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[HISTORY: Adopted by the Town Board of the Town of Berne as indicated in Part histories. Amendments noted where applicable.]

GENERAL REFERENCES Building code administration - See Ch. 87. Subdivision of land - See Ch. 170. Zoning - See Ch. 190.

## **Part 1. Sewer Use**

[HISTORY: Adopted by the Town Board of the Town of Berne as indicated in Part histories. Amendments noted where applicable.]

GENERAL REFERENCES Building code administration - See Ch. 87. Subdivision of land - See Ch. 170. Zoning - See Ch. 190.

### **A. Article I. Sewer Use**

#### **§ 153-1. Definitions.**

As used in this Part, the following terms shall have the meanings indicated:

**PERSON** An individual, an association, a partnership or a corporation.

**SEWAGE DISPOSAL SYSTEM** A septic tank, leaching pit, cesspool, chemical toilet, privy, pipe or other means to dispose of sewage or sink wastes.

**STRUCTURE INTENDED FOR HUMAN OCCUPANCY** Any vehicle, house car, camp car or other type of vehicle, whether on wheels or not if used for living or sleeping purposes, and "erection" or a structure intended for human occupancy and shall include the parking of such a vehicle with the intent that it be occupied by humans. A tent or camp car erected and used for less than one week shall not be deemed a structure intended for human occupancy.

#### **§ 153-2. Building permit required.**

A. No sewage disposal system shall be installed or structurally altered anywhere in the Town until an application for a building permit shall have been filed and approved as hereinafter provided.

B. The construction or erection of any structure intended for human occupancy shall not be commenced until an application therefore shall have been filed and a building permit issued in the manner hereinafter provided.

#### **§ 153-3. Certificate of occupancy required.**

A. No sewage disposal system shall be used in the Town, if constructed after the effective date of this Part, unless a certificate of occupancy be issued therefore, as hereinafter provided.

B. No structure intended for human occupancy shall be occupied or used by human beings in the Town if such structure was erected or constructed after the effective date of this Part, unless a certificate of occupancy has been issued therefore as hereinafter provided.

#### **§ 153-4. Building Inspector.**

The Town Board shall appoint a Building Inspector, who shall be responsible to the Town Board for the performance of the duties hereinafter mentioned and whose appointment shall be at the pleasure of the Town Board.

### **§ 153-5. Applications.**

A. Applications for building permits shall be submitted to the Town Clerk with a plot plan or sketch showing the intended location of the sewage disposal system. In the case of subdivisions, temporary residences or any other premises requiring the approval of the State of New York and/or Albany County Department of Health, such approval shall be filed with the Town Clerk at the time of filing said application. A fee as set from time to time by resolution of the Town Board shall be paid to the Town Clerk simultaneously with the filing of the application.

[Amended 3•9•2005 by L.L. No. 1•2005]

B. After a building permit has been granted and the work there under performed, but before the work has been covered, the applicant shall notify the Building Inspector that the work has been completed. Said notice shall be deemed an application for a certificate of occupancy.

### **§ 153-6. Duties of Building Inspector.**

It shall be the duty of the Building Inspector to receive applications filed with the Town Clerk. He shall promptly investigate the proposed disposal devices indicated in the application, inspect the proposed site of the disposal system and issue a building permit if the proposed sewage disposal system complies with the requirements of this Part. The site investigation may, at the discretion of the Building Inspector, be made in the company of the applicant, and/or a representative of the Albany County Department of Health. The Building Inspector shall also inspect the disposal system when its construction has been completed, but before it has been completed, but before it has been covered, and shall issue the applicant a certificate of occupancy permitting the use of such installation, if he finds that such installation conforms to the requirements of this Part.

### **§ 153-7. Covering.**

No sewage disposal system shall be covered until it has been inspected as aforesaid.

### **§ 153-8. Appeals.**

If the Building Inspector declines to issue a building permit or a certificate of occupancy, the applicant may appeal within 30 days of the denial thereof to the Town Board by filing a request for a hearing with the Town Clerk. The applicant will be notified by the Town Board of the date, time and place of said hearing.

### **§ 153-9. Distances.**

No sewage disposal system shall be installed unless every part of such installation shall be more than 10 feet from the boundary line of the property on which it is located and more than 25 feet from any lake, reservoir, stream or watercourse not protected by rules enacted by the State Commissioner of Health; nor shall the leaching parts of such installation be located on the direct line of drainage to, nor less than 100 feet in a horizontal direction from, any source of domestic water supply systems which are located on watersheds. Public water supplies must comply with the rules and regulations enacted by the State Department of Health for the protection of such supplies.

### **§ 153-10. Exposure of sewage prohibited.**

No person, either as owner, lessee or tenant of any property, or dwelling, building or place, shall construct or maintain any sewage disposal system so as to expose or discharge the contents or effluent there from to the atmosphere or on the surface of the ground nor so as to enter any source of drinking water nor to discharge into any watercourse, storm sewer drain, or body of water.

### **§ 153-11. Septic tanks.**

Settling or septic tanks for single- or two-family dwellings shall have capacities below the flow line of not less than one day's flow of sewage based on the rate of 150 gallons per bedroom for small dwellings, farmhouses and

summer cottages, and 75 gallons per person for large dwellings, boardinghouses and hotels. The minimum size of an approved septic tank shall be 500 gallons' working capacity. Septic tanks shall be at least 10 feet outside the foundations of buildings. Drains from buildings to septic tanks shall be watertight and equipped with a house trap and fresh air vent. They shall have a diameter of not less than four inches. No roof leaders or floor or cellar drains shall drain into septic tanks. Septic tank effluents shall be disposed of by discharging to subsurface tile systems, leaching cesspools or by such other means as may be approved in writing by the Building Inspector.

### **§ 153-12. Subsurface tile systems.**

A subsurface tile system shall be laid with proper slope and alignment below the ground surface in such a fashion as to permit an even flow from the septic tank into all parts of the tile field. A distributing box shall be used to distribute the flow evenly to each lateral in the tile field. The diameter of distributors, type of joints and the slopes thereof shall be as prescribed by the Building Inspector, and the entire system shall conform to standards set by the Building Inspector as a result of percolation tests conducted by him.

### **§ 153-13. Seepage pits.**

Seepage pits or cesspools may be permitted where the topsoil is underlaid with sand or gravel. They shall be preceded by a septic tank. Such pits shall be made of durable material and construction and of such proportions that the side area is approximately three times the bottom area. The bottom of a seepage pit shall be at least two feet above the groundwater table. The seepage area of a pit or cesspool shall be as calculated by the Building Inspector.

### **§ 153-14. Pit privies.**

Outdoor pit privies are permissible only in porous sandy soils where the ground water level is at least two feet below the bottom of the pit. They shall be fly tight, properly ventilated and otherwise constructed so as to facilitate maintenance in a sanitary condition.

### **§ 153-15. Watertight systems.**

When the nearby groundwater must be protected, or leaching systems cannot be utilized, a watertight vault privy, a removable receptacle privy, or a chemical toilet can be used if approved by the Building Inspector and adequate facilities are for proper sanitary maintenance and disposal of wastes.

### **§ 153-16. Construction.**

A. Nothing contained in this Part shall be construed to permit the installation or maintenance of disposal facilities which are or may become a nuisance.

