

## Chapter 42

### SEWERS

[HISTORY: Adopted by the Board of Trustees of the Village of Brockport 1-22-2008 by L.L. No. 1-2008.<sup>1</sup> Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction code — See Ch. 10.  
Building construction administration — See Ch. 11.  
Flood damage prevention — See Ch. 20.  
Land subdivision regulations — See Ch. 26.  
Zoning — See Ch. 58.

#### ARTICLE I Sewer Use

##### § 42-1. Title.

This article shall be known as the "Sewer Use Ordinance."

##### § 42-2. Purpose.

It is the purpose of this article to protect the sewage collection and treatment facilities, to prevent danger to life or damage to property, to promote the health, safety and general welfare, to prohibit the introduction of storm, surface or subsurface waters into the sanitary sewers, to provide for the fair distribution of treatment costs and to form a basis and policy for controlling the quantity and quality of wastes accepted into the sewage system of the Village of Brockport, Monroe County, New York.

##### § 42-3. Definitions.

A. Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

B.O.D. (denoting BIOCHEMICAL OXYGEN DEMAND) — Shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BUILDING DRAIN — Shall mean that part of the lowest horizontal piping of a drainage system carrying sewage which receives discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building's sewer.

BUILDING SEWER (sometimes called HOUSE LATERAL) — Shall mean the extension from the building drain to the public sewer or other place of disposal.

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<sup>1</sup>. Editor's Note: This local law also superseded former Ch. 42, Sewer Use, adopted 11-7-1966.

**COMMERCIAL-INDUSTRIAL WASTES** — Shall mean any and all other wastes not being domestic wastes, but not limited to the wastes from commercial, laboratory and industrial processes, wastes from domestic operations, or certain trade operations, such as sand, grit, waste petroleum products from automotive service stations and the like, animal wastes, straw and related items from dairy or other farming operations.

**DOMESTIC WASTES** — Shall mean waterborne human or animal excreta or body wastes and normal culinary, laundry and washing wastes originating in residences.

**GARBAGE** — Shall mean solid wastes from the preparation, cooking and dispensing of food and from handling, storage and sale of produce.

**NATURAL OUTLET** — Shall mean any outlet into a WATERCOURSE, pond, ditch, lake or other body of surface or groundwater.

**OWNER** — Shall mean any person in title to or having any interest in real property in any of the sanitary sewer districts and their extension or extensions, and/or any drainage district or districts now existing or subsequently created by the Board of Trustees of the Village of Brockport, New York.

**PERSON** — Shall mean any individual, firm, company, association, society, corporation or group.

**pH** — Shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter solution.

**PROPERLY SHREDDED GARBAGE** — Shall mean the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/4 inch in any dimension.

**PUBLIC SEWER** — Shall mean a sewer which is controlled by sewer commissions of the Village of Brockport, New York.

**SANITARY SEWER** — Shall mean a pipe or conduit, which carries sewage, and to which storm, surface and groundwaters are not intentionally admitted.

**SEWAGE** — Shall mean the water-carried wastes from residences, commercial buildings, institutions and industrial establishments and other places.

**SEWAGE TREATMENT PLANT** — Shall mean any arrangement of devices and structures used for treating sewage under the control of the sewer commissions of the Village of Brockport, New York.

**SEWAGE WORKS** — Shall mean all facilities for collecting, pumping, treating and disposing of sewage.

**SEWER COMMISSION** — Shall mean the Board of Trustees of the Village of Brockport.

**SEWER DISTRICT** — Shall mean any of the sanitary sewer systems, sewer districts and their extension or extensions, and/or any drainage district or districts now existing or

subsequently created by the Board of Trustees of the Village of Brockport.

**STORM SEWER OR STORM DRAIN** — Shall mean a sewer, which carries storm and surface water drainage but excludes sewage, commercial-industrial and domestic wastes.

**SUPERINTENDENT** — Shall mean the Superintendent of Public Works of the Village of Brockport. His office is now located in the Village Hall on Market Street, in the Village of Brockport, New York.

