

LOCAL LAW FILING

New York State Department  
of State  
41 State Street, Albany, NY 12231

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**Town of Herkimer**

Local Law No. 2 of the year 2013

A local law "to establish sewer use rules and regulations with the sewer districts operated within the Town of Herkimer."

Be it enacted by the Town Board of the Town of Herkimer, as follows:

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED

SEP 10 2013

**ARTICLE 1 SHORT**

**TITLE AND PURPOSE**

MISCELLANEOUS  
STATE RECORDS

Section 101 - Short Title

For brevity and ease of communication, this Law may be cited as the Town of Herkimer Sewer Use Law.

Section 102 - General Purpose

The general purpose of this Law is the following:

To provide for efficient, economic, environmentally safe, and legal operation of the Town of Herkimer sewer districts and the Village of Herkimer POTW.

Section 103 - Specific Purposes

The specific purposes of this Law are the following:

- (1) To prevent the introduction of substances into the POTW that will:
  - (a) interfere with the POTW in any way,
  - (b) pass through the POTW to the State's waters and cause contravention of standards for those waters

or cause violation of the POTW's SPDES permit,

- (c) increase the cost or otherwise hamper the disposal of PGTW sludge and/or residuals,
- (d) endanger municipal employees,
- (e) cause air pollution, or groundwater pollution, directly or indirectly,
- (f) cause, directly or indirectly, any public nuisance condition.

(2) To prevent new sources of infiltration and inflow and, as much as possible, eliminate existing sources of infiltration and inflow,

(3) To assure that new sewers and connections are properly constructed,

(4) 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.

Sewer Use Law

**ARTICLE 2 - DEFINITIONS**

**Section 201 - Defined Terms**

Unless otherwise stated in the section where the term is used in this Law, the meaning of terms used in this Law 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.

**Abnormal Sewage** - Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See **normal sewage**.

**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.

**Administrator** - The Regional Administrator of the U.S. Environmental Protection Agency (USEPA), Region E.

**Ammonia** - The result obtained, using an - approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

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

**Approval Authority** - The USEPA, or the New York State Department of Environmental Conservation (NYSDEC), in the event the NYSDEC is delegated approval authority responsibility by the USEPA.

**Approved Laboratory Procedure** - The procedures defined as "Standard Methods" in this article, or other procedures

approved by the Superintendent, for flow measurement or determination of the concentration of pollutants or their surrogates in waters, wastewaters, and/or sludges.

ASTM, denoting American Society for Testing and Materials - The latest edition of any ASTM specification, when stipulated in this Law.

Authorized Representative of the Industrial User - An authorized representative of the industrial user may be:

- (a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (b) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;
- (c) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD, denoting Biochemical Oxygen Demand - The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the aerobic biochemical oxidation of organic matter or in a sample, expressed in milligrams per liter.

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

Building Drain - That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the building walls, and conveys it to the building lateral, which begins five (5) feet outside the inner face of the building wall.

Chlorine Demand - The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

COD, denoting Chemical Oxygen Demand - The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter, in a sample, that is susceptible to oxidation, by a specific chemical oxidant, expressed in milligram per liter.

Color - The optical density at the visual wave length of

maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

Composite Sample - The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

Connection Charge (Tap Fee) - The one time application fee to offset Town 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.

Control Authority - The term shall refer to "Approval Authority", or to the Codes Enforcer when the Town has an approved pretreatment program under the provisions of 40 CFR 403.11.

Control Manhole - A manhole accessible to the Control Authority in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

Conventional Pollutant - A pollutant that the POTW treatment plant was designed to treat, as defined in accordance with the Act.

Cooling Water - The water discharged from any stream of condensation, air conditioning, refrigeration, or other sources. It shall contain no polluting substances which would produce COD or suspended solids in excess of five (5) milligrams per liter, or toxic substances, as limited elsewhere in this Law.

County - The County of Herkimer.

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.)

Domestic Wastes - see Sewage, Domestic.

Dry Sewers - The sanitary sewer installed in anticipation of future connection to a POTW but which is not used, in

the meantime, for transport of storm or sanitary sewage.