B. The Building Inspector may at any time by personal inspection determine that existing sewage disposal facilities on a property are inadequate or do not function properly, or that there is not available an adequate supply of water for use in connection therewith. In such cases, he shall notify the tenant or owner of the premises in writing of such fact, and a copy of such notice shall be sent to the Town Clerk. Upon a receipt of such notice it shall be the duty of the owner or tenant, within 10 days, to make application to the Town Clerk for a permit to reconstruct or alter such disposal system, and to complete such reconstruction or alteration within 30 days after receipt of said notice. Unless such reconstruction or alteration as is required shall have been completed within said 30 days, it shall be unlawful and improper to use the premises for human occupancy until such reconstruction or alteration is completed and approved. The fee for a reconstruction or alteration permit shall be the same as that for a new installation, and such work shall be inspected and approved in the manner provided for new installations.

### **§ 153-17. Penalties for offenses.**

Any violation of this Part is hereby declared to be an offense and shall render the owner or owners of the land and the tenant thereof or any other person guilty of a violation thereof liable to a fine of not more than \$50 or to

imprisonment for a period of not more than 30 days, or both. In addition, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain the violation of this Part.



## **Part 2. Sewer District No. 1**

Any violation of this Part is hereby declared to be an offense and shall render the owner or owners of the land and the tenant thereof or any other person guilty of a violation thereof liable to a fine of not more than \$50 or to imprisonment for a period of not more than 30 days, or both. In addition, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain the violation of this Part.

### **B. Article II. Short Title and Purpose; Applicability**

#### **§ 153-18. Short title.**

For brevity and ease of communication, this Part 2 may be cited as the "Berne Sewer Use Law."

#### **§ 153-19. General purpose.**

The general purpose of this Part 2 is to provide for efficient, economic, environmentally safe, and legal operation of the Berne Sewer District No. 1 sewer system and treatment facilities (hereinafter referred to as the "Town of Berne Publicly Owned Treatment Works" or "POTW").

#### **§ 153-20. Specific purposes.**

The specific purposes of this Part 2 are the following:

A. To prevent the introduction of substances into the POTW that will:

- (1) Interfere with the POTW in any way.
- (2) Pass through the POTW to the state's waters and cause contravention of standards as promulgated by the NYSDEC for those waters or cause violation of the POTW's SPDES permit.
- (3) Increase the cost or otherwise hamper the disposal of POTW sludge and/or residuals.
- (4) Endanger municipal employees.
- (5) Cause air pollution, or groundwater pollution, directly or indirectly.
- (6) Cause, directly or indirectly, any public nuisance condition.

B. To prevent new sources of infiltration and inflow and, as much as possible, to eliminate existing sources of infiltration and inflow.

C. To assure that new sewers and connections thereto are properly constructed.

D. To provide for equitable distribution to all users of the POTW of all costs, associated with sewage transmission, treatment, and residuals disposal and to provide for the collection of such costs.

#### **§ 153-21. Applicability.**

This Part 2 shall apply only in the Town of Berne Sewer District No. 1.

### **C. Article III. Definitions**

#### **§ 153-22. Definitions.**

Unless otherwise stated in the section where the term is used in this Part 2, the meaning of terms used in this Part 2 shall be as stated below. When not inconsistent with the context, the present tense shall include the

future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. "Shall" is mandatory; "may" is permissive.

**ACT or THE ACT** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., as may be amended.

**APPLICANT** That person who makes application for any permit. The applicant may be an owner, new or old, or his agent.

**BUILDER** Any person who undertakes to construct a building or any part of a building, either under contract or for resale.

**COMMERCIAL** Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

**CONNECTION** Attachment of one user to a sewer. See "extension."

**CONNECTION CHARGE** The one-time application fee to offset Sewer District expenses to process an application for a connection of a building/street lateral to the public sewer. The fee also covers plan review, permit issuance, street repair cost, and inspection costs. The fee may be scaled to the amount of work involved or to the size of the public sewer involved.

**CONVENTIONAL POLLUTANT** A pollutant that the POTW treatment plant is designed to treat, defined in accordance with the Act.

**COUNTY** The county in which the Town is located, which is Albany County.

**DEVELOPER** Any person who subdivides land for the purpose of constructing or causing to be constructed, buildings for which wastewater disposal facilities are required.

**DIRECT DISCHARGE** The discharge of treated or untreated wastewater directly to the waters of the State of New York. For reference, see "indirect discharge."

**EASEMENT** An acquired legal right for the specific use of land owned by others.

**EQUIVALENT DWELLING UNIT (EDU)** An EDU is a unit of measure used to estimate the amount of wastewater generated by a typical service connection.

**EXTENSION** Attachment of a sanitary sewer line, with more than one user, to an existing sanitary sewer line.

**FACILITY** All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.

**GARBAGE** The solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, or sale of produce, or from the packaging and canning of food.

**GRIEVANCE** A process to hear and decide disagreements between the user of the POTW and the Town Board.

**INDIRECT DISCHARGE** The introduction of wastewater into a POTW for treatment and ultimate discharge of the treated effluent to the state's waters. For reference, see "direct discharge."

**INFILTRATION** Water, other than wastewater, that enters a sewer system (excluding building drains) from the ground through such means as defective pipes, pipe joints, connections or manholes. Infiltration does not include, and is distinguished from, inflow.

**INFLOW** Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, floor drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers,

storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

**INTERCEPTOR** A device on user's property to remove oil, grease, sand and other materials from sewage prior to discharge to a POTW sewer.

**INTERFERENCE** A discharge which, alone or in conjunction with discharges by other sources:

A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

B. Therefore is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutes:

(1) Section 405 of the Clean Water Act;

(2) The Solid Waste Disposal Act (SWDA), including Title 11, more commonly referred to as the 'Resource Conservation and Recovery Act' (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D or the SWDA;

(3) Clean Air Act;

(4) Toxic Substances Control Act; and

(5) Marine Protection Research and Sanctuaries Act.

**LATERAL, BUILDING** The sanitary sewer extension from the building to the street lateral or other place of wastewater disposal.

**LATERAL, STREET** The sanitary sewer extension from the public sewer to the property line.

**NEW OWNER** That individual or entity that purchased property within the service area of the Sewer District after the effective date of this Part 2.

**NEW SOURCE** Any source the construction of which is commenced after the publication of the proposed regulation prescribing a Section 307(c) [33 U.S.C. § 1317(c)] categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated.

**NEW USER** A discharger to the POTW who commences discharge after the effective date of this Part 2.

**OIL AND GREASE** The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease, and oil in a sample, expressed in milligrams per liter.

**OTHER WASTES** Garbage (shredded or unshredded), refuse, wood, eggshells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

**OWNER** That individual or entity who owns or owned a property within the service area of the POTW.

**PASS•THROUGH** The discharge which exits the POTW into waters of the state in quantities, which alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

**PERMIT** A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Part 2.

**PERSON** Any individual, public or private corporation, political subdivision, federal, state, or local agency or entity, association, trust, estate or any other legal entity whatsoever.

**POLLUTANT** Any material placed into or onto the state's waters lands and/or airs which interferes with the beneficial use of that water, land and/or air by any living thing at any time.

POT See 'publicly owned treatment works.'

POTW TREATMENT PLANT That portion of the POTW designed to provide treatment to wastewater and to treat sludge and residuals derived from such treatment.

PRETREATMENT The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be achieved by an interceptor using a physical, chemical, or biological process, process changes, or by other means, except as prohibited by 40 CFR 403.6D.