**SUSPENDED SOLIDS** — Shall mean solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filterings.

**WATERCOURSE** — Shall mean a channel in which a flow of water occurs either continuously or intermittently.

- B. "Shall" is mandatory; "may" is permissive.
- C. Additional definitions shall be read with and include the definitions following in § 42-12.

**§ 42-4. Building sewers and connections; permits.**

- A. The sewer systems of the sewer districts of the Village of Brockport, New York, as constructed, or as hereafter added to or changed, shall be under the charge and control of the Sewer Commission under whose supervision they shall be used by property owners. No person shall enter into, open or interfere with or use or do any repair or maintenance work with respect to said sewer systems except under the inspection and direction of the Sewer Commission and after a written permit shall have been issued by the Commission of the sewer district in which such entering, opening, use, repair or maintenance is to take place. The Sewer Commission shall adopt rules and regulations to govern the maintenance and use of the sewer systems and shall therein fix the amount of fees that shall be chargeable to persons or property owners who may wish to enter or use the sewer systems, which fee shall be sufficient in amount to pay for the cost of inspection of such entry or entries.
- B. Present waste contributors other than domestic waste contributors shall apply for a permit within 120 days of the adoption of this article.
- C. Permits granted under this article shall be for a specific waste or wastes, and such permits shall be granted only after the submission and approval of plans as set forth hereinafter. Subsequent wastes of different quantity, quality or characteristics shall be covered by separate permits.
- D. There shall be two classes of building sewer permits: for domestic waste service, and for service to all other contributors. The owner or his agent shall make application on a form furnished by the respective Sewer Commissions. The permit application shall be supplemented by any plans, specifications or other information considered pertinent, in the judgment of the Superintendent. A permit fee in an amount fixed in the rules and regulations for sewer commissions in the Village of Brockport shall be paid at the time the application is filed.

- E. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Sewer Commission from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- F. A separate and independent building sewer shall be provided for every building.

**§ 42-5. Use of sewers for discharge of nondomestic wastes.**

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, impounded water or unpolluted industrial process waters to any sanitary sewer.
- B. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewer.
  - (1) Any liquid or vapor having a temperature lower than 32° F. or higher than 150° F.
  - (2) Any water or waste, which may contain more than 100 milligrams per liter, by weight, of fats, oils or grease.
  - (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - (4) Any garbage that has not been properly shredded.
  - (5) Any ashes, cinders, sand, mud, grit, straw, animal wastes, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, in the opinion of the Sewer Commission.
  - (6) Any water or wastes having a pH lower than six or higher than nine, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works, in the opinion of the Sewer Commission.
  - (7) Any water or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant, in the opinion of the Sewer Commission.
  - (8) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
  - (9) Any noxious or malodorous gas or substance.
- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Sewer Commission, they are necessary for the proper handling of wastes containing grease in excessive amounts, or any flammable wastes, sand, grit and other harmful

ingredients. All interceptors shall be of a type and capacity approved by the Sewer Commission, and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. Grease and oil interceptors shall be constructed in any place or building having a capacity to serve group meals.

- D. Where installed, all grease, oil, sand and grit interceptors shall be maintained by the owner at his expense, in continuously efficient operation at all times.
- E. The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 300 milligrams per liter by weight; or containing more than 350 milligrams per liter by weight of suspended solids; or containing any quantity of substance having the characteristics described in Subsection C of this section; or having an average daily flow greater than 2% of the average daily sewage flow of the sewer district, shall be subject to the review and approval of the Sewer Commission. Where necessary, in the opinion of the Sewer Commission, the owner shall provide at his expense such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 milligrams per liter and the suspended solids to 350 milligrams per liter by weight; or reduce objectionable characteristics or constituents to within the maximum limits provided for in this section; or control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Sewer Commission, together with a letter from the New York State Department of Health approving the proposed preliminary treatment facilities, and no construction of such facilities shall be commenced until said approvals are obtained in writing.
- F. Where preliminary treatment facilities are required for any waters or wastes, no permit will be granted until such pretreatment units have been placed in operation and have demonstrated their effectiveness by test. The cost of such testing, sampling, and analyzing shall be borne by the waste contributor. Said preliminary treatment facilities shall be maintained continuously and satisfactorily in effective operation by the owner at his expense.
- G. When required by the Sewer Commission, the owner of any property served by a building sewer carrying commercial-industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be conveniently and safely located. It is to be constructed in accordance with plans approved by the Sewer Commission. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- H. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Subsections B and E shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage," or with methods approved by New York State Department of Health, and may be

