

VILLAGE OF EDWARDSBURG

CASS COUNTY, MICHIGAN

NON-STORM WATER DISCHARGES ORDINANCE NO. 2003-01

AN ORDINANCE to regulate non-storm water discharges to the storm water drainage system and waterbodies to the maximum extent practicable, as required by federal and state law; to establish methods for controlling the introduction of pollutants into the storm water drainage system and waterbodies in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process; and to provide penalties for violations of the ordinance.

The Village of Edwardsburg ordains:

**ARTICLE I - GENERAL**

**SECTION 1.01 STATUTORY AUTHORITY AND TITLE**

This ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq. (for townships and villages, cite proper statute); the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123, and 124; and other applicable state and federal laws.

The Village shall administer, implement, and enforce the provisions of the ordinance. Any powers granted, or duties imposed, upon the Village may be delegated in writing by the director of the Village to persons or entities acting in the beneficial interest of, or in the employ of the Village.

**SECTION 1.02 FINDINGS**

The Village finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the waterbodies and water resources of the Village, thus threatening the health, safety, and welfare of the citizenry.
- (2) Illicit discharges enter the storm water drainage system and waterbodies through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this ordinance and implementing the same will address many of the deleterious effects of illicit discharges.
- (4) 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.

**SECTION 1.03 PURPOSE**

It is the purpose of this ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

To regulate the contribution of pollutants to the storm water drainage system and waterbodies by storm water discharges by any user.

To prohibit illicit discharges and connections to the storm water drainage system and waterbodies.

To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance.

To provide appropriate remedies for failure to comply with this ordinance.

## SECTION 1.04 APPLICABILITY AND GENERAL PROVISIONS

This ordinance shall apply to all discharges entering the storm water drainage system and waterbodies generated on any developed and undeveloped lands.

## SECTION 1.05 DEFINITIONS

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized Enforcement Agency: Employees or designees of the director of the Village

Best Management Practices (BMPs): Structural devices or nonstructural practices that are designed to prevent pollutants from entering storm water flows, to direct the flow of storm water, or to treat polluted storm water flows. Many BMPs are described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan Watersheds. Equivalent practices and design criteria that accomplish the purposes of this ordinance (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) may be determined by the Village Engineer.

Clean Water Act: The Federal Water Pollution Control Act, 33 USC Sec 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Discharger: Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this ordinance.

Drain: Any and all conduits, facilities, measures, areas, and structures which serve to convey, catch, hold, filter, store, and/or receive storm water or groundwater, either on a temporary or permanent basis.

Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.

Drainageway: A drain, water body, or floodplain.

EPA: The United States Environmental Protection Agency.

Floodplain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, which has been or may be covered by floodwater.

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.

## ARTICLE II - PROHIBITIONS AND AUTHORIZATIONS

### SECTION 2.01 PROHIBITED DISCHARGES

- (1) Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (2) The Authorized Enforcement Agency is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants to a waterbody.
- (3) Prohibition of Illicit Discharges: No person shall discharge or cause to be discharged into the storm water drainage system or waterbody 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, other than authorized discharges. The commencement, conduct or continuance of any illicit discharge to the storm water drainage system is prohibited, except for discharges specified in writing by the authorized enforcement agency as being necessary to protect public health, welfare, and safety.
- (4) Prohibition of Illicit Connections:
  - (a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
  - (b) 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.
  - (c) A person is considered to be in violation of this ordinance if the person connects a conduit conveying wastewater to the storm water drainage system or waterbody, or allows such a connection to continue.
- (5) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm water drainage system.

### SECTION 2.02 AUTHORIZED DISCHARGES

The following non-storm water discharges shall be permissible, provided they do not result in a violation of State of Michigan water quality standards:

- Water supply line flushing
- Landscape irrigation runoff
- Diverted stream flows
- Rising groundwater
- Uncontaminated groundwater infiltration to storm drains
- Uncontaminated pumped groundwater
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs

Water from crawl space pumps  
Footing drains and basement sump pumps  
Lawn watering runoff  
Waters from non-commercial car washing  
Flows from riparian habitats and wetlands  
Residential swimming pool water and other dechlorinated swimming pool water providing any filter backwash water that is present is treated  
Residual street wash water  
Discharges or flows from emergency fire fighting activities

## **SECTION 2.03 STORAGE OF HAZARDOUS OR TOXIC MATERIALS IN DRAINAGEWAY**

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainageway, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a storm water drainage system, or waterbody.