End of Pipe - For the purpose of determining compliance with limitations prescribed by Article 9, end of pipe shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.

End of Pipe Concentration - The concentration of a substance in a sample of wastewater at end of pipe.

End of Process Concentration - see National Categorical Pretreatment Standard.

Easement - An acquired legal right for the specific use of land owned by others.

EPA, USEPA, or U.S. Environmental Protection Agency -The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules, and regulations. Also may be used as designation for the Administrator or other duly authorized official of this Agency.

Floatable Oil - Oil, grease, or fat in a physical state such that it will separate by gravity from wastewater by treatment in a wastewater treatment facility.

Flow Rate - The quantity of liquid or waste that flows in a certain period of time.

Garbage - The solid wastes from the preparation, cooking, and dispensing of food; from the handling, storage, and sale of produce; and from the packaging and canning of food.

Grab Sample - A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater at one point and time.

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.)

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

Industrial Chemical Survey (ICS) - The survey of

industries in New York State, initiated by the NYSDEC, to determine chemical usage and storage by those industries. ICS Form - The form used by the NYSDEC to survey industries to perform and update the Industrial Chemical Survey.

Industrial User - See User, Industrial.

Industrial Wastes - The liquid or liquid-carried solid, liquid and/or gaseous wastes from industrial manufacturing processes, trade, service, utility, or business, as distinct from sanitary sewage.

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. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

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, drains from springs and swampy areas, manhole covers, cross connections between storm drains 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. Inflow is purposely designed and/or built into the sewer or drain.

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 statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

i - Section 405 of the Clean Water Act,

ii - the Solid Waste Disposal Act (SWDA) (including Title II, 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),

iii - Clean Air Act,

iv - Toxic Substance Control Act, and  
v - Marine Protection Research and Sanctuaries  
Act.

Lateral, Building - The sewer extension from the building drain to the Street Lateral or other place of wastewater disposal.

Lateral, Street - The sewer extension from the public sewer to the property line.

National Categorical Pretreatment Standard, or Categorical Standard - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

National Pollutant Discharge Elimination System (NPDES) Permit - A permit issued pursuant to Section 40f of the Act (33 U.S.C. 1342).

National Prohibitive Discharge Standard, or Prohibitive Discharge Standard - Any regulation developed under the authority of Section 307 (B) of the Act, and 40 CFR, Section 403.5.

Natural Outlet - Any outlet, including storm sewers and combined sewer overflows, to State's Waters.

New Owner - That individual or entity who purchased property within the Service Area of the Town after the effective date of this Law.

New Source - Any source, the construction of which is commenced after the publication of proposed regulation prescribing a Section 307 (C) (33 U.S.C. 1317) 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 Law.

Normal Sewage - see Sewage, Normal.

Nuisance - The use or lack of use of the POTW in such a manner so as to endanger life or health, or give offense to the senses, obstruct, or otherwise interfere with the reasonable use or maintenance of the POTW.

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.

Old Owner - That individual or entity who owns or owned a property, within the Service Area of the POTW, purchased prior to the effective date of this Law, or inherited the property at any time and who intends to sell the property, or has sold the property to a new owner, also the agent of the old owner.

Other Wastes - Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter-not normally present in sewage or industrial wastes.

Pass Through - The discharge which exits the POTW into waters of the State in quantities or concentrations, 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 Law.

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.

pH - The logarithm (base 10) of the reciprocal of the weight of hydrogen ions, in gram moles per liter of solution. A pH value of 7.0, the pH scale midpoint, represents neutrality. Values above 7.0 represent alkaline conditions. Values below 7.0 represent acid conditions.

Phosphorus, total - See total phosphorus.

Pollutant - Any material placed into or onto the State's waters, lands and/or airs, which interferes with the beneficial use of that water<sup>1</sup>, land and/or air by any living thing at any time.

Pollution - The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of the State's waters, lands and/or airs resulting from the introduction of a pollutant into these media.

Pretreatment (Treatment) - 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 physical, chemical, or biological process, process changes, or by other means, except as prohibited by 40 CFR, Section 403.6 (D).

Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Pretreatment Standard or National Pretreatment Standard - Any Categorical Standard or Prohibitive Discharge Standard.

Prohibitive Discharge Standard - see National Prohibitive Discharge Standard.

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 one-half (1/2) inch in any dimension.

POTW Treatment Plant - That portion of the POTW designed to provide treatment to wastewater, and to treat sludge and residuals derived from such treatment

Publicly Owned Treatment Works (POTW) - A treatment works, as defined by Section 212 of the Act, (33U.S.C.1292), which is owned, in this instance, by the Town of Herkimer or Village of Herkimer. 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.

Priority Pollutants - The most recently revised or updated list, developed by the EPA, in accordance with the Act.

Receiving Waters - A natural water course or body of water (usually Waters of the State) into which treated or untreated sewage is discharged.

Roof Drain - A drain installed to receive water collecting on the surface of a roof for disposal.

Scavenger Wastes - See Septage

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.

Septic Tank - A private domestic sewage treatment system consisting of an underground tank (with suitable baffling) constructed in accordance with any and/or all local and State requirements.

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 ground, surface, and storm water 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, Domestic (Domestic wastes) - Liquid wastes from the non-commercial preparation, cooking, 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 - Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- (a) B.O.D. (Five Day) - 2090 lbs. per million gallons (250 milligrams per liter), or less.
- (b) Suspended solids - 2500 lbs. per million gallons (300 milligrams per liter), or less.
- (c) Phosphorous - 125 lbs. per million gallons (15 milligrams per liter), or less.
- (d) Ammonia - 250 lbs. per million gallons (30 milligrams per liter), or less.

sewage. (See Volume Charge).

Significant Industrial User - see User, Significant Industrial

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, that exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration of flow during normal user operations, shall constitute a slug.

Standard Industrial Classification (SIC) - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

Standard Methods - Procedures contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, procedures established by the Administrator, pursuant to Section 304 (G) of the Act and contained in 40 CFR, Part 136, and amendments thereto. (If 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.), any other procedure approved by the Administrator, or any other procedure approved by the Superintendent, whichever is the most conservative.

State - State of New York.

State's Waters - See Waters of the State.

Storm Water - 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 result 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.

Total Kjeldahl Nitrogen (TKN) - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample arid released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

Total Phosphorus - The result obtained, using an approved laboratory procedure, to determine the total quantity of orthophosphate, in a sample of wastewater, following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

Town - The Town of Herkimer.

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 307 (A), or other Acts.

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

User , Existing - A discharger to the POTW who is discharging on or before the effective date of this Law.

User, Industrial - A discharger to the POTW who discharges non-domestic wastewaters.

User, New - A discharger to the POTW who initiates discharge after the effective date of this Law.

User, Significant Industrial (SIU) - An industrial user of the Town POTW who is:

- (a) Subject to National Categorical Pretreatment Standards promulgated by the EPA,
- (b) Having substantial impact, either singly or in combination with other industries, on the operation of the treatment works,
- (c) Using, on an annual basis, more than 10,000 lbs or 1,000 gallons of raw material containing priority pollutants and/or substances of concern and discharging a measurable quantity of these

pollutants to the sewer system.

(d) Discharging more than five percent (5%) of the flow or load of conventional pollutants received by the POTW treatment plant.

#Note: A user discharging a measurable quantity of a pollutant may be classified as non-significant if, at the influent to the POTW treatment plant, the pollutant, from all users is undetectable.

Volume Charge (User Charge) - The demand sewer use charge which is based, in part or wholly, on the volumes of normal sewage discharged into the POTW (there may be surcharges, as provided for in Article 12). The volume charge shall be based on a specific cost per 100 cubic feet. The specific charge shall be subject to approval by the Town Board. The moneys so obtained shall be used for current operation and maintenance, for retirement of bonded indebtedness, and for funding of capital projects, of the POTW. The basis of volume charge calculations shall be made available to the public, on demand, as provided in Article 13. The volume charge shall be recalculated annually, as well as the surcharge rates.

