BY: Councilmember O'Keefe

ORDINANCE NO. 24 -2010

AN ORDINANCE TO ADOPT CHAPTER 1198 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF GRANVILLE, OHIO PERTAINING TO ILLICIT DISCHARGE & ILLEGAL CONNECTION CONTROL

WHEREAS, illicit discharges to the Village of Granville separate storm sewer system create water quality risks to public health, safety, and general welfare; and,

WHEREAS, illicit discharges may necessitate repair of storm sewers and ditches; damage to public and private property; and may damage water resources by reducing water quality; and,

WHEREAS, there are watershed-wide efforts to reduce illicit discharges to the rivers to which the Village of Granville drains and to protect and enhance the unique water resources of the rivers to which the Village of Granville watershed*(s)*; and,

WHEREAS, the Village of Granville recognizes its obligation to control illicit discharges and to protect water quality within its borders; and,

WHEREAS, 40 C.F.R. Parts 9, 122, 123, and 124, and Ohio Administrative Code 3745-39 require designated communities, including the Village of Granville, to develop a Storm Water Management Program that, among other components, requires the Village of Granville to prohibit illicit discharges to their storm water system and to implement appropriate enforcement procedures and actions to detect and eliminate such illicit discharges; and,

WHEREAS, Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Granville, Licking County, Ohio that:

Section 1. That Chapter 1198, Illicit Discharge and Illegal Connection Control is hereby adopted to read in total as follows:

CHAPTER 1198
Illicit Discharge and Illegal Connection Control

1198.01 PURPOSE AND INTENT.

The purpose of this regulation is to provide for the health, safety, and general welfare of the citizens of the Village of Granville 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:

(a) To prohibit illicit discharges and illegal connections to the MS4.
(b) To establish legal authority to carry out inspections, monitoring procedures, and enforcement actions necessary to ensure compliance with this regulation.

1198.02 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 Village of Granville, except for those discharges generated by the activities detailed in Section 1198.07 (A)(1) to (A)(3) of this regulation.

1198.03 DEFINITIONS.

(a) 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 housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to storm water. 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 Village of Granville, 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 (Ohio EPA), or any duly authorized official of said agency.

(4) "Floatable Material" means, in general terms, 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 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 1198.07 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 EPA (or by a State

under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

(10) "Off-Lot Discharging Household Sewage Treatment System" means a system designed to treat household 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" any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(14) "Wastewater" 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.

1198.04 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.

1198.05 CONFLICTS, SEVERABILITY, NUISANCES & RESPONSIBILITY.

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the Village of Granville, shall prevail.

(b) 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.

(c) 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.

(d) Failure of the Village of Granville 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 therefrom, and shall not result in the Village of Granville, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

1198.06 RESPONSIBILITY FOR ADMINISTRATION.

The Village of Granville shall administer, implement, and enforce the provisions of this regulation. The Village of Granville may contract with the Licking County Board of Health to conduct inspections and monitoring and to assist with enforcement actions.

1198.07 DISCHARGE AND CONNECTION PROHIBITIONS.

(a) Prohibition of Illicit Discharges. No person shall discharge, or cause to be discharged, an illicit discharge into the MS4. The commencement, conduct, or continuance of any illicit discharge to the MS4 is prohibited except as described below:

(1) Water line flushing; landscape irrigation; diverted stream flows; rising 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; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash water; and discharges or flows from fire fighting activities. These discharges are exempt until such time as they are determined by the Village of Granville to be significant contributors of pollutants to the MS4.

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

(3) Discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007 and permitted by the Licking County Board of Health for the purpose of discharging treated sewage effluent in accordance with Ohio Administrative Code 3701-29, or other applicable Licking County Board of Health regulations, until such time as the Ohio Environmental Protection Agency issues an NPDES permitting mechanism for household sewage treatment systems existing prior to January 1, 2007. These discharges are exempt unless such discharges are deemed to be creating a public health nuisance by the Licking County Board of Health. Discharges from new or replacement off-lot household sewage treatment systems installed after January 1, 2007 are not exempt from the requirements of this regulation.

In compliance with the Village of Granville Storm Water Management Program, discharges from all off-lot discharging 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 for systems existing prior to January 1, 2007, discharges from off-lot discharging household sewage treatment systems existing prior to January 1, 2007 will no longer be exempt from the requirements of this regulation.

(b) Prohibition of Illegal Connections. The construction, use, maintenance, or continued existence of illegal connections to the MS4 is prohibited.

(1) 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.

(2) A person is considered to be in violation of this regulation if the person connects a line conveying illicit discharges to the MS4, or allows such a connection to continue.

1198.08 MONITORING OF ILLICIT DISCHARGES AND ILLEGAL CONNECTIONS

(a) Establishment of an Illicit Discharge and Illegal Connection Monitoring Program: The Village of Granville shall establish a program to detect and eliminate illicit discharges and illegal connections to the MS4. This program shall include the mapping of the MS4, including MS4 outfalls and household sewage treatment systems; the routine inspection of storm water outfalls to the MS4, and the systematic investigation of potential residential, commercial, industrial, and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

(b) Inspection of Residential, Commercial, Industrial, or Institutional Facilities.

(1) The Village of Granville shall be permitted to enter and inspect Facilities subject to this regulation as often as may be necessary to determine compliance with this regulation.

(2) The Village of Granville shall have the right 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 discharge, as determined by the Village of Granville.

(3) The Village of Granville shall have the right 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. All devices used to measure storm water flow and quality shall be calibrated by the Village of Granville to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and reasonable access to the facility to be inspected and/or sampled shall be promptly removed by the facility's owner/operator at the written or oral request of the Village of Granville and shall not be replaced. The costs of clearing such access shall be borne by the facility owner/operator.

(5) Unreasonable delays in allowing the Village of Granville access to a facility subject to this regulation for the purposes of illicit discharge inspection is a violation of this regulation.

(6) If the Village of Granville is refused access to any part of the facility from which storm water is discharged, and the Village of Granville 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 Village of Granville 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.

(7) Any costs associated with these inspections shall be assessed to the facility owner/operator.

1198.09 ENFORCEMENT.

(a) Notice of Violation. When the Village of Granville finds that a person has violated a prohibition or failed to meet a requirement of this regulation, the Village of Granville may order compliance by written Notice of Violation. Such notice must specify the violation and shall be hand delivered, and/or sent by certified mail, to the owner/operator of the facility. Such notice may require the following actions:

(1) The performance of monitoring, analyses, and reporting;
(2) The elimination of illicit discharges or illegal connections;
(3) That violating discharges, practices, or operations cease and desist;
(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; or
(5) The implementation of source control or treatment BMPs.

(b) 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.

(c) Any person receiving a Notice of Violation must meet compliance standards within the time established in the Notice of Violation.

(d) Administrative Hearing: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, the Village of Granville shall schedule an administrative hearing with the Board of Building and Zoning Appeal to determine reasons for non-compliance and to determine the next enforcement activity. Notice of the administrative hearing shall be hand delivered and/or sent by registered mail.

(e) 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 O.R.C. 3709.211. If a owner/operator has violated or continues to violate the provisions of this regulation, the Village of Granville 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.

1198.10 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 Village of Granville to seek cumulative remedies.

Section 2: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed this 15th day of December, 2010.

Melissa Hartfield, Mayor

Attest:

Mollie Prasher, Clerk of Council

Approved as to form:

D. Michael Crites, Law Director