PRIVATE SEWAGE SYSTEM An independent sanitary system, usually consisting of a septic tank and disposal field, constructed in accordance with any and/or all local and state requirements.

PROPERLY SHREDDED GARBAGE The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers and with no particle having a dimension greater than 1/2 inch in any dimension.

PUBLICLY OWNED TREATMENT WORKS (POTW) A treatment works, as defined by Section 212 of the Act (33 U.S.C. § 1292), which is owned, in this instance, by the Town of Berne. This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

RECEIVING WATERS A natural watercourse or body of water (usually waters of the state) into which treated or untreated sewage is discharged.

SEPTAGE All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved type of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries. Also, sludge from small sewage treatment plants. Septage shall not have been contaminated with substances of concern or priority pollutants.

SERVICE AREA OF THE POTW The legally defined bounds of real property from which wastewater may be discharged into the POTW. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated by action of the Town Board.

SEWAGE A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, and such groundwater surface water, and stormwater as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered 'sewage,' within the meaning of this definition.

SEWAGE, ABNORMAL Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See 'sewage, normal.'

SEWAGE, DOMESTIC (DOMESTIC WASTES) Liquid wastes from the noncommercial preparation, cooling, and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings, and institutions, or liquid wastes from clothes washing and/or floor/wall washing. See 'sewage, sanitary.'

SEWAGE, NORMAL

A. Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- (1) BOD (five-day): 2,090 pounds per million gallons (250 milligrams per liter), or less .
- (2) Suspended solids: 2,500 pounds per million gallons (300 milligrams per liter), or less.
- (3) Phosphorus: 125 pounds per million gallons (15 milligrams per liter), or less.
- (4) Ammonia: 250 pounds per million gallons (30 milligrams per liter), or less.
- (5) Total Kjeldahl nitrogen: 417 pounds per million (50 milligrams per liter), or less.

(6) Chlorine Demand: 209 pounds per million gallons (25 milligrams per liter), or less.

(7) Chemical oxygen demand: 2,920 pounds per million gallons (350 milligrams per liter), or less

(8) Oil and grease: 830 pounds per million gallons (100 milligrams per liter), or less.

B. In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered normal sewage.

SEWAGE, SANITARY Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from stormwater, surface water, industrial, and other wastes. See 'domestic wastes.'

SEWAGE, UNUSUAL STRENGTH OR CHARACTER Sewage which has characteristics greater than those of normal sewage and for which contains substances of concern.

SEWER A pipe or conduit for carrying or transporting sewage.

SEWERAGE SURCHARGE The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage.

SEWERAGE SYSTEM (also POTW) All facilities for collecting, regulating, pumping, and transporting wastewater to and away from the POTW treatment plant.

SEWER, COMBINED A sewer designed to receive and transport both runoff (i.e., stormwater) and sanitary sewage.

SEWER DISTRICT The Town of Berne Sewer District No. 1, which was duly created by law.

SEWER, PUBLIC A sewer in which all abutting property owners have equal rights and the use of which is controlled by the Town.

SEWER, SANITARY A sewer which carries sanitary sewage, and to which storm, surface, and ground waters are not intentionally admitted.

SEWER, STORM (STORM DRAIN) A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

SLUDGE Residual solids that are generated by the treatment of wastewater to remove pollutants.

SLUG A substantial deviation from normal rates of discharge or constituent concentration (see normal sewage) sufficient to cause interference. In any event, a discharge which, in concentration of any constituent or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour concentration or flow during normal user operations shall constitute a slug.

SPDES PERMIT A NYSDEC permit issued under the State Pollution Discharge Elimination System for the discharge of treated effluent from a wastewater treatment plant. See also the definition of 'wastewater discharge permit.'

STATE The State of New York.

STORMWATER Any flow occurring during or following any form of natural precipitation; also, the flow resulting therefrom.

SUBSTANCES OF CONCERN Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

SUMP PUMP A mechanism used for removing water from a sump or wet well.

SUSPENDED SOLIDS The results obtained, using an approved laboratory procedure, to determine the dry weight of solids, in a sample, that either float on the surface of or are in suspension, or are settleable and can be removed from the sample by filtration, expressed in milligrams per liter.

TOWN The Town of Berne.

TOWN BOARD The governing body of the Town.

TOXIC SUBSTANCES Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA Clean Water Act Section 307(a) Editor's Note: See 33 U.S.C. § 1317(a). or other acts.

USER Any person who contributes, causes, or permits the contribution of wastewater into the POTW.

VACANT PARCEL, BUILDABLE A parcel of land within the Sewer District, without a dwelling or commercial building, which is determined to be a buildable lot in conformance with the Town Zoning Ordinance. Editor's Note: See Ch. 190, Zoning.

VACANT PARCEL, NONBUILDABLE A parcel of land within the Sewer District, without a dwelling or commercial building, which is determined not to be a buildable lot in conformance with the Town Zoning Ordinance. Editor's Note: See Ch. 190, Zoning.

WASTE WATER The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that maybe present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER DISCHARGE PERMIT A permit as set forth in Article XI of this Part 2.

WATERS OF THE STATE (STATE'S WATERS) All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

## § 153-23. Abbreviations.

The following abbreviations shall have the designated meanings: CFR Code of Federal Regulations

EPA Environmental Protection Agency l litermg milligram

mgll milligrams per liter

NPDES National Pollutant Discharge Elimination System

NYSDEC New York State Department of Environmental Conservation

NYSDOH New York State Department of Health

NYSDOT New York State Department of Transportation

POTW publicly owned treatment works

ppm parts per million, weight basis

RCRA Resource Conservation Recovery Act

SPDES State Pollutant Discharge Elimination System

SWDA Solid Waste Disposal Act, 42 U.S.C.

§ 6901 et seq. U.S.C. United States Code of Laws

USEPA United State Environmental Protection Agency

## **D. Article IV. Use of Public Sewers Required**

### **§ 153-24. Waste disposal unlawful.**

It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property that is served by the service area of the POTW within the Sewer District any human waste, garbage, or objectionable waste. Those properties not served by the POTW shall comply with all applicable State and County Department of Health regulations. Also, no person shall discharge domestic sewage onto the surface of the ground (including surface waters) or discharge it in a way that permits it to come to the surface of the ground.

### **§ 153-25. Connecting private sewage system to storm sewer prohibited.**

No person shall connect a private sewage system so that sewage flows into a storm sewer or into a drain intended exclusively for storm water.

### **§ 153-26. Discharge of sewage into well prohibited.**

No person shall discharge sewage into an active or inactive well.

### **§ 153-27. Wastewater discharge unlawful.**

It shall be unlawful to discharge to any natural outlet, within the Sewer District, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Part 2.

### **§ 153-28. Approved wastewater disposal required for issuance of building permit.**

No property owner, builder, or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Part 2, is available. All housing construction or building development which takes place after this Part 2 is enacted shall provide for an approved system of sanitary sewers that would connect to a POTW or an approved on-site septic system.

### **§ 153-29. Connection to public sewer required.**

A. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Sewer District, and abutting on any street, alley, or right-of-way in which there is located a public sewer, is hereby required, at the owner's expense, to install suitable sanitary facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this Part 2, within six months after official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line. Partial lateral sewers will be provided by the Town only during the initial construction of the POTW and only if the easement required to construct the lateral was provided voluntarily by the property owner. Thereafter, it is the owner's responsibility to construct any lateral sewers or grinder pumps necessary to hook up to the public sewer.

