

Approved 6/15/09

Chapter 21

GARBAGE, REFUSE & OPEN BURNING

[HISTORY: Adopted by the Board of Trustees of the Village of Brockport 11-20-1961. Amendments noted where applicable.]

GENERAL REFERENCES

Building Construction Code — See Ch. 10.
Building construction administration — See Ch. 11.
Local law hearings – See Ch. 28.
Minimum Housing & Building Code – See Ch 36.
Streets & Sidewalks – Chapter 45
Zoning — See Ch. 58.
Code Enforcement — See Ch. 59.
Uniform Code State of New York

ARTICLE I

Title

§ 21-1. Title.

This ordinance shall be known as the “Garbage, Refuse and Open Burning Ordinance of the Village of Brockport.”

§ 21-2. Purpose.

The purpose of this ordinance shall be to protect and promote the health, safety and welfare of the people of the Village of Brockport by controlling the storage, collection and disposal of garbage and refuse and the hazards and environmental, health and fire issues associated with outdoor fires within the Village of Brockport.

§ 21-3. Definitions:

Code Enforcement Officer - An Officer employed by the Village of Brockport as certified by the State of New York either in the capacity of the Code Enforcement Officer, Building Inspector, Fire Marshal, Planning/Zoning Officer, Peace Officer, Stormwater Manager, Floodplain Administrator, or any combination thereof.

Code Enforcement Inspector - Shall be deemed to include the Code Enforcement Officer and all Inspectors employed by the Village of Brockport, as certified by the State of New York State either in the capacity of Code Enforcement Officer, Building Inspector or Fire Marshal, and/or titled as the Assistant Code Enforcement Officer, Assistant Building Inspector & Deputy Fire Marshal or any combination thereof.

Compliance Order – A written order for the remedying of found violation(s) of the code(s), pursuant to Article VI section 21-17.

Dumpster- A larger receptacle that is transportable only by machinery. For such receptacles, waste haulers drive directly to the dumpster for emptying or for removing from the premises.

Garbage – Includes all putrescent animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, and animal feces from household pets.

Open Burning – The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. NYSFC Section 302 2007.

Owner - The person or entity in whose name the premises affected by an order, issued in accordance with this article, is recorded as the owner in the Town of Sweden Assessor office and/or the Monroe County Clerk.

Public Place – Any public street, road or highway, alley, lane, sidewalk, crosswalk or other public way or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, public parking lot or any vacant lot, either owned and/or in care of by the Village of Brockport and/or not limited to the State of New York or US Federal entities.

Receptacle- A container in which to temporarily hold garbage and rubbish until picked up by a waste collector. Households and smaller organizations typically have transportable receptacles, which occupants move from an appropriate storage area to the curb for pick-up. Properties generating more garbage and rubbish may have dumpsters to hold their waste.

Recycling bins / boxes - A container in which to temporarily hold recycling materials until picked up by a waste collector.

Refuse/Rubbish – Includes all discarded or worthless non-putrescent solid wastes consisting of both combustible and noncombustible wastes, including but not limited to paper and paper products, rags, wrappings, cardboard, metal cans and jars, yard waste, wood, glass, metals, plastics, bedding, cloth, crockery, furniture, appliances and similar items as defined.

Roll-off – Same as dumpster.

Uniform Code - The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended.

Village - Shall be deemed to be The Village of Brockport.

ARTICLE II
Storage

§ 21-4. Accumulation on premises.

No household waste, institutional waste, commercial waste or building waste shall be stored or accumulated on any premises within the Village of Brockport, except as permitted by this ordinance.

§ 21-5. Receptacles; specifications. [Amended 4-18-1983 by L.L. No. 3-1983 L.L. 00-00-00

A. Every owner, lessee or occupant of any building, premises or place of business within the Village shall provide or cause to be provided and at all times keep suitable and sufficient receptacles for receiving and containing offal, garbage, ashes, refuse, rubbish or noxious substances that may accumulate from or be used upon said premises. No such receptacles shall be kept near any public place longer than may be necessary for the removal of the contents thereof. All receptacles used for the reception of garbage and/or refuse or noxious substances shall be provided with proper covers, and such receptacles shall at all times be securely closed and watertight. Receptacles (including recycling bins) and garbage of any type must be kept from public view, either inside of structures, or behind screening from neighboring property or public view until the day of trash pickup.

B. Within exclusively used residential property, no dumpsters shall be used for the collection or storage of garbage or rubbish. However, any proposed and/or existing trash dumpsters within residential neighborhoods or residentially used property which are in existence prior to the adoption of this article are permitted so long as the property owner obtains a special residential dumpster use permit granted by the Zoning Board of Appeals.