determined at the control manhole provided for in Subsection H or upon suitable samples taken at said manhole. In the event that no special manhole has been required, the control manhole may be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. If in the judgment of the Superintendent, analyses must be performed which are beyond the scope of the laboratory at the sewage plant, these analyses shall be performed at a laboratory designated by the Superintendent and the cost of these analyses shall be borne by the owner.

- I. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Sewer Commission and any industrial, commercial or other owner from whose premises an industrial-commercial or domestic waste emanates which is of unusual strength or character from being accepted by the Sewer Commission for treatment subject to payment therefor by such owner.

**§ 42-6. Repair and maintenance work.**

- A. Any repair or maintenance work in connection with sewer pipes and drains connected directly or indirectly to any sanitary or storm sewer system or storm drain in the Village shall be performed in accordance with the specifications and under the supervision and inspection of the Sewer Commission.
- B. Charges.
  - (1) For work performed on sewers, pipes, laterals or drains which are not a part of a sanitary sewer or storm sewer system, at the direction or under the supervision of the Sewer Commission, for the particular or special benefit of any individual parcel or portion of real property, a charge is hereby established in an amount equal to the actual cost thereof to the Commission.
  - (2) The Commission shall annually assess against the individual parcel of land the amount of any such charges remaining unpaid on October 1 and such charges shall be added to the tax roll and collected in the same manner and at the same time as the other taxes are assessed, levied and collected in the village, pursuant to statute.

**§ 42-7. Power and authority of inspectors.**

- A. The Superintendent and other duly authorized employees of the Sewer Commission bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observations, measurement, sampling and testing, or proper activities in accordance with the terms of this article or any regulations promulgated thereunder. The powers and authority herein granted shall be in addition to powers of inspection otherwise granted by law to Sewer Commissioners.
- B. All information in the possession of the owner, bearing on the industrial, commercial or other process, which, in the judgment of the Superintendent, affects

the sewage, works or systems, shall be made available to the Superintendent or his authorized representative.

**§ 42-8. Cancellation of permit.**

Any permit issued pursuant to this article shall be subject to cancellation after a hearing, in the event of a finding by the Sewer Commission at such hearing that the user or permittee of the sewerage system has violated any of the provisions of this article. Such hearing shall take place on 10 days' written notice to the permittee or user. Upon any cancellation provided for in this section, the Sewer Commission may terminate the use of the sewer by severing the connection to the sewerage system.

**§ 42-9. Violations; penalties for offenses.**

- A. Any person violating any provision of this article shall be responsible in money damages for any injury to the sewer system or expense caused the Commission by such violation. This money may be collected by civil action in the Supreme Court of the State of New York. Obedience to the ordinance may also be enforced by injunction.
- B. Any person violating any provisions of this article and interfering with, entering or using said sewer systems without obtaining permission hereunder, shall be guilty of an offense and subject to a fine of not less than \$50 nor more than \$100 or to imprisonment of not less than one day nor more than six months or both such fine and imprisonment; and, in addition, when a violation of this article or any of the provisions thereof is continuous, each 24 hours thereof shall constitute a separate, distinct and additional violation.

**§ 42-10. Enforcement.**

The Board of Commissioners shall be responsible for the enforcement of this article.