Wastewater - The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be 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 10 of this Law.

Wastewater, Unusual Strength or Character see Sewage of Unusual Strength or Character.

Waters of the State (State's Waters) - All streams, lakes, ponds, marshes, water courses, 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.

Section 202 -

Abbreviations

The following abbreviations shall have the designated meanings:

ANSI  
Standards Institute  
ASTM  
Testing and Materials

- American National  
- American Society for

AWWA	- American Water Works
Association	
BUD	- Biochemical Oxygen Demand
CFR	- Code of Federal
Regulations	
CPLR	Code of Public Law and Rules
COD	- Chemical Oxygen Demand
EPA	- Environmental Protection
Agency	
L	- Liter
Mg	- milligram
Mg/l	- Milligrams per liter
NCPI	
NPDES	National Clay Pipe Institute
Discharge Elimination System	- National Pollutant
NYSDEC	
Environmental	New York State Department of Conservation
NYSDOH	
of Health	- New York State Department
NYSDOT	
Transportation	New York State Department of
P	Total Phosphorus
PS I	- Pounds per Square Inch
POTW	- Publicly Owned Treatment
Works	
PPM	- Parts per Million, weight
basis	
SIC	- Standard Industrial
Classification	
SPDES	- State Pollutant Discharge
Elimination System	
SWDA	Solid Waste Disposal Act, 42 U.S.C. 690
L, et	seq.
U.S.C.	
USEPA	- United States Code of Laws
Protection Agency	United States Environmental
TSS	- Total Suspended Solids

#### Section 203 - Undefined Terms

Terms not defined in this article, or terms found to be ambiguous, or improperly defined in this article, shall be defined by the Act, or Regulations, pursuant thereto.

Sewer Use Law

**Article 3 USE OF PUBLIC**

**SEWERS REQUIRED**

Section 301 - 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, within the Town of Herkimer or in any area under the jurisdiction of said municipality, any human or animal excrement, garbage, or objectionable waste.

Section 302 - Wastewater Discharge Unlawful

It shall be unlawful to discharge to any natural outlet, within the Town of Herkimer, or in any area under the jurisdiction of said municipality, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Law.

Section 303 - Building Permit Allowed Only When

Approved Wastewater Disposal

Available

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 Law, is available. All housing construction or building development which takes place after this Law is enacted shall provide for an approved system of sanitary sewers.

Section 304 - Private Wastewater Disposal Unlawful

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, septic tank, or other facility intended or used for disposal of wastewater.

Section 305 - Connection to Public Sewer Required

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town of Herkimer, and abutting on any street, alley, or right-of-way in which there is now located or may, in the future, be located a public sewer, is hereby required, at the owner's expense to install suitable

toilet facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this Law, within ninety (90) days after official notice to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property line.

#### Section 306 - Limitation on Use of Public Sewers

The use of the Town public sewers shall be strictly limited and restricted, except as provided in Section 307, to receive and accept the discharge of sewage and other wastes, including industrial wastes, generated on, or discharged from real property within the bounds of the Service Area of the POTW.

#### Section 307 - Wastewater from Outside the POTW Service Area - Inter-municipal Agreements

The Town Board, on the recommendation of the Codes Enforcer, shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.

If the person is a municipality, that municipality shall have enacted a Sewer Use Law as restrictive on the discharge of sewer and other wastes as the restrictions contained in this Law.

If the person is not a municipality, the discharge shall be made only with the express written consent of the Codes Enforcer (the issuance of a permit) setting forth the terms and conditions of such a discharge.

#### Section 308 - Moratorium

At the recommendation of the Codes Enforcer, who determines that:

(1) one or more segments of the POTW is exceeding its hydraulic capacity at any time,

(E) any specific purpose of the Law 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 corrections may be by:

- (1) construction of new facilities
- (2) enlarging existing facilities
- (3) correction of inflow and infiltration
- (4) cleaning and repairing of existing facilities

### Section 309 – 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 industrial wastes, shall be established and given by the Town Board, Village Board, NYSDEC, USEPA, and/or other such State or Federal agencies, which have enforcement powers.