C. Temporary use dumpsters or roll-off trash containers within residential neighborhoods and residentially used property, which are intended only for use during any construction, building or remodeling project, and/or property clean up, are permitted to remain on a property up to 14 days. Any temporary dumpsters or roll-off trash containers in use longer than 14 days can be permitted but shall require a temporary use permit, which is granted by the Building Inspector for a one-time only 30-day time period within a calendar year. Any temporary dumpster or roll-off trash container intended or needed for 45 or more consecutive days per calendar year shall obtain a special residential dumpster use permit granted by the Zoning Board of Appeals. At no time shall a temporary use dumpster or roll-off trash container be permitted to store or hold any putrescent waste. Dumpsters or roll-off trash containers are additionally required to be tarpaulin covered when said container is not being actively loaded.

D. Temporary use dumpsters or roll-off trash containers within commercial use districts, which are intended only for use during any construction, building or remodeling project, and/or property clean up, are permitted to remain on a property up to 14 days. Any temporary dumpsters or roll-off trash containers in use longer than 14 days can be

permitted but shall require a temporary use permit, which is granted by the Building Inspector for a one-time only 30-day time period within a calendar year. Any temporary dumpster or roll-off trash container intended or needed for 45 or more consecutive days per calendar year shall obtain a special dumpster use permit granted by the Zoning Board of Appeals. At no time shall a temporary use dumpster or roll-off trash container be permitted to store or hold any putrescent waste. Dumpsters or roll-off trash containers are additionally required to be tarpaulin covered when said container is not being actively loaded.

E. No dumpsters or roll off trash containers within any districts intended for trash or temporary use during any construction, building or remodeling project, and/or property clean up shall be located or placed any closer than 5' feet from any combustible buildings or structures, under the provisions of the New York State Uniform Fire Prevention and Building Code " Fire Code".

F. No dumpster or roll off trash container shall be placed on any street, highway, road or public place without prior approval by the Superintendent of Public Works.

§ 21-6. Collection restrictions.¹ [Amended 8-4-1975 by L.L. No. 2-1975; 10-4-1993 by L.L. No. 6-1993; 7-19-2004 by L.L. No. 1-2004]

No person shall allow accumulation of garbage, refuse, rubbish, ashes or noxious substances upon the premises owned or occupied by him or her, except for the purpose of being prepared for collection. The storage of or accumulation of garbage, refuse, rubbish, ashes or noxious substances upon the premises shall not amass either indoors or outside any longer than 1 week or as accretion requires more frequent collection needs.

§ 21-7. Depositing waste material within Village limits. [Amended 7-19-2004 by L.L. No. 1-2004²]

A. No person shall deposit ashes, garbage, brush, leaves, rubbish, refuse, filth or waste or recycling materials upon the streets or in public places within the Village of Brockport, except during such periods of time as may be designated by the Board of Trustees or the Superintendent of Public Works during Village of Brockport special bulk trash removal event/events, and further excepting the deposit of such materials for immediate hauling away.

B. At no time shall any deposited ashes, garbage, brush, leaves, rubbish, refuse, filth or waste or recycling materials, be placed curbside which causes a hazard to passing motorists and/or pedestrian traffic. When such a hazard has been declared by an official of the Village of Brockport, the Superintendent of Public Works is authorized to abate such hazard as deemed necessary at the expense of the property owner and/or the person(s) who created such hazard.

C. No freezers, refrigerators, or air conditioners will be removed curbside by the Village of Brockport except as part of a Village of Brockport specially conducted

¹ Editor's Note: Said local law was filed with the Secretary of State 8-30-2004.

² Editor's Note: Said local law was filed with the Secretary of State 8-30-2004.

bulk trash removal event. A fee as determined by the Board of Trustees shall be required for any appliance containing coolant and its removal unless the appropriate Village official has received and approved the appropriate appliance coolant removal certification before curbside removal of such appliances.

D. On any Village of Brockport special bulk trash removal event, the Village of Brockport will remove up to two (2) passenger car or light duty truck tires per property. Such tires may be placed curbside for removal by the Village of Brockport during special bulk trash removal event. Such tires shall be removed from their rims; and no heavy-duty truck or tractor tires will be accepted.

E. No hazardous and/or environmentally detrimental substances shall be deposited at any time for trash collection, including but not limited to electronic devices, fuel tanks, propane and/or gas cylinders, paints and oils, batteries, florescent bulbs, liquid or infectious waste, and/or any other materials determined as toxic, hazardous and/or environmentally detrimental substances by the Superintendent of Public Works.

F. Residential properties receiving commercial waste hauler curbside trash and recycling material pick-ups shall be performed on Tuesday and Wednesday only, between the hours of 7am and 5pm, unless such days fall on a designated holiday, and/or during such periods of time as may be designated by the Superintendent of Public Works.

G. The property owner, lessee or occupant shall transport his or her refuse and refuse receptacles to his property line, but said trash and trash receptacles and recycling bins shall not be placed curbside any earlier than twenty-four (24) hours before collection day, with said empty receptacles being removed from curbside no later than twelve (12) hours after trash collection.