[Amended 5•11•2011 by L.L. No. 2•2011]

B. The owner must abandon and properly decommission all septic tanks on his property in accordance with requirements set forth by the Town Board.

C. Owners whose properties are serviced by grinder pumps will be responsible for providing continuous electric power to the grinder pump units. This includes the electric hookup from the owner's electric system to the grinder pump control panel (provided by the Town) located on the side of the residence structure. Where such grinder pumps are shared by multiple property owners, one owner will have the primary responsibility for providing electric power, and the other owner(s) shall have the backup or secondary responsibility. Owners who provide electric power to grinder pumps shall be reimbursed, annually, to compensate them for the cost of the electric power. The grinder pump run-time meter, and the annual average cost of electricity, shall be used to calculate the reimbursement amount.

### **§ 153-30. Limitation on use of public sewers.**

The use of the Town public sanitary sewers shall be strictly limited and restricted to receive and accept the discharge of sanitary sewage and other domestic wastewaters generated on or discharged from real property within the bounds of the service area of the POTW pursuant to this Part 2. Discharge from garbage disposal units shall be prohibited. In addition, no inflow (see the definition of 'inflow.')

Editor's Note: See § 153-22 for definition of "inflow." shall be allowed to enter into the public sanitary sewers.

### **§ 153-31. Wastewater from outside POTW Sewer District.**

A. The Town Board shall have the authority to enter into agreements to accept sewage and other wastes generated by or discharged from applicants outside the service area of the POTW. The decision on whether to accept wastewater from outside the POTW service area shall consider the available capacity in the system (i.e., excess capacity that is not presently used or not presently planned for future needs/expansion within the Sewer District). Approval and acceptance shall be made only with the expressed written consent of the Town Board (the issuance of a permit) setting forth the terms and conditions of such acceptance.

B. All costs necessary to accommodate wastewater from outside the POTW service area shall be borne by the applicant. These costs shall include, but not be limited to, engineering review fees, construction costs, monitoring manholes or flow equalization facilities, impact costs related to capital facilities reserve capacity, annual capital debt share of POTW facilities and annual O & M costs. Schedule B of this Part 2 addresses the charges to be assessed to applicant. Editor's Note: Schedule B is included at the end of this chapter.

C. Unless otherwise agreed to by the Town, applicants shall be responsible for the proper maintenance of any conveyance facilities they have constructed to connect to the district's POTW.

### **§ 153-32. Moratorium.**

If the Town Board determines that 1) one or more segments of the POTW are exceeding or may exceed their hydraulic capacity at any time or 2) any specific purpose of this Part 2 is being violated, the Town Board shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be accomplished by:



- A. Construction of new facilities;
- B. Enlarging existing facilities;
- C. Correction of inflow and infiltration;
- D. The cleaning and repairing of existing facilities.

**§ 153-33. Basis of sewer use requirement.**

All requirements, directives, and orders calling for mandatory use of the sewers, within the service area of the POTW, for the proper discharge of sewage and other wastes, including commercial wastes, shall be established and given by the Town Board and/or state or federal agencies, which have enforcement powers.

**E. Article V. Private Wastewater Disposal**

**§ 153-34. Public sewer unavailable: private wastewater disposal required.**

This article applies to all properties within the Sewer District which are not in the service area of the POTW and are not otherwise hooked up to the POTW. Where a public sewer is not available, under the provisions of § 153•27, the building lateral shall be connected to a private wastewater disposal system complying with the provisions of the Rules and Regulations of the NYSDOH, to be enforced by the Albany County Health Department.

**§ 153-35. Connection of two buildings to the same septic tank prohibited.**

No two separate permanent buildings, where the intended use for either is for a distinct and separate principal business or a principal dwelling place for a private family or families, shall be connected to the same individual septic tank and leach field, except as approved by the Albany County Health Department.

**§ 153-36. Building permit application.**

A building permit application shall not be complete until the location and design for the on-site wastewater disposal system has been approved by the Albany County DOH.

**§ 153-37. Sanitary operation required.**

The owner shall operate and maintain the private wastewater disposal system in a satisfactory manner at all times, at the owner's expense.

**§ 153-38. Septage removal.**

Where a private wastewater disposal system utilizes a cesspool or a septic tank, septage shall be removed from the cesspool or septic tank, by a licensed hauler of trucked and hauled wastes, at appropriate intervals at the owner's expense.

**§ 153-39. Direct connection to new public sewers required.**

At such time that a public sanitary sewer becomes available to a property (see § 153•29), a direct connection shall be made to the public sewer, in compliance with this Part 2, and any cesspool, septic tank, and similar wastewater disposal facilities shall be cleaned of septage, by a licensed septage hauler, and finally either filled with clean sand, bank-run gravel, or dirt, or removed and properly disposed. When the connection is made to the public sewer, the connection to the private wastewater disposal facility shall be broken, and both ends of the break shall be plugged, as appropriate. All of the aforementioned activities shall be at the expense of the property owner.

### **§ 153-40. Additional requirements.**

No statement in this article shall be construed to prevent, or interfere with, any additional requirements that may be deemed necessary by the Town Board to protect public health and welfare.

## **F. Article VI. Building Laterals, Street Laterals, Connections and Fees**

### **§ 153-41. Permit required for sewer connections.**

No person (unless an authorized agent or contractor of the Town Board) shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town Board.

### **§ 153-42. Inflow infiltration prohibited.**

No person shall discharge, or cause to be discharged, any storm water, groundwater, cooling water or any other inflow, as defined in this Part 2, to any sanitary sewer. Swimming pool drains shall not be connected to any sanitary sewer.

### **§ 153-43. Sewer lateral permits.**

A. There shall be two classes of sewer lateral permits:

- (1) For residential service.
- (2) For commercial and institutional service.

B. In either case, a permit application shall be submitted to the Town Board and a permit obtained before any connection is made to the public sanitary sewers. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgment of the Town Board. Connections to existing manholes shall be made as directed by the Town Board. A fee, for residential, commercial, and institutional users, as established by the Town Board, shall accompany the application except for those initial service area users who connect to the public sanitary sewer laterals within six months of notice from the Town Board that the POTW system is ready for connection. An extension of time may be granted by the Town Board, in its discretion, depending on the circumstances, upon application for such extension of time by the initial user.

### **§ 153-44. New building laterals.**

A separate and independent building lateral shall be provided for every building requiring sanitary facilities. When, however, there is a building behind a front building, the second building may use the front building's building lateral, if there is no other way to provide sanitary service to the back building. New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the Town Board has approved plans showing the relocation.

### **§ 153-45. Laterals serving multiple dwellings.**

When building laterals are to serve multiple dwellings, the building lateral shall be sized in accordance with the estimated or actual water use of such structures and with sound professional engineering standards and judgment.

### **§ 153-46. Laterals serving complexes.**

Where a lateral sewer is to serve a group of commercial, institutional, or dwelling structures, or any combination thereof, Town Board approval and special design of the building lateral system shall be required. Ownership and maintenance agreements of said lateral system must also be approved. The Town Board shall determine if and where this connection to the public sewer is required and whether a monitoring manhole is required. If required,

a new manhole shall be installed in the public sewer and the lateral connection made and tested as directed by the Town Board. Plans and specifications shall be prepared and submitted for approval pursuant to this Part 2.

**§ 153-47. Using existing building laterals.**

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the Town, to meet all requirements of this Part 2. Abandoned laterals and/or lateral connections shall be cut and capped as approved by the Town Board, at the owner's expense.

