**ORDINANCE NO. 2020-01**

**THE MAYOR AND COUNCIL OF BOONSBORO**

The Mayor and Council of Boonsboro wishes to adopt an ordinance entitled, "Town of Boonsboro Illicit Discharge Detection and Elimination Ordinance" (Ordinance) to provide for the health, safety, and general welfare of the citizens of the Town of Boonsboro 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. The Ordinance will establish methods for controlling the introduction of pollutants into the municipal separate storm water system (*MS4*) in order to comply with requirements of the National Pollutant Discharge Elimination System (*NPDES*) permit process.

**WHEREAS**, in order to preserve property values and to promote the public health, safety and welfare; and in furtherance of the management of stormwater in the Town;

**WHEREAS,** in order to meet the requirements set forth under the National Pollutant Discharge Elimination System (NPDES) General Permit No. 13-IM-5500 for discharges from the Town of Boonsboro's small municipal separate storm sewer system (MS4);

**WHEREAS**, pursuant to Section 1103 of the Zoning Ordinance, the Mayor and Council of Boonsboro held a public hearing on February 10th, 2020 for the purpose of taking testimony on the proposed ordinance pursuant to public notice duly given in accordance with the Land Use Article of the Annotated Code of Maryland; and

**WHEREAS**, following the public hearing, the Mayor and Council of Boonsboro considered comments received a part of the public hearing; and

**WHEREAS**, the Mayor and Council of Boonsboro believe the enactment of the ordinance as set forth in the "Ordinance No. 2020-01 – Illicit Discharge Detection and Elimination Ordinance" to be in the best interests of the citizens of Boonsboro, Maryland; and

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Mayor and Council of Boonsboro, Maryland that the attached Town of Boonsboro Illicit Discharge Detection and Elimination Ordinance is hereby adopted.

ATTEST: MAYOR AND COUNCIL OF BOONSBORO:

Heather Slough, Town Clerk

Howard W. Long, Mayor

Rickard Byrd, Assistant Mayor

Marilee Kerns, Councilmember

Anthony Nally, Councilmember

Terri Hollingshead, Councilmember

Ray Hanson, Councilmember

Rick Weaver, Councilmember

Date of Introduction: January 21, 2020

Date of Passage: February 10, 2020

Effective Date: March 1, 2020

# Town of Boonsboro

# ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

## The Mayor & Council of Boonsboro

Date of Introduction: January 21, 2020

Date of Passage: February 10, 2020

Effective Date: March 1, 2020

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# ARTICLE I

## General Provisions

### SECTION 1. PURPOSE AND INTENT

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of The Town of Boonsboro, Maryland, 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 ordinance 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) permit process. The objectives of this ordinance are:

(1) To regulate the contribution of Pollutants by any user to the Municipal Separate Storm Sewer System (MS4) by Storm Water Discharges;

(2) To prohibit Illicit Connections and Discharges to the Municipal Separate Storm Sewer System (MS4); and

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

### SECTION 2. DEFINITIONS

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

**BEST MANAGEMENT PRACTICE (BMPS):** Schedules of activities, prohibitions of practices, general good housekeeping 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. § 1251 et seq.), and any subsequent amendments thereto.

**CONSTRUCTION ACTIVITY:** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) 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.

**ILLICIT DISCHARGE:** Any direct or indirect Non-Storm Water Discharge to the Storm Drainage System, except as exempted in Section 8 of this ordinance.

**ILLICIT CONNECTIONS:** An illicit connection is defined as either of the following:

A. Any drain or conveyance, whether on the surface or subsurface, which allows an Illicit Discharge to enter the Storm Drainage System including but not limited to any conveyances which allow any Non-Storm Water Discharge including sewage, process wastewater, and wash water to enter the Storm Drainage System and any connections to the Storm Drainage 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,

B. Any drain or conveyance connected from a commercial or industrial land use to the Storm Drainage System which has not been documented in plans, maps, or equivalent records and approved by an Authorized Enforcement Agency.

**INDUSTRIAL ACTIVITY:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** Means municipally-owned facilities where Storm Water is collected and/or conveyed, including, but not limited to, any sidewalks, roads with drainage systems, municipal streets, retention and detention basins, curbs, gutters, inlets, ditches, piped storm drains, pumping facilities, natural and human-made or altered drainage channels, reservoirs, and other drainage structures 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:** A permit issued by the United States Environmental Protection Agency (EPA) (or by a state under authority delegated pursuant to 33 USC § 1342(b)) 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 Drainage System that is not composed entirely of Storm Water.

**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.

**PLANNING & ZONING DEPARTMENT:** Employees or designees of the Town of Boonsboro's Planning & Zoning Department designated to enforce this ordinance.

