

Copies of the proposed ordinance are available for inspection or purchase at the Township Hall of the Charter Township of Port Huron, 3800 Lapeer Rd., Port Huron, MI 48060 (810) 987-6600 during regular posted hours. A complete copy may be also reviewed on our website at www.porthurontownship.org

**Port Huron Charter Township
 Illicit Discharge Elimination Program
 Ordinance # 234**

An Ordinance to amend the Code of Ordinances, Charter Township of Port Huron, St Clair County, Michigan, to Chapter 16. ENVIRONMENT, by the addition of “Article V. Illicit Discharge Elimination Program” to provide for the regulation of discharges to the Port Huron Township storm drainage systems and to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The Charter Township of Port Huron, St. Clair County, State of Michigan, ordains:

Section 1: (Title) **Illicit Discharge Elimination Program**

Table of Contents	Page
Section 2 (16-102) <u>Purpose/Intent</u>	2
Section 3 (16-103) <u>Definitions</u>	2
Section 4 (16-104) <u>Applicability</u>	3
Section 5 (16-105) <u>Responsibility for Administration</u>	4
Section 6 (16-106) <u>Severability</u>	4
Section 7 (16-107) <u>Ultimate Responsibility</u>	4
Section 8 (16-108) <u>Discharge Prohibitions</u>	4
Section 9 (16-109) <u>Suspension of MS4 Access</u>	5
Section 10 (16-110) <u>Industrial or Construction Activity Discharges</u>	5
Section 11 (16-111) <u>Monitoring of Discharges</u>	5
Section 12 (16-112) <u>Enforcement</u>	6
Section 13 (16-113) <u>Appeal of Notice of Violation</u>	7
Section 14 (16-114) <u>Enforcement Measures After Appeal</u>	7
Section 15 (16-115) <u>Cost of Abatement of the Violation</u>	7
Section 16 (16-116) <u>Injunctive Relief</u>	7

Section 17 (16-117) <u>Appeal of Notice of Violation</u>	8
Section 18 (16-118) <u>Violations Deemed A Public Nuisance</u>	8
Section 19 (16-119) <u>Criminal Prosecution</u>	8
Section 20 (16-120) <u>Remedies Not Exclusive</u>	8
Section 21 (16-121) <u>Adoption of Ordinance</u>	8

Section 2: (16-102) Purpose/Intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Port Huron Township through the regulation of non-storm water discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance 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. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges from any user;
2. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system; and
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

Section 3: (16-103) Definitions.

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

Authorized Enforcement Agency. employees or designees of the director of the municipal agency designated to enforce this ordinance.

Construction Activity. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Discharge. Any discharge to, or seepage into, an MS4 that is not composed entirely of stormwater or uncontaminated groundwater except discharges pursuant to an NPDES permit.

Illicit Connection. A physical connection to an MS4 that primarily conveys non-stormwater discharges other than uncontaminated groundwater; or a physical connection not authorized or permitted by the local authority, where a local authority requires authorization or a permit for physical connections.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4). Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. Is a permit issued by Michigan Department of Environmental Quality (MDEQ) 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.

Outfall or Discharge Point. Any location on the MS4 owned or operated by the permittee that discharges directly to a surface water of the state, or any location on the MS4 owned or operated by the permittee that discharges to any other separate storm sewer system before discharging to a surface water of the state.

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. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, 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. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Surface Waters of the State. Waters defined consistent with the Part 4 Rules (Rules 323.1041 through 323.1117 of the Michigan Administrative Code) to mean all of the following, but not including drainage ways and ponds used solely for wastewater conveyance, treatment, or control:

- The Great Lakes and their connecting waters
- All inland lakes
- Rivers
- Streams
- Impoundments
- Open drain
- Other surface bodies of water within the confines of the state

Section 4: (16-104) Applicability.

This ordinance shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section 5: (16-105) Responsibility for Administration.

Port Huron Township shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency 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.

Section 6: (16-106) Severability.

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

Section 7: (16-107) Ultimate Responsibility.

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.

Section 8: (16-108) Discharge Prohibitions.