ARTICLE II

**Illicit Discharges, Activities and Connections to Storm Sewer**

**§ 42-11. Purpose; intent.**

The purpose of this article of the Sewer Use Code of the Village of Brockport is to provide for the health, safety, and general welfare of the citizens of the Village of Brockport through the regulation of nonstormwater discharges to the municipal separate storm sewer system (aka "MS4") to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES general Permit for Municipal Separate Storm Sewer Systems. The objective of this article is:

- A. To meet the requirements of the SPDES General Permit Stormwater Discharges from MS4s, Permit NO. GP-02-02, as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;

- C. To prohibit illicit connections, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste wastewater, grease, oil petroleum products, cleaning products, paint products, hazardous waste, sediments and other pollutants into the MS4.

**§ 42-12. Definitions.**

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have the meanings set forth below:

**BEST MANAGEMENT PRACTICES (BMPS)** — Schedule 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 stormwater, receiving waters, or stormwater conveyance systems. BPM 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 Protection Control Act (33U.S.C. § 1251 et seq.) and any subsequent amendments thereof.

**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 there-of.

**CODE ENFORCEMENT PERSONAL** — 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 & Fire Marshal, and/or titled as the Assistant Code Enforcement Officer, Building Inspector & Fire Marshal or any combination there-of.

**CONSTRUCTION ACTIVITY** — Activity requiring authorization under the SPDES Permit Stormwater Discharge From Construction Activity, GP-02-02, as amended or revised. Currently these activities include, but are limited to, clearing and grubbing, grading, excavating and demolition.

**DEC** — The New York State Department of Environmental Conservation.

**DISCHARGER** — Any individual, association, organization, partnership, firm, corporation or other entity discharging stormwater to the municipal storm sewer.

**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 CONNECTIONS** — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, except as exempted in § 42-17.

- A. Any drain or conveyances which allows any nonstormwater discharge, including treated or untreated sewage, process wastewater, and washwater, to enter the MS4 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
- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4, which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency; or
- C. Any stormwater discharge to a sanitary sewer unless approved by an authorized enforcement agency.

**ILLICIT DISCHARGE** — Any direct or indirect nonstormwater discharge to MS4, except as exempted by § 42-17.

**INDUSTRIAL ACTIVITY** — Activities subject to SPDES industrial permits as defined in 40 CFR 122.26(b)(14).

**INDUSTRIAL WASTES** — Any liquid, gaseous or solid substance or a combination thereof which is an undesired byproduct waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.

**MUNICIPALITY** — The Village of Brockport.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)** — A drain or conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- A. Owned or operated by the Village of Brockport;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer.

**NONSTORMWATER DISCHARGE** — Any discharge to the MS4 that is not composed entirely of stormwater.

**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; nonhazardous liquid and solid waste and yard waste; 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 construction a building or structure; and noxious or offensive matter of any kind.

PLACARD/POSRING — A public notice placed on a building, structure, premise, dwelling unit, equipment and/or land pursuant to Article 1 section 36-16.

RED TAG — See Placard/Posting.

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

PRIVATE SEWAGE DISPOSAL SYSTEM — A facility serving one or more parcels of land or residential households, or private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwater's of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

SANITARY SEWER — A sewer, which transports sewage and to which storm, surface and groundwaters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surfaces and stormwater s may be inadvertently present. The admixtures of sewage with industrial wastes as defined above or other wastes also shall be considered "sewage" within the meaning of the definition.

#### SPECIAL CONDITIONS

- A. Discharge compliance with water quality standards: the condition that applies where a municipality has been notified that the discharge of stormwater authorized under their municipal separate storm sewer (MS4) permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Village of Brockport must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. 303(d) listed waters: the condition in the Village of Brockport's MS4 permit that applies where the Village of Brockport discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- C. Total maximum daily load (TMDL) strategy: the condition in the Village of Brockport MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the Village of Brockport discharges. If the discharge from the Village of Brockport did not meet the TMDL stormwater allocation prior to September 10, 2003, the Village of Brockport was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL

is achieved.

- D. The condition in the Village of Brockport's MS4 Permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which the Village of Brockport discharges: Under this condition, the Village of Brockport must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If the Village of Brockport is not meeting the TMDL stormwater allocations, the Village of Brockport must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

**STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT** — A permit issued by NYSDEC [under authority delegated pursuant to 33 U.S.C. § 1342 (b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual or general area-wide basis.