**§ 153-48. Lateral pipe materials.**

Building and street lateral pipe materials shall be approved by the Town Board consistent with specifications adopted by the Town Board or the New York State Building Code, if such is applicable.

**§ 153-49. Costs borne by owner.**

All costs, including operation and maintenance costs, associated with the provisions of this article shall be borne by the property owner unless specifically stated or agreed to be a cost borne by the Town. The property owner shall indemnify the Town from any loss or damage to the POTW that may be directly or indirectly occasioned by the installation of the building and street laterals and connections and appurtenances.

**§ 153-50. Abandoned connections.**

Abandoned connections or connections not used by the property owner shall be cut and capped, as approved by the Town Board, at the property owner's expense.

## **§ 153-51. Liability insurance coverage.**

A. All contractors engaged in connecting building laterals with sanitary sewers shall file a bond in the amount of \$50,000 with the Town Clerk to indemnify the Town against loss, cost, damage or expense sustained or recovered on account of any negligence, omission or act of the applicant for such a permit, or any of his or their agents, arising or resulting directly or indirectly by reason of such permit or consent, or of any act, construction or excavation done, made or permitted under authority of such permit or consent. All bonds shall contain a clause that permits given by the Town may be revoked at any time for just cause.

B. Before commencing work, the above contractor shall file insurance certificates with the Town Clerk for the following:

- (1) Workers' compensation and employer's liability insurance as required by the laws of the state covering the contractor.
- (2) Personal injury liability having limits of not less than \$1,000,000 each occurrence and \$1,000,000 aggregate (completed operations products, personal injury);
- (3) Property damage liability having limits of not less than \$500,000 for all damages arising during the life of the contract, and shall include, but not be limited to, the following designated hazards:

- (a) Premises and operations;
- (b) Independent contractors;
- (c) Completed operations and products; (d) Property damage; and
- (e) Explosions, collapse and underground.

(4) Comprehensive automobile liability (including nonowned and hired automobiles) having limits of not less than:

- (a) Bodily injury: each person, \$300,000; each occurrence, \$500,000.
- (b) Property damage: each occurrence, \$500,000.

(5) Business excess liability insurance in the amount of \$2,000,000.

(6) All insurance policies must provide for 30 business days' notice to the Town before cancellation and must cover all liabilities of the Town and be in a satisfactory form approved by the Town Attorney.

C. Where it is necessary to enter upon or excavate any highway or cut any pavement, sidewalk or curbing, permission must be obtained from the Superintendent of Highways if a Town highway is involved, from the County Department of Public Works if a county highway is involved, and for the New York State Department of Transportation if a state highway is involved.

D. The minimum insurance limits above shall be as established by the Town Board and shall be subject to periodic review and adjustment, as appropriate, by the Town Board.

## **G. Article VII. New Connections and New Sewers or Sewer Extensions**

### **§ 153-52. New household connection.**

A. Each new household connection to the sewer collection system within the Sewer District will require an approval of allocation by the own Board. The Town Board will issue a decision whether or not to issue an approval based upon the following criteria:

- (1) The remaining unallocated capacity of the sewage system;
- (2) The density of the development;
- (3) The competing demands for sewer service within the Sewer District and the community's needs for other services;
- (4) The timing of the submission;
- (5) Any contractual obligations relating to sewer capacity allocation.

B. Existing households can make improvements to their house without requiring an additional allocation. However, additional allocations will be required if an additional EDU is being added to an existing household. An additional EDU would be required if the modifications being made to the property would allow for the building to be occupied by an additional family unit living separately from the existing unit or units within the building. If additional flow is allocated to a household, it will be allocated in increments of an EDU.

### **§ 153-53. New nonhousehold connection.**

A. Each new nonhousehold connection to the sewer collection system or expansion from an existing nonhousehold connection from a parcel within the Sewer District will require an approval of allocation by the Town Board. The Town Board will issue a decision whether or not to issue an approval based upon the following criteria:

- (1) The remaining unallocated capacity of the sewage system;
- (2) The density of the development;
- (3) The competing demands for sewer service within the Sewer District and the community's needs for other services;
- (4) The timing of the submission;
- (5) Impact of the project on the overall quality of life of Town residents;
- (6) Any contractual obligations relating to sewer capacity allocation.

B. The existing nonhousehold connection will identify its current flow and its projected average daily flow.

### **§ 153-54. Proper design.**

New sanitary sewers and all extensions to sanitary sewers owned and operated by the Town will be approved only if there is adequate capacity in the POTW treatment plant to treat the wastewater properly. Sewer line and POTW treatment plant 'current use' shall be defined as the present use and the unutilized capacity which has been committed, by resolution, to other users by the Town Board.

### **§ 153-55. New sewers subject to approval, fees, inspection, testing and reporting.**

When a property owner, builder, or developer proposes to construct sanitary sewers or extensions to sanitary sewers in an area not serviced by the POTW, the plans, specifications, and method of installation shall be subject to the approval of the Town Board, the Albany County Health Department and the New York State Department of Environmental Conservation, if applicable. Said property owner, builder, or developer shall pay for the entire installation, including a proportionate share of the treatment plant, intercepting or trunk sewers, pumping stations, force mains, and all other Town expenses incidental thereto. Each street lateral shall be installed and inspected pursuant to Article VI, and inspection fees shall be paid by the applicant prior to initiating construction. No new sanitary sewers will be accepted by the Town Board until construction inspections have been made so as to assure the Town Board of compliance with this Part 2 and any amendments or additions thereto. The Town Board may, in its discretion, impose a reimbursement schedule for such owner, builder or developer to address connections by other property owners into said extension.

### **§ 153-56. Plans, specifications, and pipe test results required.**

Plans, specifications, and methods of installation shall conform to the requirements of the Town Board and the reviewing agencies with jurisdiction such as the Albany County DOH and NYSDEC.

### **§ 153-57. Final acceptance and warranty/surety.**

All sanitary sewers and extensions to sanitary sewers, including street laterals but not building laterals, constructed at the applicant's expense, after final approval and acceptance by the Town Board, shall become the property of the Town and shall thereafter be operated and maintained by the Town. No sanitary sewer shall be accepted by the Town until four copies of as-built drawings have been so filed with the Town and the Town has

approved the submitted drawings. Said sewers, after their acceptance by the Town, shall be guaranteed against defects in materials or workmanship for one year, by the applicant. The guarantee shall be in such form and contain such provision as deemed necessary by the Town Board, secured by a surety bond or such other security as the Town Board may approve.

## **H. Article VIII. Inflow**

### **§ 153-58. Inflow sources prohibited.**

No inflow shall be made to sanitary sewers. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, floor drains sump pumps, catch basins, ornamental fountains, swimming water or cooling water discharges, or other sources of inflow as such term is defined in this Part 2 in Article III.

## **I. Article IX. Committee**

### **§ 153-59. Committee formation and appointment.**

The Town Board shall create, by resolution, and appoint a Sewer District committee or such other committee or board which it deems appropriate and which is in accordance with municipal law. Such board or committee may be organized within the Town Board's judgment and discretion in accordance with law. Two members of the committee shall be appointed from users of the POTW. The Town Board shall also have the discretion to appoint any other necessary personnel (including officers, employees, agents and/or consultants) to handle Sewer District matters.

