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LORAIN

OBERLIN

CITY OF OBERLIN

3GQ00080 2009/09/09

BOGOEVSKI,  
DANIEL

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State of Ohio Environmental Protection Agency

Northeast District Office

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

September 9, 2009

RE: LORAIN COUNTY  
BLACK RIVER WATERSHED  
CITY OF OBERLIN  
MUNICIPAL STORM WATER PROGRAM -  
REQUIRED ORDINANCES

Mr. Jeffrey J. Baumann  
Public Works Director  
City of Oberlin  
85 South Main St.  
Oberlin, OH 44074

Dear Mr. Baumann:

Ohio EPA is in receipt of the Annual Reports for 2007 and 2008 for the City of Oberlin Municipal Storm Water Program. In reviewing the information submitted, I wanted to bring to your attention that the ordinances cited in the report do not meet the requirements of the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Small Municipal Separate Storm Sewer Systems (MS4s) #OHQ000002. Our records indicate that the City of Oberlin has renewed municipal storm water permit coverage under this general permit and is assigned a facility ID of 3GQ00080\*BG.

In particular, the following deficiencies were noted within existing ordinances:

- **Illicit Discharge Ordinance** – Section 915.07 of the municipal code does not address all forms of illicit discharge to the MS4 nor does it provide authority to the City to enter property to investigate possible sources of illicit discharge or outline the enforcement actions available to the City should violations occur. It does not specify the occasional non-storm water discharges to the City of Oberlin MS4 that may be permitted. These omissions must be corrected in order for the City to have a complete illicit discharge ordinance.
- **Construction Site Runoff Control** – Section 1315.14 of the municipal code contains only general language that requires measures to be taken to minimize erosion and its impacts "during subdivision construction activity". The MS4 permit requires the code to cover all construction activities whose larger common plan of development or sale disturbs 1 or more acre of land, not just those within a subdivision. Construction activities are defined as earth disturbance and include any grading, grubbing, filling, clearing or excavating not associated with agricultural or silvacultural activity.

Also, be sure that you understand the breath and scope of construction activities that may occur and must be regulated by the local ordinance. Building a structure is not always necessary for "construction activity" to occur. Construction includes, but is not limited to, land clearing and grading to make property more attractive for sale or future development, installation of an underground utility line, clean-up of a brownfield in anticipation of future redevelopment, and site preparation to establish a landfill operation. These are all construction activities that typically disturb 1 or more acre of land and must be covered by the local ordinance if 1 or more acre is disturbed.

Further, the existing code states "techniques, devices or measures used shall be as approved by the Director [of Public Works] based on site conditions and the Public Works Standards. Does the City of Oberlin have a standards manual that defines the Public Works Standards? Are these standards consistent and at least as stringent as the standards contained in the Ohio EPA General Storm Water NPDES Permit for Construction Activities #OHC000003? Please be aware that the MS4 permit requires the City's standards to be at least as stringent as those of Ohio EPA.

Finally, there are no provisions for enforcement should violations occur. What are the possible penalties for a violation of Section 1315.14 of the code?

- **Post-Construction Storm Water Management** – Section 1315.11 of the existing code discusses storm water management from a quantity perspective, but does not require the treatment of the Water Quality Volume (WQv). There are no provisions in this code to require the use of post-construction best management practices (BMPs) that improve the quality of storm water runoff from the developed site. As such, the existing ordinance does not meet the intent of the MS4 permit. As with the construction activities ordinance, the MS4 permit requires the City's post-construction ordinance to be at least as stringent as the requirements contained in the Ohio EPA General Storm Water NPDES Permit for Construction Activities #OHC000003. At a minimum, this requires BMPs to treat the WQv, but should also include provisions for non-structural controls such as riparian and wetland setbacks.

Further, the existing code does not require long-term maintenance plans for post-construction BMPs and does not establish penalties or mitigation requirements when violations occur or if a variance is granted.

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To aid you in updating your local ordinances, please refer to model ordinances developed by the Chagrin River Watershed Partners (see [www.crwp.org](http://www.crwp.org) or call 440-975-3870). These ordinances have been reviewed by Ohio EPA for compliance with the requirements of NPDES permit #OHQ000002, i.e., the current general NPDES permit for small MS4s. Model ordinances are also available from the Northeast Ohio Areawide Coordinating Agency (NOACA) at [www.noaca.org](http://www.noaca.org). However, updates to these ordinances have not been reviewed by Ohio EPA for compliance with #OHQ000002.

The MS4 permit requires the City of Oberlin to upgrade existing construction and post-construction ordinances to meet Ohio EPA requirements no later than 2 years from the date that MS4 permit coverage was renewed. Our records indicate that this date is **June 24, 2011**, for the City of Oberlin. Please be sure that the City updates these ordinances by this date. A complete illicit discharge ordinance was to be in place no later than the end of Year 5 of the first permit term, i.e., April 3, 2008. The City of Oberlin will remain in violation of Part 3.2.3.1.3 of MS4 permit #3GQ00080\*AG until a complete illicit discharge ordinance is enacted.

If you have any questions, please contact me at (330) 963-1145.

Sincerely,



Dan Bogoevski  
District Engineer  
Division of Surface Water

DB/mt

cc: Anthony Robinson, Ohio EPA, DSW, CO  
Eric Norenberg, Manager, City of Oberlin