**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, Sediments 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.

**SEDIMENT:** Settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.

**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 surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** 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.

**TOWN:** THE TOWN OF BOONSBORO, MARYLAND

**WASTEWATER:** Any water or other liquid, other than uncontaminated Storm Water, discharged from a facility.

**WATER, WASTEWATER, & PUBLIC WORKS DEPARTMENTS:** Employees or designees of the Town of Boonsboro's Water, Wastewater, & Public Works Departments designated to enforce this ordinance.

**WATERCOURSE:** Any waters of the United States and any conveyance that would drain to waters of the United States.

## SECTION 3. APPLICABILITY

This ordinance shall apply to all flows entering the Storm Drainage System generated on any

developed and undeveloped lands unless explicitly exempted by the Town.

## SECTION 4. RESPONSIBILITY FOR ADMINISTRATION

The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed may be delegated in writing by the Town Manager or his or her duly authorized agent, to persons or entities acting in the beneficial interest of or in the employ of the Departments.

## SECTION 5. 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 6. 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 ordinance are in addition to the requirements of any other ordinance, rule, regulations, 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 7. LIMITS ON LIABILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any Person will ensure that there will be no contamination, pollution, nor unauthorized discharge of Pollutants.

# ARTICLE II

## Illicit Discharges

## SECTION 8. DISCHARGE PROHIBITIONS

### A. Prohibition of Illicit Discharges:

No Person shall discharge or cause to be discharged into the municipal Storm Drainage System or Watercourses 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 Storm Water.

The commencement, conduct, or continuance of any Illicit Discharge to the Storm Drainage System is prohibited.

The following Discharges are exempt from Discharge prohibitions established by this ordinance:

(1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), and any other water source not containing Pollutants.

(2) Discharges or flow from firefighting and other discharges specified in writing by the Planning & Zoning Department as being necessary to protect public health and safety.

(3) Dye testing subject to a verbal notification to the Planning & Zoning Department prior to the time of the test.

(4) 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 United States Protection Agency, 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 Drainage System.

**B. Prohibition of Illicit Connections:**

(1) The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage 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 disconnected and redirected, if necessary, to an approved onsite Wastewater management system or the sanitary sewer system upon approval of the Planning & Zoning Department.

(5) Any drain or conveyance that has not been documented in plans, maps or the equivalent, and which may be connected to the Storm Drainage System, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Planning & Zoning Department 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 Drainage System, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Planning & Zoning Department.

## 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, 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.

# ARTICLE III

## Compliance Requirements

## SECTION 10. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

A. **Submission of Notice of Intent to the Planning & Zoning Department.**

(1) Any person subject to an industrial or construction activity NPDES 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 Planning & Zoning Department prior to the allowing of discharges to the MS4.

(2) The operator of a facility, including construction sites, required to have an NPDES permit to Discharge Storm Water associated with Industrial Activity shall submit a copy of the Notice of Intent (NOI) to the Planning & Zoning Department at the same time the operator submits the original NOI to the Maryland Department of the Environment or the Environmental Protection Agency as applicable. Additionally, the Planning & Zoning Department will forward a copy of the NOI to the Washington County, Maryland agency responsible for regulating industrial or construction activity discharges to the MS4.

(3) The copy of the NOI may be delivered to the Planning & Zoning Department either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Town of Boonsboro Planning & Zoning Department
21 N Main Street
Boonsboro, MD 21713

## SECTION 11. MONITORING OF DISCHARGES

### A. Applicability

This section applies to all facilities that have Storm Water Discharges associated with Industrial Activity, including Construction Activity.

### B. Right of Entry to Facilities having a NPDES Permit for Industrial Activity or Construction Activity.

(1) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. 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 the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments.

(2) Facility operators shall allow the Planning & Zoning Department and the Water, Wastewater, & Public Works Departments 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

permit to discharge Storm Water, and the performance of any additional duties as defined by state and federal law.

(3) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments conduct monitoring and/or sampling of the facility's Storm Water Discharge.

(4) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall always be maintained 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 Planning & Zoning Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments 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 a NPDES permit to Discharge Storm Water associated with Industrial Activity commits an offense if the person denies the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments reasonable access to the permitted facility for the purposes of conducting any activity authorized or required by this ordinance.

**C. Right of Entry to Facilities without a NPDES Permit for Industrial Activity or Construction Activity.**

(1) The Planning & Zoning Department or the Water, Wastewater, & Public Works Departments shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. 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 the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments.

(2) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments shall have the right to set up such devices as are necessary in the opinion of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments conduct monitoring and/or sampling of the facility's Storm Water Discharge.

