

Village of Rye Brook, NY  
Monday, September 13, 2021

## Chapter 216. Storm Sewers and Sanitary Sewers

[HISTORY: Adopted by the Board of Trustees of the Village of Rye Brook as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Erosion and sediment control — See Ch. **118**.

Excavations and topsoil removal — See Ch. **121**.

Flood damage prevention — See Ch. **130**.

Garbage, rubbish and refuse — See Ch. **135**.

Stormwater management — See Ch. **217**.

Subdivision of land — See Ch. **219**.

Wetlands and watercourses — See Ch. **245**.

Zoning — See Ch. **250**.

[1] *Editor's Note: The title of this chapter, which was formerly Storm Sewers, was amended 2-13-2018 by L.L. No. 3-2018.*

## Article I. Illicit Discharge Detection and Elimination

[Adopted 10-30-2007 by L.L. No. 15-2007]

## § 216-1. Purpose.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Village of Rye Brook through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

## § 216-2. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated below:

### **AUTHORIZED ENFORCEMENT AGENCY**

The Building Department and the Superintendent of Public Works/Village Engineer or his or her designee.

[Amended 10-27-2020 by L.L. No. 9-2020]

## **BEST MANAGEMENT PRACTICES (BMPs)**

Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to 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**

Activities subject to NPDES construction permits, land disturbance of one acre or more, or other activities including but not limited to clearing and grubbing, grading, excavating, and demolition.

## **HAZARDOUS MATERIALS**

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

## **ILLEGAL DISCHARGE**

Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in § **216-7** of this article.

## **ILLICIT CONNECTIONS**

Either of the following:

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

## **INDUSTRIAL ACTIVITY**

Activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b)(14).

## **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT**

A permit issued by the Environmental Protection Agency (EPA) [or by a state under authority delegated pursuant to 33 USC § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

## **NONSTORMWATER DISCHARGE**

Any discharge to the storm drain system 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 wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

## **PREMISES**

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

## **STORM DRAINAGE SYSTEM**

Publicly owned facilities by which 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, reservoirs, and other drainage structures.

## **STORMWATER**

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

## **STORMWATER POLLUTION PREVENTION PLAN**

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.

## **WASTEWATER**

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

## **§ 216-3. Applicability.**

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands within the Village of Rye Brook unless explicitly exempted by an authorized enforcement agency.

## **§ 216-4. Responsibility for administration.**

[Amended 10-27-2020 by L.L. No. 9-2020]

The Building Department shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the authorized enforcement agency

may be delegated in writing by the Superintendent of Public Works/Village Engineer of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

## § 216-5. Severability.

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

## § 216-6. Minimum standards; liability.

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

## § 216-7. Discharge prohibitions.

### A. Illegal discharges prohibited.

- (1) 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.

- (2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
  - (a) 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 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.
  - (b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
  - (c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
  - (d) The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency [or by a state under authority delegated pursuant to 33 USC § 1342(b)], 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.

B. Illicit connections prohibited.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

## § 216-8. Suspension of MS4 access.

- A. Suspension due to illicit discharges in emergency situations. The Superintendent of Public Works/Village Engineer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency 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.

[Amended 10-27-2020 by L.L. No. 9-2020]

- 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 terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

## § 216-9. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES 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 authorized enforcement agency prior to the allowing of discharges to the MS4.

## § 216-10. Monitoring of discharges.

- A. Applicability. This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

- B. Access to facilities.

- (1) The authorized enforcement agency shall be permitted to enter and inspect 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 authorized enforcement agency.

- (2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if

the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.

- (7) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

## § 216-11. Use of best management practices to control pollutants.

Each person owning property shall be required to follow any best management practices identified by the Village or any other involved regulatory agency 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. 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 these 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 NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

## § 216-12. Watercourse protection.

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

## § 216-13. Notification of spills.

[Amended 10-27-2020 by L.L. No. 9-2020]

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency

response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Superintendent of Public Works/Village Engineer within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained by the authorized enforcement agency for at least three years.

