. Passed 11-17-14.)

927.19 - ADJUSTMENT CHARGE; APPEAL.

Anytime the runoff situation on a parcel of property changes, the Stormwater Utility reserves the right to correspondingly adjust the stormwater management service charge.

Owners who consider the charges applicable to their lot or parcel to be unjust or inequitable may apply, within 30 days after receipt of the charge, to the Water and Sewer Internal Review Board for adjustment thereof, stating in writing the grounds of the complaint.

The Water and Sewer Internal Review Board shall cause appropriate investigation thereof and determine whether an adjustment of the charges for any such lot or parcel is necessary to provide for the just and equitable application of the stormwater management service charge, and adjust such charge if appropriate.

(Ord. 0161-2014. Passed 11-17-14.)

927.20 - DELINQUENT CHARGES.

- (a) All delinquent fees shall be assessed as provided by the Utility, or as provided by the Utility's contract billing agent, if any.
- (b) Each stormwater service charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lots, parcels of land, buildings or premises that are tributary directly or indirectly to the stormwater system of the City of Gahanna. If the same is not paid within 60 days after said stormwater charges become due and payable, in addition to any other remedies available to the City of Gahanna, said stormwater charges may be certified to the auditor of the county in which the property is located, who shall place the certified amount on the real property tax list and duplicate of the property served. Certified amount to include the interest and penalties allowed by law and shall be collected as other taxes are collected.
- (c) It shall be the responsibility of the buyer and seller, where property is sold or transferred, to assure that all storm-water utility charges have been paid in full or provisions agreed to for payment; otherwise, the responsibility for payment for any storm-water charges whatsoever shall reside with the current owner of such property.

(Ord. 0161-2014. Passed 11-17-14.)

927.21 - APPEALS BOARD.

- (a) The Water and Sewer Internal Review Board may serve as the Appeals Board to hear and determine any appeal filed under Section 927.23.
- (b) The Appeals Board shall, in harmony with the general purpose of this chapter and to secure the public health, safety and welfare, have the power to affirm, modify or revoke any notice or order and may grant an extension of time for the performance of any act required by this chapter where there is practical difficulty or undue hardship connected with the performance of such notice or order, and its decision shall be final.

(Ord. 0161-2014. Passed 11-17-14.)

927.22 - APPEALS.

Any owner may appeal decisions or interpretations of the Director or the Director's designee, issued in connection with the enforcement of any provisions of this chapter provided that such owner shall file in the office of the Director a written request to the Appeals Board as provided below.

- (a) The Director shall upon receipt of a request set a time and place for a public hearing and shall give the owner written notice thereof. At the hearing, the owner shall be given an opportunity to be heard and show cause why any decision, interpretation or any item appearing on a notice or order should be modified.

After a hearing, the Appeals Board shall sustain, modify or deny any item appealed by majority vote, depending on its findings as to whether the provisions of this chapter have been complied with, and the owner and the Director shall be notified in writing of such findings.

The proceedings at such hearings, including the findings and decision of the Appeals Board and reasons therefor, shall be summarized and reduced to writing and entered as a matter of public record in the office of the Director. The record shall also include a copy of every notice or order issued in connection with the matter.

- (b) The failure of the owner or his representative to appear and state his case at any hearing shall constitute a denial of the appeal.
- (c) Filing fees as required shall be in addition to the payment of the permits and inspection fees and any other fee which thereafter may occur, and no portion of such filing fee shall be refunded whatever the outcome of the appeal.

(Ord. 0161-2014. Passed 11-17-14.)

927.23 - CONTENTS OF APPEAL REQUEST.

The owner shall set forth in the request for appeal, the interpretation, ruling or order appealed from, and the related provisions of this chapter or related laws or ordinances, and shall state wherein the interpretation, ruling, or order is erroneous.

Requests to the Appeals Board, in appeals filed in accordance with Section 927.22(a), may only be based on whatever the interpretation, ruling or order is erroneous or constitutes an erroneous application of the particular provisions of this chapter or other related laws or ordinances pertaining to stormwater management and finance, or is otherwise contrary to law.

