

# ENFORCEMENT RESPONSE PROCEDURE

Prepared on behalf of:

## *Village of Lexington, Michigan*

Prepared by:  
**Spicer Group**

### **1. ENFORCEMENT OF PCC STANDARDS**

Each municipality or township that has adopted these design standards or has their own design standards for stormwater must initiate the action of enforcement through their zoning regulations or another regulatory mechanism at their disposal as they determine is appropriate.

FOR NEW DEVELOPMENTS of 1 acre or more in area (*including projects less than an acre that are a part of a larger common plan of development or sale and discharge into the applicant's MS4*): If a site is not in compliance with the design standards and has not completed the site review process successfully, the county will rely on the local building inspector to NOT issue an occupancy permit for the structure until it is in compliance with the standards. IF the local municipality has its own PCC standards in place then they will not issue a building permit until the site review process is completed per their historical established procedures.

FOR NEW DEVELOPMENTS or RE-DEVELOPMENTS of 1 acre or more in area (*including projects less than an acre that are a part of a larger common plan of development or sale and discharge into the applicant's MS4*):

If the site is already occupied then a letter will be issued from the municipality's zoning enforcement staff to bring the site into compliance within the specified period of time dictated on the letter. If the site is a High Priority site (*human health and safety hazard*) it must be brought into compliance immediately upon receiving either verbal or written notice. If the site is considered a Medium Priority (*flood and property damage hazard to nearby parcels/structures*) action must start within 5 days of receiving written or verbal notice and be completed within 10 days after action has started. If the site is Low Priority (*nuisance site, no imminent property damage can occur, no water quality issues*) the site must come into compliance within 30 days of receiving written or verbal notice.

### **Codes, Ordinances, Laws for Enforcement of PCC for pollution of surface waters or MS4**

The Village of Lexington has adopted or has the following as commercial / residential building enforcement procedures:

- 2012 Michigan Plumbing Code,
- 2009 Michigan Residential Code, or
- The International Property Maintenance Code of 2012.
- Illicit Discharge and Connection Ordinance (Chapter 34 – Environment, Section 34-120 to end. Adopted January 22, 2007)

These administrative procedures when adopted by a community provide the “**right of entry**” for the municipality’s inspector, code enforcement staff, or their designee to enter private property if a violation of the code is witnessed, visible, or quantifiable evidence is present to suggest that a violation exists on the property. If access is denied, and evidence of violation is present, then staff will obtain a warrant for entry if necessary.

**Enforcement Venue for Village of Lexington:**

For illicit connections and discharge the following ordinance will primarily be utilized by the Village:

- Illicit Discharge and Connection Ordinance (Chapter 34 – Environment, Section 34-120 to end. Adopted January 22, 2007), this ordinance is located online at:

[http://www.villageoflexington.com/upfiles/files/MX-M503N\\_20160209\\_130543.pdf](http://www.villageoflexington.com/upfiles/files/MX-M503N_20160209_130543.pdf)

And starts at page 79 of the compiled ordinances at this site.

PA245-1999 which amended PA230-1972 (the Stille-Derossett-Hale Single State Construction Code Act) established the “Single State Construction Code” whereby the entire state of Michigan is subject to a single “family” of construction codes **without** exception. This means that every portion of the State is subject to the 2012 Michigan Plumbing Code and the 2009 Michigan Residential Code enforced either locally (as an authorized enforcing agency) or by the State Bureau of Construction Codes (BCC).

Since Code Enforcement and Property Maintenance is not a function enabled by PA230-72 and not otherwise mandated by state law, a local governmental unit would have to locally adopt the International Property Maintenance Code (IPMC) to lawfully enforce its provisions. If a municipal member has adopted, by ordinance, the IPMC and enforces it through its Code Enforcement Program the chart above is marked appropriately.

Additionally, if the municipality has a Code Enforcement Log that is marked above also. The Code Enforcement Log is a tracking mechanism used by communities to track violations and their outcome and will be used by that community as its tracking mechanism.

**Enforcement Venues for State Agencies:**

MDOT has two M highways in the jurisdictional boundaries of Lexington and MS4s under their jurisdiction will be handled by this state agency.

**STATE OF MICHIGAN - Responsibility**

**Public Act 451 of 1994 (NREPA) – Part 31 Water Resources**

**324.3103 Department of environmental quality; powers and duties generally; rules; other actions.**

**Sec. 3103.**

(1) The department shall protect and conserve the water resources of the state and shall have control of the pollution of surface or underground waters of the state and the Great Lakes, which are or may be affected by waste disposal of any person. The department may make or cause to be made surveys, studies, and investigations of the uses of waters of the state, both surface and underground, and cooperate with other governments and governmental units and agencies in making the surveys, studies, and

investigations. The department shall assist in an advisory capacity a flood control district that may be authorized by the legislature. The department, in the public interest, shall appear and present evidence, reports, and other testimony during the hearings involving the creation and organization of flood control districts. The department shall advise and consult with the legislature on the obligation of the state to participate in the costs of construction and maintenance as provided for in the official plans of a flood control district or inter-county drainage district.

(2) The department shall enforce this part and may promulgate rules as it considers necessary to carry out its duties under this part. However, notwithstanding any rule-promulgation authority that is provided in this part, except for rules authorized under section 3112(6), the department shall not promulgate any additional rules under this part after December 31, 2006.

(3) The department may promulgate rules and take other actions as may be necessary to comply with the federal water pollution control act, 33 USC 1251 to 1387, and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution. This part shall not be construed as authorizing the department to expend or to incur any obligation to expend any state funds for such purpose in excess of any amount that is appropriated by the legislature.

(4) Notwithstanding the limitations on rule promulgation under subsection (2), rules promulgated under this part before January 1, 2007 shall remain in effect unless rescinded.

**History:** 1994, Act 451, Eff. Mar. 30, 1995; -- Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004; -- Am. 2005, Act 33, Imd. Eff. June 6, 2005

**Compiler's Notes:** For transfer of authority, powers, duties, functions, and responsibilities of the Environmental Assistance Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws. For transfer of authority, powers, duties, functions, and responsibilities of the Surface Water Quality Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled MCL 324.99901 of the Michigan Compiled Laws. For transfer of authority, powers, duties, functions, and responsibilities of the Waste Management Division to the Director of the Michigan Department of Environmental Quality, see E.R.O. No. 1995-16, compiled at MCL 324.99901 of the Michigan Compiled Laws.

**Popular Name:** Act 451

**Popular Name:** NREPA

**Admin Rule:** R 323.1001 et seq. and R 323.2101 et seq. of the Michigan Administrative Code.

## **2. ILLICIT DISCHARGE ELIMINATION PROGRAM**

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Each set of ordinances or other regulatory mechanisms:

1. Regulate the contribution of pollutants to the MS4, owned by the permittee.
2. Prohibit illicit discharges, including the direct dumping or disposal of materials, into the MS4, owned by the permittee.
3. Establish the authority to investigate, inspect, and monitor suspected illicit discharges into the MS4, owned by the permittee.
4. Require elimination of illicit discharges and connections into the MS4, owned by the permittee.

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