### **§ 153-60. Delegation of powers to committee.**

The Town Board, by resolution, may delegate to such board or committee or other appointed personnel, created pursuant to § 153-59 such powers and authority with respect to this Part 2 as it deems appropriate as long as such delegation is in accordance with law.

### **§ 153-61. Grievances.**

The committee organized pursuant to § 153-59 shall be delegated the authority to hear grievances of users and to make recommendations regarding such grievances to the Town Board.

## **J. Article X. Discharge Restrictions**

### **§ 153-62. Pretreatment standards.**

All users of the Town POTW will comply with all standards and requirements of this Part 2 and standards and requirements promulgated pursuant to the Clean Water Act, including but not limited to 40 CFR Parts 406 to 471.

## § 153-63. General prohibitions.

A. No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW.

B. Without limiting the generality of the foregoing, a user may not contribute the following substances to the POTW:

(1) Any solids, liquids, or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause a fire or an explosion or be injurious, in any way, to the POTW or to the operation of the POTW. At no time shall both of two successive readings on a flame type explosion hazard meter, at the point of discharge into the system, (or at any other point in the system), be more than 25% nor any single reading be more than 40% of the lower explosive limit (LEL) of the meter. Unless explicitly allowable by a written permit, prohibited materials include, but are not limited to, gasoline, kerosene, turpentine or paint thinner, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, and sulfides, and any other substance which the Town, the state, or the EPA has determined to be a fire hazard or hazard to the POTW.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or otherwise interfere with the operation of the wastewater treatment facilities. Unless explicitly allowable by a written permit, such substances include, but are not limited to, grease, garbage with particles greater than 1 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marbledust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass or stone grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0, unless the POTW was designed to manage such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or POTW personnel.

(4) Any wastewater containing chemicals, substances and/or toxic pollutants in sufficient quantity or concentration, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

Editor's Note: See U.S.C. § 1317(a).

- (5) Any noxious or malodorous solids, liquids, or gases which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.
- (6) Oils and grease. Any commercial, institutional or industrial wastes containing fats, waxes, grease, or oils which become visible solids when the wastes are cooled to 100 C. (500 F.); any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in excess of 100 mgd or in amounts that will cause interference or pass-through.
- (7) Any wastewater which will cause interference or pass-through.
- (8) Any wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes, and vegetable tanning solutions.
- (9) Any solid, liquid, vapor, or gas having a temperature higher than 650 C. (1500 F.) unless allowed by permit; however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 400 C. (1040 F.). The Town Board reserves the right, in certain instances, to prohibit or limit the discharge of wastes whose maximum temperatures are lower than 650 C.
- (10) Unusual flow rate or concentration of wastes, constituting slugs, except by wastewater permit.
- (11) Any wastewater containing any radioactive wastes.
- (12) Any wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way, with other wastes.
- (13) Any wastewater with a closed cup flashpoint of less than 1400 F. or 600 C. using the test methods specified in 40 CFR 261.21.
- (14) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (15) Any direct disposal of pharmaceutical products.
- (16) Septage or other concentrated slugs of sewage.

**§ 153-64. Access to user's records.**

The Town Board shall have the authority to inspect and/or copy any record related to wastewater discharges to the POTW.

**§ 153-65. Dilution.**

Except where expressly authorized to do so by an applicable pretreatment standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard. Dilution flow shall be considered to be inflow.

**§ 153-66. Grease, oil and sand interceptors.**

Grease, oil and sand interceptors shall be provided by the property owner/user when, in the opinion of the Town Board, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand or other harmful substances, except that such interceptors shall not be required for private living quarters or living units. All interceptors shall be of type and capacity approved by the Town Board and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the owner at his expense and shall be subject to periodic inspection by the Town.

**§ 153-67. Solid waste grinders.**

Solid waste garbage grinders at or serving residences, commercial establishments, institutions or industries, if any, shall not discharge into the POTW. Grinder pumps and appurtenances designed as part of the system to handle sanitary wastes are not prohibited.



### **§ 153-68. Rejection of wastewater.**

The Town Board may reject a user's wastewater when it is has been determined that the wastewater contains substances or possesses characteristics which have a deleterious effect on the POTW and its processes, or on the receiving water, or which constitute a public nuisance or hazard.

## **K. Article XI. Discharge Permits and Pretreatment Requirements**

### **§ 153-69. Wastewater discharge reports.**

As a means of determining compliance with this Part 2, with applicable SPDES permit conditions, and with applicable state and federal law, each commercial user shall be required to notify the Town Board of any new or existing discharges to the POTW. The Town Board may require any user discharging wastewater into the POTW to file wastewater discharge reports and to supplement such reports as the Town Board deems necessary. All information shall be furnished by the user in complete cooperation with the Town Board.

### **§ 153-70. Notification to commercial users.**

The Town shall, from time to time, notify each commercial user of applicable pretreatment standards, and of other applicable requirements under Section 204(b) and Section 405 of the Clean Water Act and Subtitles C and D of RCRA. No commercial user shall discharge wastewater to the POTW without having a valid wastewater discharge permit, issued by the Town Board. Such users shall comply fully with the terms and conditions of their permits in addition to the provisions of this Part 2. Violation of a permit term or condition is deemed a violation of this Part 2.

### **§ 153-71. Permit required.**

No commercial user shall discharge wastewater to the POTW without having a valid wastewater discharge permit, issued by the Town Board. Such users shall comply fully with the terms and conditions of their permits in addition to the provisions of this Part 2. Violation of a permit term or condition is deemed a violation of this Part 2.

### **§ 153-72. Discharge permits to storm sewers not authorized.**

The Town does not have the authority to issue permits for the discharge of any wastewater to a storm sewer. This authority rests with the NYSDEC.

## **§ 153-73. Wastewater discharge permits.**

A. Application. Commercial users required to obtain a wastewater discharge permit shall complete and file with the Town Board an application in the form prescribed by the Town. Said application shall accurately describe the types and quantities of waste to be introduced into the POTW by the user and the pretreatment methods, if any, proposed by the user.

B. Modifications. Wastewater discharge permits may be modified by the Town Board, upon 30 days' notice to the permittee, for just cause. Just cause shall include, but not be limited to:

- (1) Promulgation of an applicable National Categorical Pretreatment Standard;
- (2) Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13;
- (3) Changes in general discharge prohibitions and local limits as per § 153-63 of this Part;
- (4) Changes in processes used by the permittee, or changes in discharge volume or character;
- (5) Changes in design or capability of any part of the POTW;
- (6) Discovery that the permitted discharge causes or contributes to pass-through or interference; and
- (7) Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

C. Conditions. Wastewater discharge permits shall be expressly subject to all the provisions of this Part 2 and all other applicable regulations, user charges and fees established by the Town. Permits may contain the following conditions:

- (1) Limits on the average and maximum rate and time of discharge, or requirements for flow regulation and equalization.
- (2) Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
- (3) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- (4) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (6) Compliance schedules.
- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Town and providing the Town access to same.
- (9) Requirements for notification of the Town of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- (10) Requirements for the notification of the Town of any change in the manufacturing and/or pretreatment used by the permittee.
- (11) Requirements for notification of excessive, accidental, or slug discharges.
- (12) Other conditions as deemed appropriate by the Town to ensure compliance with this Part 2, and state and federal laws, rules, and regulations.

D. Duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years.

E. Reissuance. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Town Board, during the term of the permit, as limitations or requirements, as identified in Subsection B, or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance.