**STORM DRAINAGE SYSTEM** — Publicly owned facilities by which stormwater 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 (e.g., ditches), reservoirs and other drainage structures.

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

**STORMWATER MANAGEMENT OFFICER (SMO)** — Code Enforcement Officer, the municipal engineer or other public official(s) designated by the Trustees of the Village of Brockport to enforce this article. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to applicable municipal boards and the municipal engineer as well or designates the inspection of stormwater management practices.

**STORMWATER POLLUTION PREVENTION 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 stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

**303(d) LIST** — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat and industrial use) are impaired by pollutants, prepared periodically by the Department of Environmental Conservation as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of State surface water quality standards and are not expected to improve within the next two years.

**TOTAL MAXIMUM DAILY LOAD (TMDL)** — The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water allocated among the sources of that pollutant.

VILLAGE — The Village of Brockport.

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATERS OF THE UNITED STATES — Surface watercourse and water bodies as defined at 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

WATERCOURSE — Waters of the United States as defined at 40 CFR 122.2.

**§ 42-13. Applicability.**

This Illicit Discharge Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Village of Brockport. The ordinance also applies to stormwater entering the sanitary sewers.

**§ 42-14. Responsibility for administration.**

The Stormwater Management Officer (SMO) shall administer, implement and enforce the provisions of this article. Any powers granted or duties imposed upon the Village of Brockport may be delegated in writing by the Village of Brockport to persons or entities acting in the beneficial interest of or in the employ of the agency.

**§ 42-15. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend or imply that compliance by any person will ensure that there will not be contamination, pollution nor unauthorized discharge of pollutants.

**§ 42-16. Powers and authority of inspectors.**

- A. Authorized inspectors of the Village of Brockport bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge or potential to discharge, and for repair and maintenance to the municipal separate storm sewer system.
- B. Information and data on a nondomestic source obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the nondomestic source specifically requests and is able to demonstrate to the satisfaction of the Village of Brockport that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time.

- (1) When requested by the person furnishing a report, the portions of a report, which might disclose confidential information shall not be made available for inspection by the public. Such confidential proprietary information is not subject to FOIL disclosure. Stormwater constituents and characteristics will not be recognized as confidential information.
  - (2) Information accepted by the Village of Brockport as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.
- C. While performing the necessary work on private properties referred to § 42-16A, the Village of Brockport shall observe all reasonable and proper safety rules applicable to the premises established by the company. In the event of injury or death to any person on premises (including the authorized inspectors of the Village of Brockport), other persons in the employ of NYS or US agencies charged with responsibility for regulating and monitoring illicit discharges, and peace officers on premises to assist such persons, caused by the failure of the company (or responsible person or entity) to observe the ordinance requirements herein, and applicable public health and safety standards, and/or caused by the negligence or failure of the company or responsible entity or person to maintain safe conditions, such company, entity, or person shall indemnify and save harmless the Village of Brockport against any claims and/or demands for personal injury, death, or property damage (including all fees and expenses), and reasonable attorneys fees incurred by the Village of Brockport.
- D. Unreasonable delays in allowing the Village of Brockport access to the premises or other interference with the regulatory and enforcement activities of the Village of Brockport shall be a violation of this article. Access to property and/or records of a nondomestic source may not be refused on the basis that the Village of Brockport refuses to sign any waiver, access agreement, indemnity, privacy, or similar document.
- E. If the Village of Brockport has been refused access to a building, structure or property or any part thereof, and if the Village of Brockport has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the Village of Brockport to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Village of Brockport will make an application to a court of competent jurisdiction for an administrative search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the Village of Brockport in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public

health and safety, inspections may be made without the issuance of a warrant. In the event that a violation is found by a Court of competent jurisdiction and/or in a stipulation of settlement, after the Village of Brockport has obtained an administrative search warrant, the owner of the property shall reimburse the Village of Brockport for all of its enforcement expenses, including the obtaining of the administrative search warrant, including its reasonable attorneys fees.