(Ord. 0161-2014. Passed 11-17-14.)

927.24 - ILLICIT NON-STORMWATER DISCHARGE AND ILLEGAL CONNECTION TO THE STORM SEWER SYSTEM.

- (a) *Purpose and Scope.* The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the City of Gahanna 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 requirements of the National Pollutant Discharge Elimination System (NPDES) permit process as required by the Ohio Environmental Protection Agency (Ohio EPA). The objectives of this regulation are:
 - (1) To prohibit illicit discharges and illegal connections to the MS4.
 - (2) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.
- (b) *Applicability.* This regulation shall apply to all residential, commercial, industrial, or institutional facilities responsible for discharges to the MS4 and on any lands in the City of Gahanna, except for those discharges generated by the activities detailed in Section 927.24 (g)(1)A. to (1)C. of this regulation.
- (c) *Definitions.* The words and terms used in this regulation, unless otherwise expressly stated, shall have the following meaning:
 - (1) *Best management practices (BMPS)* means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to ~~storm water~~stormwater. 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.
 - (2) *Community* means the City of Gahanna, its designated representatives, boards, or commissions.
 - (3) *Environmental protection agency or United States environmental protection agency (USEPA)* means the United States Environmental Protection Agency, including but not limited to the Ohio Environmental Protection Agency (OEPA), or any duly authorized official of said agency.

- (4) *Floatable material* in general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles, and paper products.
- (5) *Hazardous material* 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.
- (6) *Illicit discharge* as defined in the Code of Federal Regulations (C.F.R.) at 40 C.F.R. 122.26 (B)(2) means any discharge to an MS4 that is not composed entirely of storm water, except for those discharges to an MS4 pursuant to a NPDES permit or noted in Section 927.24 of this regulation.
- (7) *Illegal connection* means any drain or conveyance, whether on the surface or subsurface, that allows an illicit discharge to enter the MS4.
- (8) *Municipal separate storm sewer system (MS4)* as defined at 40 C.F.R. 122.26 (B)(8), municipal separate storm sewer system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):
 - A. Owned or operated by a state, city, town, borough, county, parish, district, municipality, township, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over sewage, industrial wastes, including special districts under state law such as a sewer district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges to waters of the United States;
 - B. Designed or used for collecting or conveying storm-water;
 - C. Which is not a combined sewer; and
 - D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R. 122.2.
- (9) *National pollutant discharge elimination system (NPDES) storm-water discharge permit* means a permit issued by the EPA (or by a state under authority delegated pursuant to 33 United States Constitution (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.
- (10) *Off-lot discharging home sewage treatment system* means a system designed to treat home sewage on-site and discharges treated wastewater effluent off the property into a storm-water or surface water conveyance or system.
- (11) *Owner/operator* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- (12) *Pollutant* means anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter or other discarded or abandoned objects, floatable materials, pesticides, herbicides, fertilizers, hazardous materials, wastes, sewage, dissolved and particulate metals, animal wastes, residues that result from constructing a structure, and noxious or offensive matter of any kind.
- (13) *Storm-water* [means] any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (14) *Wastewater* [means] the spent water of a community. From the standpoint of a source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