## **ARTICLE III - INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING**

### **SECTION 3.01 INSPECTION AND SAMPLING**

To assure compliance with the standards in this regulated area, the Authorized Enforcement Agency may inspect and/or obtain samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this ordinance. Upon request, the discharger shall allow the properly identified representative of the Authorized Enforcement Agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection, investigation, smoke/dye testing, televising pipes, sampling, or (if necessary) excavation. The Authorized Enforcement Agency shall provide the discharger reasonable advance notice of the need for such access. The properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a facility is a violation of this ordinance.

### **SECTION 3.02 STORM WATER MONITORING FACILITIES**

A commercial or industrial discharger of storm water runoff shall provide and operate equipment or devices for the monitoring of storm water runoff to provide for inspection, sampling, and flow measurement of each discharge to a waterbody or a storm water drainage system, when directed in writing to do so by the Authorized Enforcement Agency. The Authorized Enforcement Agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances, and regulations.

### **SECTION 3.03 ACCIDENTAL DISCHARGES**

- (1) Any discharger who accidentally discharges into a storm water drainage system or a waterbody any substance other than storm water or an authorized discharge shall immediately inform the Authorized Enforcement Agency concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the Authorized Enforcement Agency within five days. The written report shall specify the following:
  - (a) The composition of the discharge and the cause thereof.

**Illicit Connection:** Any method or means for conveying an illicit discharge into water bodies or the storm water drainage system.

**Illicit Discharge:** Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or authorized discharges as defined in this ordinance.

**MDEQ:** Michigan Department of Environmental Quality.

**Storm Water Drainage System:** a system of storm sewers, conduits, curbs, gutters, catch basins, ditches, pumping devices, parking lots, roads, or other man-made channels that is designed or used for collecting or conveying storm water.

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:** A permit issued by the U.S. Environmental Protection Agency (EPA) (or a state under authority delegated pursuant to the Clean Water Act) that authorizes the discharge of pollutants to waters of the United States.

**Nonstorm Water Discharge:** Any discharge to the storm water drainage system or a waterbody that is not composed entirely of storm water.

**Pollutant:** A substance discharged which includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

**Premises:** Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

**Property Owner:** Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

**State of Michigan Water Quality Standards:** All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of section 3106 of Part 31 of 1994 PA 451, as amended.

**Storm Drain:** A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, groundwater, and drainage.

**Storm Water Pollution Prevention Plan:** A document, which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, a storm water drainage system, and/or a waterbody to the maximum extent practicable.

**Storm Water Runoff:** The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

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

**Waterbody:** A river, lake, stream, creek, or other watercourse or wetlands.

- (b) The exact date, time, and estimated volume of the discharge.
- (c) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
- (d) The names and telephone numbers of the person making the report, and the person who may be contacted for additional information on the matter.

### SECTION 3.04 RECORD-KEEPING REQUIREMENT

Any person violating any part of this ordinance or subject to monitoring under this ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any property.

## ARTICLE IV - ENFORCEMENT

### SECTION 4.01 SANCTIONS FOR VIOLATION

- (1) Any person violating any provision of this ordinance shall be responsible for a municipal civil infraction and subject to a fine of not less than \$100. for a first offense, and not less than \$100. for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief. Each day such violation occurs or continues shall be deemed a separate offense, and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this ordinance.

For purposes of this section, subsequent offense means a violation of the provisions of this ordinance committed by the same person within 12 months of a previous violation of the same provision of this ordinance for which said person admitted responsibility or was adjudicated to be responsible.

The Authorized Enforcement Agency is authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this ordinance.

- (2) Any person who aids or abets a person in a violation of this ordinance shall be subject to the sanctions provided in this section.

### SECTION 4.02 FAILURE TO COMPLY - COMPLETION

In addition to any other remedies, should any property owner fail to comply with the provisions of this ordinance, the Authorized Enforcement Agency may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the property owner shall be obligated to promptly reimburse the Village for all costs of such work.

