

SECTION 1. PURPOSE/INTENT.

The purpose of this Local Law is to provide for the health, safety and general welfare of the citizens of the Village of Baldwinsville through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Local Law establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) and the New York State Pollutant Discharge Elimination System (SPDES) permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
2. To prohibit illicit connections and discharges to the MS4.
3. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance.

SECTION 2. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water

conveyance systems. 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.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES or SPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 8 of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES or SPDES Industrial Storm Water Permits.

Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the Village of Baldwinsville and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

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 Section 1342(b) - SPDES) 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.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed of surface water meeting the water quality standards identified within Part 70, Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any flow, runoff or drainage consisting of surface water meeting the water quality standards identified within Part 703, Surface Water and Groundwater Quality Standards and Groundwater Effluent Limitations of the Official Compilation of Codes, Rules and Regulations of the State of New York, from any form of natural precipitation, and resulting from such precipitation.

Storm Water Management Plan. A document which describes the Best Management Practices 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, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

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

SECTION 3. APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted.

SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

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

SECTION 5. COMPATIBILITY WITH OTHER REGULATIONS.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Local Law are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

SECTION 6. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

SECTION 7. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

SECTION 8. DISCHARGE PROHIBITIONS.

8.1 Prohibition of Illegal Discharges.

No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: 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 condensation, 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 and street wash water.

2. Discharges or flow from firefighting and other discharges specified in writing by the Code Enforcement Officer as being necessary to protect public health and safety.

3. Discharges associated with dye testing; however, this activity requires a verbal notification to the Code Enforcement Officer prior to the time of the test.

4. The prohibition shall not apply to any non-storm water discharge permitted under a NPDES or SPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA) or the New York State Department of Environmental Conservation provided that 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 drain system.

8.2 Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

2. 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.

3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

4. Improper connections in violation of this ordinance must be connected and redirected, if necessary, to an approved onsite waste water management system or the sanitary sewer system upon approval of the Code Enforcement Officer of the Village of Baldwinsville.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Code Enforcement Officer of the Village of Baldwinsville requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Code Enforcement Officer of the Village of Baldwinsville.

SECTION 9. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

10.1 Submission of NOI to Village of Baldwinsville.

1. Any person subject to an industrial or construction activity NPDES or SPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Code Enforcement Officer prior to the allowing of discharges to the MS4.

2. The operator of a facility, including construction sites, required to have an NPDES or SPDES permit to discharge storm water associated with industrial activity shall submit a copy of the Notice of Intent (NOI) to the Code Enforcement Officer at the same time the operator submits the original Notice of Intent to the EPA or State DEC as applicable.

3. The copy of the Notice of Intent may be delivered to the Code Enforcement Office either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Code Enforcement Officer
Village of Baldwinsville
16 West Genesee Street
Baldwinsville, New York 13027

4. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial activity without having submitted a copy of the Notice of Intent to do so to the Code Enforcement Officer.

Section 11. COMPLIANCE MONITORING

11.1 Right of Entry: Inspection and Sampling.

The Village Code Enforcement Officer or his designee shall be permitted to enter and inspect facilities subject to regulation under this Local Law as often as may be necessary to determine compliance with this ordinance.

1. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Village Code Enforcement Officer.

2. Facility operators shall allow the Village Code Enforcement Officer or his designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES or SPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

3. The Village Code Enforcement Officer or his designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Village Code Enforcement Officer or his designee to conduct monitoring and/or sampling of the facility's storm water discharge.

4. The Village Code Enforcement Officer or his designee has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Village Code Enforcement Officer or his designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Village Code Enforcement Officer or his designee access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES or SPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Village Code Enforcement Officer or his designee reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

11.2 Search Warrants.

If the Village Code Enforcement Officer or his designee has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspect and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Village Code Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 12. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

Village Code Enforcement Officer or his designee will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES or SPDES 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. These BMPs shall be part of a storm water management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

SECTION 13. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Village of Enforcement Officer or his designee in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village Code Enforcement Officer or his designee within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least ten (10) years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

SECTION 14. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

14.1 Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Village Code Enforcement Officer or his designee is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Village Code Enforcement Officer is authorized to seek costs of the abatement as outlined in Section 17.

14.2 Warning Notice.

When the Village Code Enforcement Officer or his designee finds that any person has violated, or continues to violate, any provision of this Law, or any order issued hereunder, the Village Code Enforcement Officer or his designee may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Village Code Enforcement Officer or his designee to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

14.3 Notice of Violation.

Whenever the Village Code Enforcement Officer or his designee finds that a person has violated a prohibition or failed to meet a requirement of this Law, the Village Code Enforcement Officer or his designee may order compliance by written notice of violation to the responsible person.

The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

14.5 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Local Law, the Village Code Enforcement Officer or his designee may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

14.6 Suspension of MS4 Access.

14.6.1 Emergency Cease and Desist Orders

When the Village Code Enforcement Officer or his designee finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Village Code Enforcement Officer or his designee may issue an order to the violator directing them immediately to cease and desist all such violations and directing the violator to:

1. Immediately comply with all Law requirements; and

2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Village Code Enforcement Officer or his designee may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Village Code Enforcement Officer or his designee may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Village Code Enforcement Officer that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Village Code Enforcement Officer or his designee with ten (10) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

14.6.2 Suspension due to Illicit Discharges in Emergency Situations

The Village Code Enforcement Officer or his designee may, without prior notice, suspend MS4 discharge access 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 MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Village Code Enforcement Officer or his designee may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

14.6.3 Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village Code Enforcement Officer or his designee will notify a violator of the proposed termination of its MS4 access.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Village Code Enforcement Officer or his designee.

14.7 **Civil Penalties**

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within twenty (20) days, or such greater period as the Village Code Enforcement Officer or his designee shall deem appropriate, after the Village Code Enforcement Officer or his designee has taken one or more of the actions described above, the Village Code Enforcement Officer or his designee may impose a penalty not to exceed Five Hundred and no/100 Dollars (\$500.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

14.8 Criminal Prosecution

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of Five Hundred and no/100 Dollars (\$500.00) per violation per day and/or imprisonment for a period of time not to exceed sixty (60) days. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

SECTION 15. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the Village Code Enforcement Office or his designee. The notice of appeal must be received within ten (10) days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within sixty (60) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within thirty (30) days of the decision of the municipal authority upholding the decision of the Village Code Enforcement Office or his designee then representatives of the Code Enforcement Officer shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 17. COST OF ABATEMENT OF THE VIOLATION.

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the Village of Baldwinsville by reason of such violation.

SECTION 18. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, 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, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 19. REMEDIES NOT EXCLUSIVE.

The remedies listed in this Law are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Code Enforcement Officer to seek cumulative remedies.

The Village Code Enforcement Officer or his designee may recover all attorney's fees, court costs and other expenses associated with enforcement of this Law, including sampling and monitoring expenses.

SECTION 20. ADOPTION OF LAW.

This Law shall be in full force and effect immediately upon its filing with the Secretary of State.