

**VILLAGE OF EDWARDSBURG  
GROUND WATER PROTECTION ORDINANCE  
ORDINANCE NO. 2002-02**

**I. PURPOSE**

The Village of Edwardsburg has Determined that:

- 1) The ground water underlying the Village is the sole source of the Village's drinking water.
- 2) Ground water aquifers are integrally connected with, and flow into, the surface waters, lakes and streams that constitute significant public health, recreational and economic resources of the Village.
- 3) Spills and discharges of petroleum products, sewage and other hazardous substances threaten the quality of the ground water supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, the Village of Edwardsburg has enacted an ordinance to:

- 4) Preserve and maintain existing and potential ground water supplies, aquifers, and ground water recharge areas of the Village, and protect them from adverse development or land practices.
- 5) Preserve and protect present and potential sources of drinking water supply for public health and safety.
- 6) Conserve the natural resources of the Village.
- 7) Protect the financial investment of the Village in its drinking water supply system and to meet state requirements for wellhead protection
- 8) Assure that state regulations that help protect ground water are implemented consistently when new or expanded development proposals are reviewed.

## DEFINITIONS

- 1) **AQUIFER:** A geologic formation, group of formations or part of formation capable of storing and yielding a significant amount of ground water to wells or springs
- 2) **BEST MANAGEMENT PRACTICES:** Measures, either managerial or structural to prevent or reduce pollution inputs to soil, surface water or ground water.
- 3) **DEVELOPMENT:** The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
- 4) **ENVIRONMENTAL CONTAMINATION:** The release of a hazardous substance, or the potential of a discarded hazardous substance, in a quantity, which is or may become injurious to the environment, or to the public health, safety, or welfare.
- 5) **FACILITY:** Any building, structure, or installation from which there may be a discharge of pollutants.
- 6) **HAZARDOUS SUBSTANCE:** A chemical or other material, which is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, substances as defined in the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510, 94 stat. 2767; "hazardous waste" as defined in the hazardous waste management act, Act No. 64 of the Public Acts of 1979, being sections 299.501 to 299.551 of the Michigan Compiled Laws; "petroleum" as defined in the leaking underground storage tank act, Act No. 478 of the Public Acts of 1988, being sections 299.831 to 299.850 of the Michigan Compiled Laws.
- 7) **PRIMARY CONTAINMENT FACILITY:** A tank, pit, container, pipe, or vessel of first containment of hazardous substance.
- 8) **SECONDARY CONTAINMENT FACILITY:** A secondary tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground water, or surface waters, of any pollutant that may emanate from from said storage container or containers.

### III SCOPE

these provisions shall apply to all business and facilities, including private and public facilities, which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds), and which require site plan review under the provisions of this ordinance.

### IV GENERAL PROVISIONS

#### 1) Ground Water Protection Standards

- a) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, flood plains and ground water, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
- b) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capability of any wetland, water body, or watercourse, and shall not increase flooding, or the potential for environment contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.
- c) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a State surface or ground water discharge permit.
- d) Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, ground water, lakes, streams, rivers or wetlands.
- e) State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without applicable permits and approvals.
- f) In determining a conformance with the standards in this zoning ordinance, the Village shall take into consideration the publication entitled "Small Business Guide to Secondary Containment," C Clinton River Watershed Council, 1991 and other applicable references.
- g) Bulk storage of pesticides shall be in accordance with Regulation No. 640, Commercial Pesticide Bulk Storage, of Act 171 of Public Acts of 1976, as amended, being section 286.569.

2) **Aboveground Storage and Use Areas for Hazardous Substances and Polluting Material**

- a) Primary containment of hazardous substances shall be product tight.
- b) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of 10 gallons or less packaged for retail use shall be exempt from this item.
- c) Outdoor storage of hazardous substances shall be prohibited except in product-tight containers that are protected from weather, lease, accidental damage and vandalism, including an allowance for the expected accumulation of precipitation.
- d) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, ground water, or nearby drains or natural water bodies unless a surface or ground water discharge permit has been obtained pursuant to applicable requirements of Act 451.
- e) Areas and facilities for loading and unloading of hazardous substances as well areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetland, ground water, or soils.

3) **UNDERGROUND STORAGE TANKS**

- a) Existing and new underground storage tanks shall be registered with the authorized State agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality Storage Tank Division.
- b) Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with applicable requirements of the Michigan Department of Environmental Quality Storage Tank Division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. During operation, records of monthly monitoring or inventory control must be retained and available for review by Village officials for five years.
- c) Underground storage tanks taken out of service permanently shall be emptied and permanently closed in accordance with the requirements of the Michigan Department of Environmental Quality.

4) **Well Abandonment**

Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Environmental Quality.

5) **Site with Contaminated Soils and/or Ground Water**

- a) Site plans shall take into consideration the location and extent of any contaminated soils and/or ground water on the site, and the need to protect public health and the environment.
- b) Development shall not be allowed on or near contaminated areas of a site unless information from the Michigan Department of Environmental Quality is available indicating that cleanup will proceed in a timely fashion.

6) **CONSTRUCTION STANDARDS**

- a) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.
- b) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, ground water, lakes, streams, rivers, or wetlands. Any storage container of over 25 gallons, or 220 pounds, containing hazardous substances shall have secondary containment.
- c) If the contractor will be storing or handling hazard substances that require a manufacturer's material safety data sheet, the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and cleanup any release of the hazardous substance.
- d) Upon completion of construction, all hazardous substances and containment systems no longer used, or not in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or reused in a proper manner as prescribed by applicable State and Federal Regulations.