H. Commercial / Industrial properties receiving commercial waste hauler trash and recycling materials picked up may be on any day except Sundays and designated holidays between the hours of 6am and 5pm except during such periods of time as may be designated by the Superintendent of Public Works.

§ 21-8. Burning waste material within Village limits. [Amended 7-19-2004 by L.L. No. 1-2004³]

A. No person shall burn garbage, brush, leaves, rubbish, refuse, filth, waste, wood, paper or any other material outdoors within the Village of Brockport except that open burning is permitted within any types of manufactured appliances, such as grills, which contain and use gas, charcoal or burnable wood materials as permitted only between the hours of 6am and 11pm. The location and use of food cooking grills and appliances burning solid fuel materials shall be conducted in a manner acceptable under the provisions of the New York State Uniform Fire Prevention and Building Code “ Fire Code”.

³ Editor’s Note: Said local law was filed with the Secretary of State 8-30-2004.

§ 21-9. Any fire which is offensive or objectionable;

A. Any fire which is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

B. Burning shall be supervised by a responsible adult, which is defined herein as an individual 18 years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire, in close proximate attendance until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment or materials readily available for use.

§ 21-10 The Owner of a property is the party deemed responsible;

The Owner of a property is the party deemed responsible for compliance with the legal requirements of this chapter (see Definitions).

ARTICLE III

Licenses

§ 21-11. License required for collectors; fee. [Amended 8-2-1982 by L.L. No. 2, 1982; 5-6-1991 by L.L. No. 1, 1991⁴]

No person shall engage in the business of collecting garbage, offal, ashes, refuse, rubbish or noxious substances and recycling materials within the Village of Brockport without first obtaining a license from the Village Clerk. An annual fee as established by the Board of Trustees shall be charged for any such license. Any license that is renewed prior to the effective date of any change in the fee shall pay the increased fee on a pro rata basis for the balance of the license year for which it is issued.

§ 21-12. Subject to conditions.

Every license issued by the Village Clerk pursuant to this Article shall be subject to the following conditions and to such other reasonable conditions as may be imposed by the Village Board of Trustees.

A. Vehicles used by licensed waste collectors in the collection and transportation of garbage, mixed refuse or any other kind of waste within the area of the Village of Brockport shall have watertight enclosed bodies equipped with a compaction or loading unit.

B. Any firm having two or more such vehicles shall be allowed to use an open-service truck, limited to the carrying of refuse of such size and nature as cannot be carried in the enclosed trucks.

⁴ Editor's Note: This local law was filed with the Secretary of State 7-15-1991.

C. All vehicles used by the licensed waste collectors shall be available for inspection by the Village Clerk or any other person or persons whom he/she may designate as his/her agent, prior to the issuance of any license pursuant to the provisions of this ordinance.

D. All vehicles used by licensed waste collectors shall carry a copy of their license to collect waste in the village.

E. Renewal licenses shall be issued in the same manner and subject to the same conditions as original licenses and also subject to any additional requirements for renewal of the license applied for. All renewal of licenses or issuances of new licenses to engage in the business of collecting garbage, offal, ashes, refuse, rubbish or noxious substances shall be paid no later than 30 days after the date of renewal is required.

F. No license or permit issued under the provisions of this ordinance shall be transferable.

G. The Village Board shall have the power to suspend or revoke a license granted or renewed pursuant to this ordinance, for any of the reasons as may be hereinafter set out in this ordinance.

H. All waste collection vehicles must have a minimum of \$1,000,000 coverage for automobile insurance, and a minimum of \$1,000,000 coverage for general liability. On the certificates of insurance, the Village of Brockport shall be included as an "additional insured."

I. Any regulated waste hauler shall be in compliance with any other required New York State or Federal licenses or permits in the conduct of regulated waste hauling requirements.

ARTICLE IV Further Regulations in Regard to Vehicles

§ 21-13. On private property.

No vehicle used by the licensed waste collector shall travel into private property for the purpose of collection of garbage or refuse, without the consent of the Owner.

§ 21-14. Standing of collection vehicles.

No vehicle used in the collection or transportation of garbage, refuse or waste matter shall stand longer than 24 hours, with said matter in or on it within the Village of Brockport.

§ 21-15. Parking in residential districts.

No vehicle used in the collection or transportation of garbage, refuse or waste matter shall be parked or stored in a residential district, when not being used in the actual collection or transportation of said matter.

§ 21-16. Vehicles equipped to prevent leakage and spillage.

Vehicles used in the transportation of garbage, mixed refuse or any kind of waste, within the area of the Village of Brockport, regardless of place of origin, shall be so equipped as to prevent the leakage or spillage of their contents.

§ 21-17. Watertight requirement.