(3) The Planning & Zoning Department and the Water, Wastewater, & Public Works Departments have the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall always be maintained 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.

(4) 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 Planning & Zoning Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

**D. Search Warrants.**

If either the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments have 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 inspection 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 Planning & Zoning Department 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

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 municipal Storm drainage System or Watercourses through the use of structural and non-structural 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 non-structural BMPs to prevent the further Discharge of Pollutants to the MS4. 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 in compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) 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 Drainage System, or water 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 Planning & Zoning Department 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 Planning & Zoning Department, 21 N Main Street, Boonsboro, Maryland, 21713 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 a least three (3) years. Failure to provide notification of a release, as indicated above, is a violation of this ordinance.

This section does not apply to Sanitary Sewer Overflows as defined by COMAR 26.08.10.

## ARTICLE IV

### Violations; Enforcement

### SECTION 14. VIOLATIONS, ENFORCEMENT, AND PENALTIES

**A. 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 Planning & Zoning Department or the Water, Wastewater, & Public Works Departments are authorized to enter upon the subject private property, without given prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Planning & Zoning Department is authorized to seek costs of the abatement as outlined in Section 17.

**B. Warning Notice.**

When the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments find that any Person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Planning & Zoning Department 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 Planning & Zoning Department or the Water, Wastewater, & Public Works Departments to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

**C. Notice of Violation.**

Whenever the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments find that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Planning & Zoning Department 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 that the determination of violation may be appealed to the Mayor & Council of Boonsboro by filing a written notice of appeal within ten (10) business days of service of notice of violation; and

(7) 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:

(a) The performance of monitoring, analysis, and reporting;

(b) The elimination of Illicit Connections or Discharges;

(c) That violating Discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property;

(e) Payment of a fine to cover administrative and remediate costs; and

(f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**D. Compensatory Action**

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Planning & Zoning Department may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**E. Suspension of MS4 Access**

(1) **Emergency Cease and Desist Orders**

When the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments find 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 Planning & Zoning Department may issue an order to the violator directing it to immediately cease and desist all such violations and directing the violator to:

(a) Immediately comply with all ordinance requirements; and

(b) 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 Planning & Zoning Department 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 Planning & Zoning Department may allow the person to recommence its Discharge when it has demonstrated to the satisfaction of the Planning & Zoning Department 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 Planning & Zoning Department within thirty (30) 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.

(2) **Suspension due to Illicit Discharges in Emergency Situations**

The Planning & Zoning Department 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 Planning & Zoning Department may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United State, or to minimize danger to persons.

(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 Planning & Zoning Department will notify a violator of the proposed termination of its MS4 access. The violator may petition the Planning & Zoning Department for a reconsideration and hearing. A Person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Planning & Zoning Department.

### F. Municipal Infraction

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 ten (10) business days, or such greater period as the Authorized Enforcement Agency shall deem appropriate, the violation shall constitute a municipal infraction and the violator shall be fined as provided in Md. Code, Ann., Local Gov't, §6-102 for each day the violation remains unremedied after receipt of the notice of violation.

### G. Criminal Prosecution

Any person who is found guilty of violating this ordinance shall be guilty of a misdemeanor and shall be subject to a criminal fine not exceeding One Thousand Dollars ($1,000.00) per violation per day and/or imprisonment for a period not to exceed six (6) months. 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 aggrieved by the action of any official charged with the enforcement of this ordinance, as the result of issuance of a written notice of violation, or an alleged failure to properly enforce the ordinance in regard to a specific application, shall have the right to appeal the action to the Boonsboro Planning Commission and the Mayor & Council of Boonsboro. The appeal must be filed in writing within five (5) business days from the date of the notice of violation or determination to the applicant and shall clearly state the grounds on which the appeal is based.

## 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 Boonsboro Planning Commission and the Mayor & Council of Boonsboro upholding the decision of the Planning & Zoning Department, then representatives of the Planning & Zoning Department or the Water, Wastewater, & Public Works Departments 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 sixty (60) 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) business days. If the amount due is not paid within a timely manner, as determined by the decision of the Planning & Zoning Department, 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 ordinance shall become liable to the Town by reason of such violation. The liability shall become due and payable thirty (30) days from the billing date and will incur interest at the rate of one and one-half percent (1 ½%) per month until paid.

All unpaid costs shall constitute a lien against the property. For the purpose of collection, the Town may include unpaid costs on the annual tax bill of the property. The unpaid costs shall be collected in the same manner as ordinary taxes are collected, subject to the same interest and penalty for nonpayment as provided by law for nonpayment of Town taxes.

## SECTION 18. INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

## SECTION 19. 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 20. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, State, or local law and it is within the discretion of the Town to seek cumulative remedies. The Town may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.