## SECTION 4.03 EMERGENCY MEASURES

When emergency measures are necessary to moderate a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the Authorized Enforcement Agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this ordinance, and shall promptly reimburse the Village for all of such costs.

## SECTION 4.04 COST RECOVERY FOR DAMAGE TO STORM WATER DRAINAGE SYSTEM

A discharger shall be liable for all costs incurred by the Village as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm water drainage system, or violates any of the provisions of this ordinance. Costs include, but are not limited to, those penalties levied by the EPA or MDEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

## SECTION 4.05 COLLECTION OF COSTS - LIEN

Costs incurred by the city pursuant to Sections 4.02, 4.03 and 4.04 shall be a lien on premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the village shall have all remedies authorized by Act. No. 94 of the Public Acts of 1933, as amended.

## SECTION 4.06 SUSPENSION OF ACCESS TO THE STORM WATER DRAINAGE SYSTEM

(1) Suspension due to Illicit Discharges in Emergency Situations.

The Authorized Enforcement Agency may, without prior notice, suspend access to the storm water drainage system 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 storm water drainage system. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the storm water drainage system or the environment, or to minimize danger to persons.

(2) Suspension due to the Detection of Illicit Discharge.

Any person discharging to the storm water drainage system in violation of this ordinance may have their 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 access. A person commits an offense if the person reinstates access to premises terminated pursuant to this section without the prior approval of the Authorized Enforcement Agency.

## SECTION 4.07 APPEALS

Any person to whom any provision of this ordinance has been applied may appeal in writing the Village, not later than 30 days after the action or decision being appealed. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Village shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the Village may consider the recommendations of the Authorized Enforcement Agency and the comments of other persons having knowledge of the matter. In considering any such appeal, the Village may grant a temporary variance from the terms of this ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the ordinance provisions being appealed will present or cause practical difficulties for a facility; provided, however, that practical difficulties shall not include the need for the property owner to incur additional reasonable expenses in order to comply with the ordinance; and
- (2) The granting of the relief requested will not substantially prevent accomplishment of the goals and purposes of this ordinance, nor result in less effective management of storm water runoff.

## ARTICLE V - PERFORMANCE AND DESIGN STANDARDS

### SECTION 5.01 RESPONSIBILITY TO IMPLEMENT BMPS

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm water drainage system or waterbody through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the storm water drainage system or waterbody. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

## ARTICLE VI - OTHER MATTERS

### SECTION 6.01 INTERPRETATION

Words and phrases in this ordinance shall be construed according to their common and accepted meanings, except those words and phrases defined in Section 1.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases not defined in this ordinance, but which have acquired particular meanings in law or in technical usage, shall be construed according to such meanings.

### SECTION 6.02 CATCH-LINE HEADINGS

The catch-line headings of the articles and sections of this ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.



### SECTION 6.03 SEVERABILITY

The provisions of this ordinance are hereby declared to be severable, and if any part or provision of this ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of the ordinance.

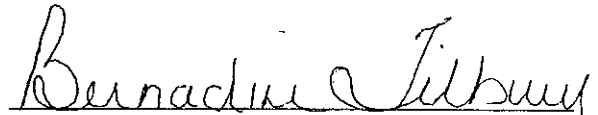
### SECTION 6.04 OTHER ORDINANCES

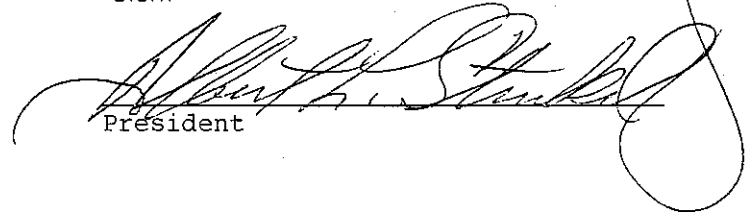
This ordinance shall be in addition to other ordinances of the     Village    , and shall not be deemed to repeal or replace other ordinances, or parts thereof, except to the extent that such repeal is specifically provided for in this article.

### SECTION 6.05 EFFECTIVE DATE

This ordinance shall become effective ten days, following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.

This ordinance was adopted November 17, 2003, by the council and made effective January 30, 2004.

  
Clerk

  
President