**§ 42-17. Discharge prohibitions; exceptions.**

- A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the municipal storm drain 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 stormwater. Such activities include failing private sewage disposal systems as defined in § 42-12, improper management of animal waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- B. Upon notification to a person/entity that he she or it is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- C. Prohibition exceptions. 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 article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated and non-sediment-laden pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated; typically less than one PPM chlorine), fire-fighting activities and any other water source not containing pollutants. Regardless of exemption, best management practices should be implemented to reduce impacts from the above activities.
  - (2) Discharges specified in writing by the Village of Brockport as being necessary to protect public health and safety.
  - (3) Dye testing is an allowable discharge, but requires a verbal notification to the Village of Brockport and Village consent prior to the time of the test.
  - (4) The prohibition shall not apply to any nonstormwater discharge permitted under SPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of 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 by the Village of Brockport.

D. 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. Such connections are per se violations of this article and the NYS and US statutes and regulations incorporated by reference herein, and accordingly are not, and cannot be considered nonconforming uses, and are not subject to grandfathering.
- (3) A person or entity is considered to be in violation of this article if the person connects a pipe or line conveying sewage to the municipal separate storm sewer system (MS4) or allows such a connection to continue.

E. Waste disposal prohibitions. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the U.S., any refuse, rubbish, yard/lawn waste, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

F. Prohibition against failing private sewage disposal systems. No person shall construct or maintain any cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquids or matter there from to the atmosphere or on the ground surface or into any storm sewer or drain or as to endanger any watercourse or body of water unless a permit for such discharge shall have been issued therefore by the Monroe County Department of Health or by the State Department of Health or the State Department of Environmental Conservation, and such discharge shall be made in accordance with the requirements thereof. Owners or operators of private sewage disposal systems shall operate, maintain and inspect such systems in accordance with the Monroe Sanitary Code.

G. Prohibition of stormwater discharge to sanitary sewer. Stormwater shall not be discharged into the sanitary sewer without written permission to do so from the Village of Brockport.

**§ 42-18. Suspension of MS4 access.**

A. Suspension due to illicit discharges in emergency situations. The Village of

Brockport may, without prior notice, suspend discharge access into the MS4 to a person or entity when such a suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment; to the health or welfare of persons; to the storm drainage system including but not limited to pipes, manholes, outfall structures and storm laterals; or the waters of the United States. If the violator fails to comply with a suspension order, the Village of Brockport 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.

- B. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have his or her MS4 access suspended or terminated if such action would abate or reduce an illicit discharge. The Village of Brockport will notify a violator of the proposed suspension or termination of its MS4 access. The violator may petition the Village of Brockport to reconsider the suspension or termination of MS4 access by requesting a hearing before the Village Board of Trustees. It shall be unlawful for any person to reinstate MS4 access to premises suspended or terminated pursuant to this section without the prior approval of the Village of Brockport.

**§ 42-19. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity SPDES stormwater 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 Village of Brockport prior to discharge or as a condition of a subdivision map, site plan, building permit, certificate of occupancy, operating permit, rental permit, or development or improvement plan (all without limitation), upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

**§ 42-20. Applicability; access to facilities; monitoring of discharges.**

- A. Applicability. This section applies to all facilities that the Village of Brockport must inspect to enforce any provision of this article, or whenever the Village of Brockport has cause to believe that there exists, or potentially exists, in or upon any premises any condition, which constitutes a violation of this article. Illicit discharges are deemed and recognized to be per se hazardous activity, constituting imminent threats to the public health and safety; immediate access to suspected offending facilities is deemed necessary to prevent such hazardous occurrences.
- B. Access to facilities. The Village of Brockport shall be permitted to enter and inspect, at any time, facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. 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 of Brockport.
- C. Facility operators shall allow the Village of Brockport ready access to all parts of

the premises for the purpose of inspection, sampling and examination of the private storm drainage system. Persons or facility operators must supply copies, if requested by Village of Brockport, of all records kept under the conditions of the SPDES stormwater discharge permit. Persons or facility operators must also identify the performance of any additional duties as defined by state and federal law.