Prohibition of Illicit Discharges. (Permit Application #20, 21, 22, 23, 24)

1. No person shall discharge or cause to be discharged into the Municipal Separate Storm Sewer System (MS4) 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.
2. The following discharges are excluded from this ordinance as long as they have not been identified as a significant source of pollutants to the MS4 or watercourse;

Discharges or flows from:

- a. Firefighting activities
- b. Water line flushing and potable water sources;
- c. Landscape irrigation runoff, lawn watering runoff, and irrigation waters;
- d. Diverted stream flows and flows from riparian habitats and wetlands;
- e. Rising groundwaters and springs
- f. Uncontaminated groundwater infiltration and seepage;
- g. Uncontaminated pumped groundwater, except for groundwater cleanups specifically authorized by NPDES permits;
- h. Foundation drains, water from crawl space pumps, footing drains, and basement sump pumps;
- i. Air conditioning condensation;
- j. Waters from noncommercial car washing;
- k. Street wash water; and
- l. Dechlorinated swimming pool water from single, two, or three family residences.

Prohibition of Illicit Connections. (Permit Application #24)

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 ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Prohibition of Direct Dumping or Disposal of Materials into the MS4 (Permit Application #24)

1. The direct dumping of materials or discharges into the MS4 is prohibited except for those discharges excluded under Prohibition of Illicit Discharges.

Section 9: (16-109) Suspension of MS4 Access.

Suspension due to Illicit Discharges in Emergency Situations.

Port Huron Township 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 State. If the violator fails to comply with a suspension order issued in an emergency, the Township may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge. (Permit Application #26)

Any person discharging to the MS4 in violation of this ordinance 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.

Section 10: (16-110) Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Township, prior to the allowing of discharges to the MS4.

Section 11: (16-111) Monitoring of Discharges.

A. Applicability.

This section applies to all facilities, industrial, construction or residential, within the Township:

B. Access to Facilities. (Permit Application # 25)

1. The Township shall be permitted to enter and inspect facilities 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 authorized enforcement agency.

2. Facility operators shall allow the Township ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
3. The Township shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Township and shall not be replaced. The costs of clearing such access shall be borne by the operator.
5. Unreasonable delays in allowing the Township access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
6. If the Township 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 authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

Section 12: (16-112) Enforcement. (Permit Application #26)

Whenever the Township finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the 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 storm water pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine to cover administrative and remediation costs bore by the Township and
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline for up to 90 days from discovery of the violation 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 a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 13: (16-113) Appeal of Notice of Violation. (Permit App. #27)

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

Section 14: (16-114) Enforcement Measures After Appeal. (Permit App. #26 &27)

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 90 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall 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 government agency or designated contractor to enter upon the premises for the purposes set forth above.

Section 15: (16-115) Cost of Abatement of the Violation. (Permit App. #26 & 27)

Within 90 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property 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 12 equal payments. Interest at the rate of percent per annum shall be assessed on the balance beginning on the 1st day following discovery of the violation.

Section 16: (16-116) Injunctive Relief.

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

Section 17: (16-117) Appeal of Notice of Violation.

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

Section 18: (16-118) 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 Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 19: (16-119) Criminal Prosecution. (Permit App. # 26, 27)

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500.00 dollars per violation per day and/or imprisonment for a period of time not to exceed 90 days.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 20: (16-120) Remedies Not Exclusive.

The remedies listed in this ordinance 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 21: (16-121) Adoption of Ordinance.

This ordinance shall be in full force and effective immediately after its final passage and adoption and legal publication in accordance with the provisions of the Act governing same. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this 16th day of September 2013, by the following vote:

This ordinance shall be effective after

The above Ordinance was offered for adoption by Township Board Member _____, and was seconded by Township Board Member _____, the vote being as follows:

YEAS:

NAYS:

ABSTAIN/ABSENT:

ORDINANCE DECLARED ADOPTED:

By: Benita Davis, Township Clerk
Charter Township of Port Huron

CERTIFICATION

I hereby declare that the above is a true copy of an Ordinance adopted by the Charter Township of Port Huron Board at a board meeting held on _____, at the Charter Township of Port Huron Hall, pursuant to the required statutory procedures.

Dated: _____

By: Benita Davis, Township Clerk
Charter Township of Port Huron