F. Transfer. Wastewater discharge permits are issued to a specific user for a specific operation or discharge at a specific location. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation.

G. Revocation. Wastewater discharge permits may be revoked for the following reasons:

- (1) Falsifying self-monitoring reports;
- (2) Tampering with monitoring equipment;
- (3) Refusing to allow the Town timely access to the commercial premises;
- (4) Failure to meet effluent limitations;
- (5) Failure to pay fines;
- (6) Failure to pay user charges; and
- (7) Failure to meet compliance schedules.

#### **§ 153-74. Reporting requirements for permittee.**

The discharge permit may require certain reports or documents to be submitted or maintained regarding discharges and pretreatment if deemed appropriate by the Town Board.

#### **§ 153-75. Flow equalization.**

No person shall cause the discharge of slugs to the POTW. Each person discharging, into the POTW, greater than 1,000 gallons per day or greater than 5% of the average daily flow in the POTW, whichever is less, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a twenty-four-hour period. The facility shall have a capacity for at least 50% of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Town Board. A wastewater discharge permit may be issued solely for flow equalization.

#### **§ 153-76. Proper design and maintenance of facilities and monitoring stations.**

Preliminary treatment, and flow equalization facilities, or monitoring stations (such as a monitoring manhole), if provided for any wastewater, shall be constructed and maintained continuously clean, safe, and continuously operational by the owner at his expense. Where a commercial user has such treatment, equalization, or monitoring facilities at the time this Part 2 is enacted, the Town Board may approve or disapprove the adequacy of such facilities. Where the Town Board disapproves of such facilities, it may require construction of new or upgraded facilities for treatment, equalization, or monitoring.

#### **§ 153-77. Vandalism; tampering with measuring devices.**

No unauthorized person shall break, damage, destroy, uncover, deface, tamper with, prevent access, or render inaccurate, or cause or permit the breaking of, damaging of, destroying of, uncovering of, defacing of, tampering with, preventing access to, or rendering inaccurate of:

A. Any structure, appurtenance, or equipment which is a part of the Town POTW; or

B. Any measuring, sampling, and/or testing device or mechanism installed pursuant to any requirement under this Part 2.

#### **§ 153-78. Sampling and analysis.**

Sampling shall be performed so that a representative portion of the wastewater is obtained for analysis. All measurements, tests, and analyses of the characteristics of waters and wastes required in any section of this Part 2 shall be carried out in accordance with standard methods, by a laboratory certified by NYSDOH to perform the analyses.

### **§ 153-79. Accidental discharges.**

Each user shall provide for protection from accidental or slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Part 2 or of a wastewater discharge permit. Users shall promptly notify the Town Board or appropriate Town official of the discharge of wastes in violation of this Part 2 or any permit.

### **§ 153-80. Access to property and records.**

Authorized representatives of the Town, representatives of EPA, NYSDEC, NYSDOH, and/or Albany County Health Department, bearing proper credentials and identification, shall be permitted to enter upon all properties at all times for the purpose of inspection, observation, sampling, flow measurement, and testing to ascertain a user's compliance with applicable provisions of federal and state law governing use of the Town POTW, and with the provisions of this Part 2. Inspections of properties shall be performed in proper observance of the resident's civil rights. Such representative(s) shall have the right to set up, on the user's property or property rented/leased by the user, such devices as are necessary to conduct sampling or flow measurement.

### **§ 153-81. Access to easements.**

Authorized Town personnel or representatives, bearing proper credentials and identification, shall be permitted at reasonable hours and upon reasonable notice under the circumstances to enter all private premises through which the Town holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Town public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

## **§ 153-82. Special agreements.**

A. Nothing in this article shall be construed as preventing any special agreement or arrangement between the Town and any user of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the Town Board shall consider whether the wastewater will:

- (1) Pass through or cause interference.
- (2) Endanger the public municipal employees.
- (3) Cause violation of the SPDES permit.
- (4) Interfere with any purpose stated in § 153-20.
- (5) Prevent the equitable compensation to the Town for wastewater conveyance and treatment, and sludge management and disposal.

B. No discharge which violates the federal pretreatment standards will be allowed under the terms of such special agreements.

C. No agreement shall be entered into without the user having a permit to discharge wastes into the POTW for treatment and disposal. Additionally, the user shall be in compliance with all conditions in the permit and shall not be in arrears in any charges due to the Town before the agreement is entered into. The Town Board may impose conditions upon the agreement.

## **L. Article XII. (Reserved)**

### **§ 153-83. through § 153-90. (Reserved)**

## **M. Article XIII. Charges**

### **§ 153-91. Normal sewage service charges.**

All persons discharging or depositing wastes into the public sewers shall pay a sewer service charge proportional to the cost of constructing and maintaining the POTW and POTW treatment plant. Said charge shall be collected as established by the Town Board by resolution.

### **§ 153-92. Establishing charges.**

The Town Board shall establish the aforementioned charges on an annual basis by resolution using the methodology set forth in Schedule A, [Editor's Note: Schedule A is included at the end of this chapter. annexed hereto and made a part hereof,] and based on the annual budget of the Sewer District taking into account all debt service, maintenance, repair, administration and operation costs.

### **§ 153-93. Application and permit fees.**

All applications and permits required by this Part 2 shall include an application permit fee of \$100. Additionally, before the application or permit can be approved, the applicant or permittee shall pay the cost of any engineering analyses or reviews required by the Town Board for the purposes of processing the application. No permit fee will be charged for those initial service area users who connect to the public sanitary sewer laterals within six months of notice from the Town Board that the POTW system is ready for connection.

### **§ 153-94. Surcharge for abnormal sewage.**

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage or in volumes exceeding normal volumes shall pay a surcharge to be determined by the Town Board on a case-by-case basis depending on the concentration or volume.

### **§ 153-95. Billing period.**

The billing period shall be annual, due as part of the property tax bill, unless otherwise revised by resolution of the Town Board.

### **§ 153-96. Collection of charges.**

The collection of sewer district charges, sewer service charges and abnormal sewage service surcharges, unless where otherwise provided by the Town Board, shall be assessed and collected by the Town Tax Collector and shall be a charge against the property assessed and enforceable in the same manner and methods as real property taxes.

### **§ 153-97. Fiscal year for system and annual budget.**

The POTW shall be operated on the basis of a fiscal year commencing on the first day of January and ending on the 31st day of December. The Town shall adopt an annual budget for the Sewer District by November 30 of the preceding fiscal year.

### **§ 153-98. Impact fees.**

The Town Board shall have the authority to impose impact fees on new development, which development may:

- A. Cause enlargement of the service area of the POTW; or
- B. Cause increased hydraulic and/or treatment demands on the POTW.

### **§ 153-99. Use of revenues.**

Revenues derived from user charges and associated penalties, and impact fees, shall be credited to a special fund. Monies in this fund shall be used exclusively for the following:

- A. The payment of the operation and maintenance of the Town POTW, including a Capital Reserve Fund for the replacement of short-lived wastewater infrastructure assets;
- B. The discovery and correction of inflow and infiltration;
- C. The payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for construction or extension of the Town POTW; and
- D. The extension, enlargement, replacement of, and/or additions to the Town POTW, including any necessary appurtenances.

### **§ 153-100. Records and accounts.**

A. The Town shall maintain and keep proper books of records and accounts for the POTW, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the POTW. The Town will cause an annual accounting of such books of records and account for the preceding fiscal year, and will supply such report to authorized officials, and the public, on request.