## § 216-14. Enforcement; fees.

- A. Notice of violation. Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this article, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
- (1) The performance of monitoring, analyses, and reporting;
  - (2) The elimination of illicit connections or discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (5) Payment of a fee to cover administrative and remediation costs; and

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

- B. 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 the Village and the expense thereof shall be charged to the violator.
- C. Cost of abatement of the violation. Upon the failure of the owner to pay the costs, the Superintendent of Public Works/Village Engineer shall certify the costs to the Assessor of the Village, and thereupon such costs shall become and be a lien upon the land involved and shall be added to and become a part of the taxes next to be assessed and levied upon such land and shall bear interest at the same rate as, and be collected and enforced in the same manner as, taxes.  
[Amended 10-27-2020 by L.L. No. 9-2020]
- D. 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 authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- E. Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided herein, 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.

## F. Criminal prosecution.

- (1) Any person who has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$250 per violation per day and/or imprisonment for a period of time not to exceed 15 days.
- (2) The authorized enforcement agency may recover all attorneys' fees court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

G. 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 authorized enforcement agency to seek cumulative remedies.

# Article II. Sanitary Sewers

[Adopted 2-13-2018 by L.L. No. 3-2018]

## § 216-15. Removal of illegal connections or discharges to sanitary sewer.

A. No person shall discharge or cause to be discharged any nonsanitary substance, including but not limited to, stormwater, surface water, groundwater roof runoff, subsurface drainage, cooling water, air-conditioning and refrigerating wastewaters or unpolluted industrial process water or other similar discharge or entry into the

sanitary sewer system. Any existing connection or discharge resulting in a nonsanitary discharge to the sanitary sewer system shall be terminated.

- B. Prior to any final decision from the Building Department on any plumbing permit or building permit application for a one- or two-family residential dwelling unit, the property owner shall submit a sworn affidavit to the Building Department stating that to the best of the property owner's knowledge, after the property owner's inspection of its property, there are no roof drains, sump pumps or other prohibited stormwater or groundwater connections or sources of inflow or infiltration on the subject property. This section shall not apply to applications for a building permit for work that is not being performed to the dwelling unit.
- C. Prior to the issuance of the certificate of occupancy, the Superintendent of Public Works/Village Engineer or Building Inspector shall be permitted to enter and inspect the premises and all structures to determine compliance with this section. If an applicant has security measures in force which require proper identification and clearance before entry into its premises, the applicant shall make the necessary arrangements to allow access to the Superintendent of Public Works/Village Engineer, Building Inspector or authorized designee. It shall be a violation of this chapter to refuse to grant the Superintendent of Public Works/Village Engineer, Building Inspector or authorized designee access to the premises. No certificate of occupancy shall be issued until such inspection has occurred.  
[Amended 10-27-2020 by L.L. No. 9-2020]
- D. Except as provided in Subsection **F** below, any illegal connection or discharge into the sanitary sewer system shall be remedied by the property owner and reinspected by the Superintendent of Public Works/Village Engineer or Building Inspector within 30 days of the issuance of any inspection report which states that the structures or property contains an illegal connection or discharge into the sanitary sewer system.

Any remedial work must be performed by a licensed plumber pursuant to a permit issued by the Village. A certificate of occupancy shall not be issued until any illegal connection or discharge has been remedied to the satisfaction of the Superintendent of Public Works/Village Engineer or Building Inspector.

[Amended 10-27-2020 by L.L. No. 9-2020]

- E. Any building permit application for construction of a new house or teardown (as defined in § **250-2**) shall require relining of any existing sewer lateral or replacement of the existing sewer lateral with a new sewer lateral to its connection with the sewer main.
- F. It shall be a violation of this chapter for any person to reconnect roof drains, sump pumps or any other source of prohibited stormwater and/or groundwater discharges to the sanitary sewer system and/or to construct or alter a lateral or other sewer line in such manner as to cause infiltration or inflow to the sanitary sewer system.