

**INCORPORATED VILLAGE OF OLD BROOKVILLE  
BOARD OF TRUSTEES  
LOCAL LAW NO. 2 OF 2007**

**A PROPOSED LOCAL LAW  
RELATING TO ILLICIT DISCHARGES, ACTIVITIES AND  
CONNECTIONS TO SEPARATE STORM SEWER SYSTEM**

**BE IT ENACTED** by the Board of Trustees of the Incorporated Village of Old Brookville as follows:

**ILLICIT DISCHARGES, ACTIVITIES, AND CONNECTIONS TO SEPARATE  
STORM SEWER SYSTEM**

- § 1.1 Intent.
- § 2.1 Definitions.
- § 3.1 Applicability.
- § 4.1 Responsibility for administration.
- § 5.1 Discharge and connection prohibitions
- § 6.1 Prohibition against failing individual sewage treatment systems.
- § 7.1 Prohibition against activities contaminating stormwater.
- § 8.1 Requirement to prevent, control, and reduce stormwater pollutants by the use of BMPS.
- § 9.1 Emergency Situations.
- § 10.1 Industrial or Construction Activity Discharges.
- § 11.1 Access and Monitoring of discharges.
- § 12.1 Notification of Spills.
- § 13.1 Enforcement and Penalties.
- § 14.1 Injunctive Relief.
- § 15.1 Violations Deemed a Public Nuisance.
- § 16.1 Remedies Not Exclusive.
- § 17.1 Severability

**§ 1.1. INTENT.**

A The intent of this local law is to provide for the health, safety, and general welfare of the citizens of the Incorporated Village of Old Brookville through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for MS4s.

B. The objectives of this law are:

- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- (5) 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, sediment and other pollutants into the MS4.

## § 2.1 DEFINITIONS.

A. For purposes of this law, certain terms and words are hereby defined. Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the word "shall" is mandatory.

B. As used in this law, the following terms shall have meanings set forth below:

**BEST MANAGEMENT PRACTICES (BMPs)**- Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater 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.** An activity requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEC. The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL. New York State licensed professional engineer or licensed architect.

EPA. The United States Environmental Protection Agency.

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, including but not limited to:

A. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water 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.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater discharge to the MS4, except as exempted in this law.

INDUSTRIAL ACTIVITY. An activity requiring a SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MS4. Municipal Separate Storm Sewer System.

MUNICIPAL SEPARATE STORM SEWER SYSTEM. A 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 Incorporated Village of Old Brookville;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2

NYCRR - New York Code, Rules and Regulations

**NON-STORMWATER 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-** Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of pertinent standards promulgated by the federal government, the State, the Village, or any other municipality, a department thereof, having legal jurisdiction to impose such standards.

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

**SMO - The Stormwater Management Officer (see definition of STORMWATER MANAGEMENT OFFICER)**

**SPECIAL CONDITIONS.**

A. Discharge Compliance with Water Quality Standards. A condition that applies when the Village has been notified that the discharge of stormwater authorized under its 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 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. A condition in the Village's MS4 permit that applies when the MS4 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. A condition in the Village's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the Village was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

D. A condition in the Village's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under such condition the Village must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the Village must, within six (6) 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.

SPDES - State pollutant discharge elimination system.

STATE - The State of New York.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP -02-01 - A DEC SPDES permit issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02- A DEC SPDES permit issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

SPDES STORMWATER DISCHARGE PERMIT. A permit issued by the DEC that authorizes the discharge of pollutants to waters of the State.

STORMWATER. Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO). The Building Inspector, or his designee, as the designated officer of the Village to enforce this law.

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 DEC 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.

TMDL. Total Maximum Daily Load.(See definition of TOTAL MAXIMUM DAILY LOAD).

TOTAL MAXIMUM DAILY LOAD. The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER. Water that is not stormwater, is contaminated with pollutants, and is or will be discarded.

### **§ 3.1 APPLICABILITY.**

This law shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### **§ 4.1 RESPONSIBILITY FOR ADMINISTRATION.**

The SMO shall administer, implement, and enforce the provisions of this law.

## **§ 5.1 DISCHARGE AND CONNECTION PROHIBITIONS.**

### **A. Prohibition of Illegal Discharges.**

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this law, unless the DEC or the Village has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this law.

(3) Dye testing in compliance with applicable State and Village laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the DEC, 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 DEC approval has been granted for any discharge to the MS4.

### **B. Prohibition of Illicit Connections.**

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 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 law if the person connects a line conveying sewage to the Village's MS4, or allows such a connection to continue.

### **§ 6.1 PROHIBITION AGAINST FAILING INDIVIDUAL SEWAGE TREATMENT SYSTEM.**

No persons shall operate a failing individual sewage treatment system in areas tributary to the Village's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this subsection.
- F. Contamination of off-site groundwater.

### **§ 7.1 PROHIBITION AGAINST ACTIVITIES CONTAMINATING STORMWATER**

A. Activities that are subject to the requirements of this section are those types of activities that:

- (1) Cause or contribute to a violation of the Village's MS4 SPDES permit; and/or
- (2) Cause or contribute to the Village being subject to the Special Conditions.

B. Such activities include:

- (1) failing individual sewage treatment systems;
- (2) improper management of pet waste; and