B. In conjunction with the accounting, there shall be an annual review of the sewer charge system to determine if it is adequate to meet expenditures for all programs for the coming year. Classification of old and new commercial users should also be reviewed annually. The Town shall maintain and carry insurance on all physical properties of the POTW.

### **§ 153-101. Grievances.**

A user of the POTW may file a grievance with the committee, organized pursuant to Article IX, pertaining to EDU assessment and other such issues pertaining to the use of the POTW. A public notice shall be made of the time

and place that grievances shall be heard. Grievance day will be the second Tuesday of May in each year. The committee shall make a recommendation on each grievance to the Town Board for its determination.

## **N. Article XIV. Public Disclosure of POTW Operations**

### **§ 153-102. POTW operations open to public.**

It is the policy of the Town Board to conduct all business with full disclosure to the public.

### **§ 153-103. Procedural requirements available.**

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Part 2 and for requesting a hearing shall be formulated by the Town Board and be made available to any resident of the Town upon request.

### **§ 153-104. Public inspection.**

The Town shall formulate procedures to make available to the public for inspection such orders, statements of policy, and interpretations used by the Town in administration of this Part 2.

## **O. Article XV. Enforcement and Penalties**

### **§ 153-105. Administrative remedies; notification of violation.**

Whenever the Town Board finds that any user has violated or is violating this Part 2 or any wastewater discharge permit, order, prohibition, limitation, or requirement permitted by this Part 2, the Town Board shall cause that such user be served a written notice stating the nature of the violation. Within 10 calendar days of the date that the notice has been served, the violation shall be abated and an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Town Board, by the user. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the user of liability for any violations caused by the user before or after receipt of the notice of violation.

### **§ 153-106. Administrative remedies: consent orders.**

The Town Board is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order.

### **§ 153-107. Administrative remedies: administrative or compliance orders.**

When the Town Board finds that a user continues to violate this Part 2 or a permit or administrative order issued hereunder, the Town Board may issue an administrative order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued, severed and abated unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices. The user may, within 15 calendar days of receipt of such order, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by registered mail or personal delivery to the Town Clerk.

### **§ 153-108. Administrative remedies; cease and desist orders.**

When the Town Board finds that a user has violated or continues to violate this Part 2 or any permit or administrative order issued hereunder, the Superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

Comply forthwith.

Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

The user may, within 15 calendar days of the date of the service of such order, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by personal delivery to the Town Clerk or by registered mail.

### **§ 153-109. Administrative remedies: termination of permit.**

Any user who violates the following conditions of this Part 2 or a wastewater discharge permit or administrative order, or any applicable state and federal law, is subject to permit termination:

- (1) Violation of permit conditions or conditions of an administrative order;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater constituents and characteristics;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Failure to pay fines, fees or user charges.

The user may, within 15 calendar days of the date the Town Board mails such notification, petition the Town Board to permit the continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Town Board by registered mail or by personal delivery to Town Clerk.

### **§ 153-110. (Reserved)**

### **§ 153-111. Administrative remedies: hearing.**

The Town Board may order any user appealing administrative remedies for violations of this Part 2 to show cause, before the Town Board, why an enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Town Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Town Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least five calendar days before the hearing. After the Town Board has reviewed the evidence and testimony, it may order the user to comply with the order or fine, modify the order or fine, or vacate the order or fine.

### **§ 153-112. Administrative remedies: failure of user to petition TownBoard.**

In the event the Town Board issues any administrative order, terminates the user's permit, or makes any fine as set forth in this article and the user fails, within the designated period of time set forth, to petition the Town Board, as provided in appropriate sections of this article, the user shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.

### **§ 153-113. Administrative remedies: notice.**

The notices, orders, petitions, or other notification which the user or Town Board shall desire or be required to give pursuant to any sections of this Part 2 shall be in writing and shall be served personally or sent by certified mail or registered mail, return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the user pursuant to the sections of this Part 2 shall be mailed to the user where the User's effluent is discharged into transmission lines to the POTW. Any notice, petition, or other communication mailed to the Town Board shall be addressed and mailed to the Town Hall or personally delivered to the Town Clerk.



### **§ 153-114. Administrative remedies: right to choose multiple remedies.**

The Town Board shall have the right, within the its sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article.

### **§ 153-115. Judicial remedies: civil actions for penalties.**

Any person who violates any of the provisions of or who fails to perform any duty imposed by this Part 2, or any administrative order or determination of the Town Board promulgated under this Part 2, or the terms of any permit issued hereunder, shall be liable to the Town for a civil penalty not to exceed \$500 for each such violation, to be assessed after a hearing (unless the user waives the right to a hearing) held in conformance with the procedures set forth in this article. Each violation shall be separate and distinct violation, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Town Attorney, or his designated attorney, at the request of the Town Board in the name of the Town, in any appropriate court of competent jurisdiction. In addition to the above-described penalty, the Town Board may recover all damages incurred by the Town from any persons or users who violate any provisions of this Part 2, or who fail to perform any duties imposed by this Part 2 or any administrative order or determination of the Town Board promulgated under this Part 2, or the terms of any permit issued hereunder. In addition to the above described damages, the Town Board may recover all reasonable attorney's fees incurred by the Town in enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Town Board may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. In determining the amount of civil penalty, the court shall take into account all relative circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration, corrective actions by the user and any other relative factors as justice may require. Such civil penalty may be released or compromised by the Town Board before the matter has been referred to the Town Attorney, and where such matter has been referred to the Town Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Town Attorney, with the consent of the Town Board.

### **§ 153-116. Judicial remedies: criminal penalties.**

A. Any person who willfully violates any provision of this Part 2 or any final determination or administrative order of the Town Board made in accordance with this article shall be guilty of a violation, to be prosecuted in the same manner as a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than \$500 nor more than \$1,000. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

B. No prosecution, under this section, shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

### **§ 153-117. Judicial remedies: additional injunctive relief.**

Whenever a user has violated or continues to violate the provisions of this Part 2 or permit or order issued hereunder, the Town Board, through counsel, may petition the court, in the name of the Town, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with, any order or determination hereunder by the Town Board.

### **§ 153-118. Judicial remedies: summary abatement.**

Notwithstanding any inconsistent provisions of this Part 2, whenever the Town Board finds, after investigation, that any user is causing, engaging in, or maintaining a condition or activity which, in the judgment of the Town Board, presents an imminent danger to the public health, safety, or welfare or to the environment, or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be

provided, the Town Board may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity, or where the giving of notice is impracticable, or in the event of a user's failure to comply voluntarily with an emergency order, the Town Board may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 calendar days, the Town Board shall provide the user an opportunity to be heard, in accordance with the provisions of this article.

### **§ 153-119. Collection of delinquent payments.**

If there shall be any payments which are due to the Town, pursuant to any article or section of this Part 2, which shall remain due and unpaid, in whole or in part, for a period of 60 calendar days from the date of billing by the Town, the same shall constitute a default. Interest and penalties shall accrue on the unpaid balance in the same manner and amounts as applicable to property tax collection. The Town Tax Collector shall report the names of the defaulting persons to the Town Board and County Tax Collector in the same manner as real property taxes due and owing to the Town are reported.

## **P. Article XVI. Conflicts**

### **§ 153-120. Conflict with other laws.**

The provisions of any Town law in conflict with any provision of this Part 2 are hereby superseded even though no such conflict is intended, and this Part 2 shall take precedence in the applicable area.

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