- D. The Village of Brockport shall have the right to place or position on any permitted facility such devices as are necessary in the opinion of the Village of Brockport to conduct monitoring and/or sampling of the facility's discharge to the storm sewer system.
- E. The Village of Brockport has the right to require the discharger to install at his, her, or its expense 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 his, her, or its own expense. All devices used to measure stormwater flow and quality shall be calibrated as necessary and recommended by the manufacturer to ensure their accuracy.
- F. Any temporary or permanent obstruction to the facility which allows for unsafe access or difficulty in monitoring, inspecting or sampling of the storm drainage system shall be promptly removed by the discharger at the written or verbal request of the Village of Brockport and shall not be replaced. All costs associated with clearing such access restrictions shall be borne by the discharger in full.
- G. Unreasonable delays, as determined by the Village of Brockport, in allowing the Village of Brockport access to a facility, which is permitted under the New York State Department of Environmental Conservation SPDES Program, for the purposes of conducting any activity authorized or required by the permit is considered a violation of said program and of this article.
- H. If the Village of Brockport has been refused access to any part of the premises from which a discharge or conveyance to the storm sewer system exists, and the Village of Brockport is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to further inspect and/or sample the private stormwater system to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Village of Brockport may seek issuance of an administrative search warrant from any court of competent jurisdiction.
- I. In an emergency situation (imminent hazard and danger to the public health, safety, and welfare), the Village of Brockport may enter the premises forthwith to inspect and contain the emergency situation, and prevent further hazard to the health and safety of the public; in such emergency situations, the Village of Brockport may placard/post "red tag" the premises, in which case the use and occupancy of the premises shall forthwith cease, and the premises shall be vacated unless or until there is an administrative or court order terminating the red tagging and/or the emergency is otherwise abated and terminated in a manner satisfactory to the Village of Brockport.

**§ 42-21. Prevention, control and reduction of stormwater pollutants.**

- A. Best management practices. The Village of Brockport will adopt requirements identifying best management practices (BMPs) for any activity, operation or facility, which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. Such BMPs already adopted by any state, federal or local agency shall be deemed incorporated herein by reference. The owner or operator of a commercial or industrial establishment shall provide, at his or her 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 structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the maximum extent practicable, shall be deemed compliant with the provisions of this section. Appropriately designed structural/nonstructural BMPs shall be included as part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the SPDES permit.
- B. Private sewage disposal systems. Where individual sewage treatment systems are contributing to the Village of Brockport being subject to the special conditions as defined in § 46-16 of this article, the owner or operator of such individual sewage treatment system shall be required to maintain and operate the system as follows:
- (1) Private sewage disposal systems should be operated, maintained and inspected in accordance with the Monroe County Sanitary Code.
  - (2) Septic tank additives shall not be used.
  - (3) Repair or replace private sewage disposal systems as follows:
    - (a) In accordance with Monroe County sewage system design standards.
    - (b) No person shall alter, repair or extend a private sewage disposal system unless a permit is obtained from the Monroe County Health Director or his or her authorized representative.

**§ 42-22. Watercourse protection.**

- A. No person shall alter a stormwater practice on private or publicly owned land such that it alters the stormwater practice from its intended use.
- B. 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 in a manner which prevents illicit discharges, and keeps the watercourse free of trash, debris, yard/lawn waste, 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.

**§ 42-23. 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 the illegal discharges of pollutants into stormwater MS4, the public or private storm drain system or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of any such release. In the event a release of hazardous materials occurs, said person shall immediately notify the appropriate emergency response agencies via emergency dispatch services 911 and NYSDEC Region 8 Spill Response Team and/or call the NYS Spill Hotline at 1-800-457-7362 within the time frame established by law of the occurrence. In the event of a release of nonhazardous materials, said person shall notify the Village of Brockport in person or by phone, facsimile or other suitable and generally accepted means of communication 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 of Brockport at 49 State Street, Brockport, NY 14420, postmarked within three business days of the date of the in person or 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 five years.