All vehicles and conveyances used by residents and property owners in the transportation of garbage, refuse and any other waste matter shall be watertight and so covered so that no part of the load shall blow, leak or spill.

§ 21-18. Waste collector duties.

Licensed waste collectors shall by all reasonable means return emptied trash dumpsters or containers to their proper and prior locations, including into any dumpster enclosure compound areas. Gates and/or screening that are part of a dumpster enclosure shall be closed or shut.

ARTICLE V
Enforcement

§ 21-19. Violations and penalties. [Amended 11-19-1973; 4-18-1983 by L.L. No. 3-1983; 11-6-1989 by L.L. No. 3-1989; 11-2-1992 by L.L. No. 3-1992; 3-16-1998 by L.L. No. 3-1998; 7-6-1999 by L.L. No. 2-1999⁵]

Any person who violates this local law shall be subject to a penalty as indicated in section 21-21 G. In addition, any property Owner shall be assessed a fee and any cost to the Village of Brockport in expending money on account of the property Owner's failure to comply with this local law. The fees for picking up garbage or other compliance needs with the article shall be established from time to time by the Village Board of Trustees as contained in the Village of Brockport Fee Schedule.

§ 21-20. Revocation of license for repeated violations.

After two successive violations of any of the provisions of this ordinance by a licensed waste collector, it shall be discretionary in the judgment of the Village Board to revoke the license of said violating collector.

⁵ Editor's Note: Said local law was filed with the Secretary of State 7-15-1999.

§ 21-21. Notice of violations; penalties for offenses

- A. The Code Enforcement Officer of the Village of Brockport (and such assistant Code Enforcement Officers, collectively the “Code Enforcement Officers” hereunder) is/are the official(s) authorized to enforce the provisions of these articles by notice, ticketing, etc., or such other enforcement procedure means and methods set forth in the Code, or otherwise permitted by law.
- B. Notice of violation; When the Village of Brockport determines that activity is not being carried out in accordance with the requirements of this article, the Code Enforcement officer is authorized, in his or her discretion, to issue a written notice of violation/violations to the owner, owner’s agent and/or resident or occupants, e.g. tenant/tenants.
- C. Informal compliance orders; The Code Enforcement Officer (or his authorized Inspector) is authorized, in his or her discretion, to order in writing the remedying of any condition or activity found to exist in, on, or about any building, structure, or premises in violation(s) of the Uniform Code, or of this article. Upon finding that any such condition or activity exists, the Code Enforcement Officer may, in his or her discretion, issue an informal (voluntary) compliance order either in writing or verbally.
- D. Compliance Orders; The Code Enforcement Officer (or his authorized Inspector) is authorized, in his or her discretion, to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of this article or local law(s).
- E. Appearance Tickets. The Code Enforcement Officer (or his authorized Inspector) under the provisions of the Codes Office is authorized to issue appearance tickets for any violation(s) of the Uniform Code, or this article or local law(s). The Code Enforcement Officer (or his authorized Inspector) can issue Appearance Tickets forgoing sections 21-19 B & C, as per the authorization of Local Law Chapter 59 Section 59-1. In no event shall the issuance of a Compliance Order or an Informal Compliance Order be a prerequisite to issuance of an Appearance Ticket or to prosecution for a violation of this article.
- F. Each Day a Separate Offense. Each day on which any violation of this article occurs shall constitute one offense and each successive day of violation shall constitute a separate and distinct offense.

G. Civil Penalties. In addition to those penalties prescribed by State law, any person who violates any provision of this article or condition of any Permit, decision or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable unto civil penalty of not more than \$350 and/or imprisonment for a period of up to (6) months or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350.00 nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700.00 nor more than one thousand dollars (\$1000.00) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article or local law(s) shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. In addition to any other penalty authorized by this section, any person, partnership, entity or corporation convicted of violating any the provisions of this article shall be required to bear the expense of such compliance. Each week's continued violation shall constitute a separate additional violation. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Village of Brockport.

H. Injunctive Relief; An action or proceeding may be instituted in the name of the Village of Brockport, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this article.

I. Remedies Not Exclusive; No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, or in local law Chapter 36-16 (Structures unfit for human habitation) of this article or any other article of this Code, or local law, in any other section of the local law(s), or in any other State or Local Law as applicable. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section or 36-16 (Structures unfit for human habitation) of this article or local law, in any other section of local law(s), or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

ARTICLE VI

Severability, Saving Clause; Effective Dates

§ 21-22. Severability.

Should any section, paragraph, sentence, clause or phrase in this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this ordinance are declared to be severable.

A. Saving clause. This code shall not affect violations of any other ordinance, code or regulation of the municipality existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

§ 21-23. Effective date;

Repeal of prior ordinance, this ordinance shall be effective immediately upon filing with the Secretary of State of the State of New York.