- (d) *Disclaimer of Liability.* Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the 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.
- (e) *Conflicts, Severability, Nuisances & Responsibility.*
- (1) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City of Gahanna, shall prevail.
 - (2) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
 - (3) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
 - (4) Failure of the City of Gahanna to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting there from, and shall not result in the City of Gahanna, its officers, employees, or agents being responsible for any condition or damage resulting there from.
- (f) *Responsibility for Administration.* The City of Gahanna shall administer, implement, and enforce the provisions of this regulation. The City of Gahanna may contract with other agencies to conduct inspections and monitoring and to assist with enforcement actions.
- (g) *Discharge and Connection Prohibitions.*
- (1) *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:
 - A. Line flushing; landscape irrigation; diverted stream flows; rising water ground waters; uncontaminated ground water infiltration; 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; small charity car washes; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from firefighting activities. These discharges are exempt until such time as they are determined by the City of Gahanna to be significant contributors of pollutants to the MS4. Additional, other water sources not containing pollutants may be considered at the discretion of the City Engineer.
 - B. Discharges specified in writing by the City of Gahanna as being necessary to protect public health and safety.
 - C. Discharges from off-lot household sewage treatment systems permitted by the Franklin County Public Health District for the purpose of discharging treated sewage effluent unless such discharges are deemed to be creating a public health nuisance by the Franklin County Public Health District. In compliance with the City of Gahanna Storm-water Management Program, discharges from all off-lot household sewage treatment systems must either be eliminated or have coverage under an appropriate NPDES permit issued and approved by the Ohio Environmental Protection Agency. When such permit coverage is available, discharges from household sewage treatment systems will no longer be exempt from the requirements of this regulation.
 - (2) *Prohibition of Illegal Connections.* The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.
 - A. This prohibition 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.

- B. 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.

(h) *Industrial or Construction Activity Discharge.*

- (1) *Industrial or Construction Activity Discharge.* 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 of Gahanna prior to allowing discharges to the Municipal Separate Storm Sewer System.

- (2) *Portable Toilets.*

- A. Property owners, occupants, managers or other persons in charge of any premises, office, business establishment, institution, industry, or similar facility, including construction or demolition sites, shall be responsible for the placement and sanitary maintenance of portable toilets.
- B. Portable toilets shall be installed in a level position and be easily accessible to users.
- C. Where possible, portable toilets shall not be located upon any street or public right-of-way. Portable toilets shall not be located on, or within 20 feet of a storm drain, or within 100 feet from any body of water including but not limited to project ponds with over flow devices. Portable toilets shall not be located within 11 feet of a curb and / or gutter. If portable toilet placement is for a period of time lasting longer than one week, and is determined by the City of Gahanna to be vulnerable to tipping from wind, or vandalism, the portable toilet shall be secured by staking or cabling.
- D. Where possible, portable toilets shall be located upon natural ground and not on an impervious surface such as concrete or asphalt.
- E. Portable toilets shall not be located whereby a spill or runoff will directly enter into storm drains or any water system.
- F. Portable toilets are not to be washed down whereby allowing contamination runoff to pollute soil and water resources and create potential human health issues and/or aquatic degradation. However, washing the outside of the unit is allowed as long as no contaminants are present there.
- G. Portable toilets must be cleaned and serviced by a licensed service company at least once per week or when needed to maintain sanitary conditions. Cleaning and sanitizing shall include the use of a sanitizing solution for cleaning urinals and toilet seats, removing waste from containers, recharging containers with an odor-controlling solution and installing an adequate supply of toilet paper. Removal of waste shall be handled in a clean and sanitary manner by means of a vacuum hose and received by a leak proof tank truck. All ports on the tank shall be valved and capped.
- H. Special events: City of Gahanna or privately sponsored special events may be required to submit a plan showing the location of the portable toilets to the City of Gahanna Service Department for review and approval. These portable toilets for the event shall be considered temporary for a duration no longer than five days after which time they must be removed and the location plan shall be considered expired.

(i) *Monitoring of Illicit Discharges and Illegal Connections.*

- (1) *Establishment of an Illicit Discharge and Illegal Connection Monitoring Program.* The City of Gahanna Service Department or its designee shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4 in compliance with general permitting requirements of the OEPA.