**§ 42-24. Enforcement; penalties for offenses.**

- A. Whenever the Village of Brockport finds that a person has violated a prohibition or failed to meet a requirement of this article, the Village of Brockport may order compliance by written notice of violation to the responsible person.
- (1) Such notice may require, without limitation:
    - (a) The performance of monitoring, analyses and reporting.
    - (b) The elimination of illicit connection or discharges.
    - (c) That violating discharger, practices or operations shall cease and desist.
    - (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
    - (e) Payment of a fine to cover administrative and remediation costs.
    - (f) The implementation of source control or treatment BMPs.
    - (g) Revocation and reapplication of any operating permit or certificate of occupancy, or other municipal, or local permit.
    - (h) Penalties may include any and all directions to abate, penalties, and fines

as provided in the Codes of the Village of Brockport, and in the laws and regulations of the State of New York, which penalties and fines are hereby and herewith incorporated by reference herein.

- (2) 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.

- B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six 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 nor more than \$700 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 nor more than \$1,000 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 shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

**§ 42-25. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal the determination of the Village of Brockport. The notice of appeal must be received within 30 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 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final. Such administrative appeal is deemed a predicate for any other appeal process initiated by the violator.

**§ 42-26. Corrective 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 30 days of the decision of the municipal authority upholding the decision of the Village of Brockport, its representatives and/or employees may enter upon the subject private property with the consent of the owner or with a valid search and/or seizure warrant, and are authorized to take any and all measures necessary to abate the violation and/or restore the property.

**§ 42-27. Cost of abatement of the violation.**

Within 30 days after abatement of the violation, the owner of the property will be notified

of the cost of abatement, including administrative costs, including applicable monetary penalties and fines. The property owner may file a written protection claim objecting to the amount of the assessment within 15 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 provision of this article shall become liable to the Village of Brockport by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 6% per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

**§ 42-28. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the Village of Brockport 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.

**§ 42-29. Alternative remedies.**

- A. Where a person has violated a provision of this article, person may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Village Attorney and concurrence of the Stormwater Management Officer, where:
- (1) The violation was unintentional;
  - (2) The violator has no history of previous violations of this article;
  - (3) Environmental damage was minimal;
  - (4) The violator acted quickly to remedy the violation;
  - (5) The violator cooperated in investigation and resolution.
- B. Alternative remedies may consist of one or more of the following, but are not limited thereto:
- (1) Attendance at compliance workshops;
  - (2) Storm drain stenciling or storm drain markings;
  - (3) Watercourses, stream or creek cleanup activities.

**§ 42-30. 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 article 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.

**§ 42-31. Criminal prosecution.**

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and upon conviction, shall be subject to a criminal penalty of \$350 per violation per day and/or imprisonment for a period of time not to exceed 180 days pursuant to section 42-24 B.

**§ 42-32. Remedies not exclusive.**

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

**ARTICLE III  
Administrative Provisions**

**§ 42-33. Validity.**

If any clause, sentence, subdivision, paragraph, section or part of this chapter be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ 42-34. Effect upon inconsistent ordinances.**

In the event that the provisions of this chapter are inconsistent with the provisions of any ordinance of the Village of Brockport heretofore adopted, the provisions of this chapter shall be applicable and shall supersede such inconsistent prior provision. However, in such event, only the prior provisions inconsistent with any provision of this chapter shall be deemed superseded, and all other provisions in any such heretofore adopted ordinance not inconsistent with the provisions of this chapter shall continue in full force and effect.

**§ 42-35. Repeal of prior ordinance.**

Any and all existing sewer ordinances, sewer use ordinances or sewer commission ordinances adopted by the Board of Trustees Village of Brockport are hereby repealed as of the effective date of this chapter.

**§ 42-36. When effective.**

This chapter shall take effect and be in force from and immediately after all proper proceedings are had under the Village Law of the State of New York.

**§ 42-37. Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence or paragraph of this chapter 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 chapter.

**§ 42-38. Adoption of ordinance.**

This chapter shall be in full force and effect 30 days after its final passage and adoption.<sup>2</sup> All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed.

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**2. Editor's Note: This local law was filed with the Secretary of State 3-18-2008.**