## 7) MAINTENANCE

In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and ground water. Cracks and holes in floors, foundations, and walls must be repaired in areas where chemicals are handled and stored.

## V REVIEW REQUIREMENTS

- 1) Specify location and size of interior and exterior area(s) and structure(s) to be used for on-sites storage, use, loading/unloading, recycling, or disposal of hazardous materials.
- 2) Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated storm water or wash water, and all similar uses.
- 3) Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or waste-water. The point of discharge for all drains and pipes shall be specified on the site plan.
- 4) Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.
- 5) Submit "Hazardous Materials Reporting Form for Site Plan Review."
- 6) Submit "State/County Environmental Permits Checklists."

## CONDITIONS FOR APPROVAL OR DENIAL

The Planning Commission, upon reviewing a site plan, shall take one of the following actions:

- 1) Approval - If the site plan meets all the Zoning Ordinances and related development requirements and standards, the Planning Commission shall record such approval and the Chairman shall sign three copies of the site plan filing one in the official site plan file, forwarding one to the building inspector, and returning one to the applicant.
- 2) Disapproval - If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
- 3) Conditional Approval - Conditions on approval of the site plan may be imposed meeting the requirements specified in the Village Zoning Enabling Act. Conditions must be:
  - a) Designed to protect natural resources, and the health, safety and welfare and the social and economic well being of residents, neighbors, and the community as a whole.
  - b) Related to the valid exercise of the police power.
  - c) Necessary to meet the purposes of the Zoning Ordinance and related to the standards established in Zoning Ordinance for the land use or activity under consideration.
- 4) Table - If the site plan is found to be in violation of requirements, incomplete with respect to necessary information or presenting a unique situation, the Planning Commission may table the site until a public hearing can be scheduled to determine specific improvement requirements the Planning Commission feels are necessary but the applicant is not in agreement with.

## VII EXEMPTIONS AND WAIVERS

The transportation of any hazardous substance shall be exempt from the provisions of this ordinance provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage or disposal facility.

## VIII Appeals

The Village Commission may grant a special permit if it finds by written decision that the proposed use:

- 1) Meets the intent of this section as well as its specific criteria;
- 2) Will not, during construction or thereafter, have an adverse impact on any aquifer or recharge area in the district;
- 3) Will not adversely affect an existing or potential domestic or municipal water supply; and is consistent with existing and probable future development of surrounding areas.

In addition to the findings described above, the decision shall include an explanation of the reason for any variation to the requirements.

## IX PENALTIES AND COSTS

- 1) Falsifying Information

Any person or persons who is found to have violated an Order of the Village or who willfully or negligently fails to comply with any provision of this ordinance and the orders, rules, and regulations and permits issued thereunder, shall be fined upon conviction not more than one hundred (\$100.00) dollars.



## 2) Violations

Any person or persons which is found to have violated an Order of the Village or who willfully or negligently fails to comply with any provision of this Ordinance and the orders, rules, and regulations and permits issued thereunder, shall be fined upon conviction not more than one hundred (\$100.00) dollars.

Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Village may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance or the orders, rules regulations, and permits issued thereunder.

Any person or persons violating any of the provisions of this Ordinance shall be liable to the Village of any expense, loss or damage caused by such violation. The Village shall bill the person or persons for the cost incurred by the Village (caused by the violation)

## X SEVERABILITY

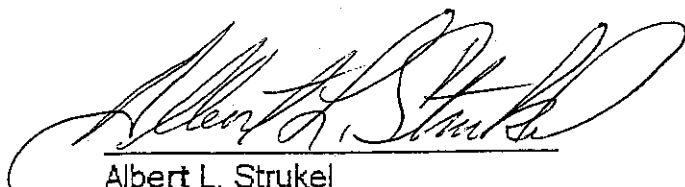
If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.

## XI EFFECTIVE DATE

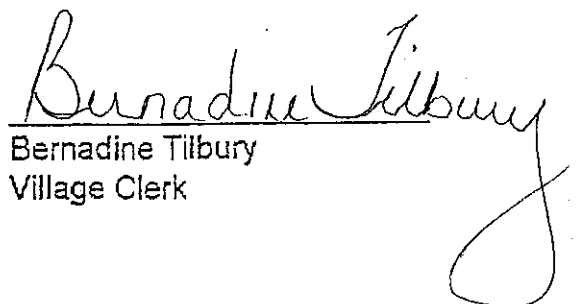
This Ordinance shall become effective thirty-one (31) days after its publication as required by law.

## XII ADOPTION DATE

This Ordinance is hereby declared to have been adopted by the Village Council of the Village of Edwardsburg, County of Cass, State of Michigan at a regular meeting held on the 21<sup>st</sup> day of October, 2002



Albert L. Strukel  
Village President



Bernadine Tilbury  
Village Clerk

MOTION TO ADOPT ORDINANCE

Motion made by James Robinson and supported by Richard

Cox that the foregoing Ordinance be adopted.

Vote: Yes 6

No 0

Absent 0

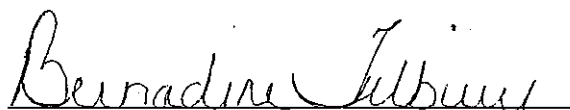
Ordinance declared adopted at a regular meeting of the Edwardsburg Village Council on  
October 21, 2002.

CERTIFICATION

We hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Village of  
Edwardsburg, Ontwa Township, Cass County, Michigan on October 21, 2002.



ALBERT L. STRUKEL  
Village President



BERNADINE TILBURY  
Village Clerk