- (2) *Inspection of Residential, Commercial, Industrial, or Institutional Facilities.*

- A. The City of Gahanna Service Department or its designee shall be permitted without prior notice to enter and inspect facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.
- B. The City of Gahanna Service Department or its designee shall have the authority to set up at facilities subject to this regulation such devices as are necessary to conduct monitoring and/or sampling of the facility's ~~storm water~~stormwater discharge, as determined by the City of Gahanna.
- C. The City of Gahanna Service Department or its designee shall have the authority to require the facility owner/operator to install monitoring 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 at the owner/operator's expense. The City of Gahanna Service Department or its designee shall have the authority to calibrate said devices used to measure storm water flow and quality to ensure their accuracy.
- D. 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 Gahanna and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.
- E. Unreasonable delays in allowing the City of Gahanna access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.
- F. If the City of Gahanna is refused access to any part of the facility from which ~~storm water~~stormwater is discharged, and the City of Gahanna demonstrates probable cause to believe that there may be a violation of this regulation, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with this regulation or any order issued hereunder, or to protect the public health, safety, and welfare, the City of Gahanna may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.
- G. Any costs associated with these inspections shall be assessed to the facility owner/operator.

(j) *Notification of Accidental Discharges and Spills.*

- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-stormwater discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (2) Said responsible person shall notify the authorized enforcement agency in person, by phone, or other method no later than 24 hours of the nature, quantity and time of occurrence of the discharge. Notifications shall be confirmed by written notice addressed and mailed to the City of Gahanna within three business days. 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 years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
- (3) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified. Failure to provide notification of a release as provided above is a violation of this chapter.

(k) *Enforcement.*

- (1) *Notice of Violation.* When the City of Gahanna finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the City of Gahanna may order compliance by written notice of violation. Such notice must specify the violation and shall be hand delivered, and/or sent by registered mail, to the owner/operator of the facility. Such notice shall require one or more of the following actions:
 - A. The performance of monitoring, analyses, and reporting;
 - B. The elimination of illicit discharges or illegal connections;
 - C. That violating discharges, practices, or operations cease and desist;
 - D. The abatement or remediation of storm-water pollution or contamination hazards and the restoration of any affected property; or
 - E. The implementation of source control or treatment BMPs.
 - (2) If abatement of a violation and/or restoration of affected property is 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.
 - (3) Any person receiving a notice of violation must meet compliance standards within the time established in the notice of violation.
 - (4) *Appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, the City of Gahanna shall schedule an appeal before the Board of Zoning and Building Appeals to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the appeal shall be hand delivered to the owner/operator of the facility and/or sent registered mail.
 - (5) *Injunctive Relief.* It shall be unlawful for any owner/operator to violate any provision or fail to comply with any of the requirements of this regulation pursuant to Ohio R.C. 3709.211. If an owner/operator has violated or continues to violate the provisions of this regulation, the City of Gahanna may petition for a preliminary or permanent injunction restraining the owner/operator from activities that would create further violations or compelling the owner/operator to perform abatement or remediation of the violation.
- (l) *Remedies Not Exclusive.* The remedies listed in this regulation 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 Gahanna to seek cumulative remedies.
- (m) *Violations.* Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree.

(Ord. 0161-2014. Passed 11-17-14.)

927.25 - FLOODING; LIABILITY.

Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed, operated, or maintained by funds made available under this chapter. This chapter does not imply that property subject to the fees and charges established herein will always be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost effectively constructed, operated or maintained. Nor shall this chapter create a liability on the part of, or cause of action against, the City of Gahanna or any officer or employee thereof for any flood damage that may result from such storms or the runoff thereof. Nor does this chapter purport to reduce the need or the necessity for obtaining flood insurance.

(Ord. 0161-2014. Passed 11-17-14.)

927.26 - SEPARABILITY OF PROVISIONS.

Each section and each part of each section of this chapter is hereby declared to be an independent section or part of a section and, notwithstanding any other evidence of legislative intent that if any such section or part of a section, or any provision thereof, or the application thereof to any person or circumstances, is held to be invalid, the remaining sections or parts of sections and the application of such provisions to any other person or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

It is hereby declared to be the legislative intent that these sections or parts of sections would have been adopted independently of such sections or parts of a section so held to be invalid.

(Ord. 0161-2014. Passed 11-17-14.)

927.99 - PENALTY.

Any person violating any provision of this chapter shall be charged with a minor misdemeanor on the first offense and for each subsequent offense shall be charged with a misdemeanor of the fourth degree.

(ord. 0161-2014. passed 11-17-14.)