## Sewer Use Law

### Article 4

#### **PRIVATE WASTEWATER DISPOSAL**

##### Section 401- Public Sewer Unavailable - Private Wastewater Disposal Required

Where a public sewer is not available, under the provisions of Section 304, 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 Codes Enforcer.

##### Section 402 – Construction Permit Application

A completed application form, containing results of percolation tests, computations, and a plot plan, including the design and cross-section of the wastewater disposal system, in relation to lot lines, adjacent and on-site well or water supply, arid buildings, shall be submitted to the Town. - A fee, established by Article 12, shall accompany the application. The wastewater disposal system "shall be designed by a professional engineer, licensed surveyor, or architect, and shall be in accordance with the NYSDOH - "Standards for Waste Treatment Works", or NYGDEC "Standards for Commercial and Institutional Facilities", as appropriate.

##### Section 403 – Construction Permit

A written construction permit shall be obtained from the Codes Enforcer before construction commencement. The Codes Enforcer, or his designated representative, shall be permitted to inspect the construction work at any stage, without prior notice

##### Section 404 - Preventing Nuisances - Rehabilitation

###### Required

When the liquid or liquid-borne effluent from a private wastewater disposal system enters any watercourse, ditch, storm sewer, or water supply system, located in the Town, in such a manner, volume, and concentration so as to create a hazardous, offensive, or objectionable condition,

in the opinion of the Codes Enforcer, Health Officer, or the NYSDOH, the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the Codes Enforcer to do so, shall, within ninety ( 90 ) days, after receipt of such notice, repair, rebuild, or relocate such hazardous, offensive, or objectionable conditions. The repair, rebuilding, or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH, at the owner's expense.

#### Section 405 - 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.

#### Section 406 - 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 scavenger wastes, as necessary.

#### Section 407 - Direct Connection to New Public Sewers Required

At such time that a public sewer becomes available to a property, a direct connection shall be made to the public sewer, in compliance with this Law and at owner's expense, 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.

#### Section 408 - 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 Codes Enforcer, to protect public health and public welfare.

in the opinion of the Codes Enforcer, Health Officer, or the NYSDOH, the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the Codes Enforcer to do so, shall, within ninety ( 90 ) days, after receipt of such notice, repair, rebuild, or relocate such hazardous, offensive, or objectionable conditions. The repair, rebuilding, or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH, at the owner's expense.

#### Section 405 - 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.

#### Section 406 - 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 scavenger wastes, as necessary.

#### Section 407 - Direct Connection to New Public Sewers Required

At such time that a public sewer becomes available to a property, a direct connection shall be made to the public sewer, in compliance with this Law and at owner's expense, 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.

#### Section 408 - 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 Codes Enforcer, to protect public health and public welfare.

Sewer Use Law

**Article 5**

**NEW SEWERS or SEWER EXTENSIONS**

**Section 501 – Proper Design**

New sanitary sewers and all extensions to sanitary sewers owned and operated by the Town of Herkimer shall be designed, by a professional licensed to practice sewer design in the State, in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes – Upper Mississippi River Board of State Sanitary Engineers ("Ten State Standards"), and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to, and written approval shall be obtained from the Superintendent and the NYSDEC, before initiating any construction. The design shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

**Section 502 -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 proposed for subdivision development, the plans, specifications, and method of installation shall be subject to the approval of the Codes Enforcer, in accordance with Section 501. 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 6 of this Law, and inspection fees shall be paid by the applicant prior to initiating construction. Design and installation of sewers shall be as specified in Section 503, and in conformance with Paragraphs 3 through 6 of ASTM Specification C-12. The installation of the sewer shall be subject to periodic inspection by the Codes Enforcer, without prior notice. The Codes Enforcer shall determine whether the work is proceeding in accordance with the approved plans and specifications, and whether the completed work will conform with the approved plans and specifications. The sewer, as constructed, must pass the infiltration test (or the exfiltration test, with prior approval), required in Section 504, before any building lateral is connected thereto. The Codes Enforcer shall be notified 30 days in advance of the start of any construction actions so that such inspection frequencies and procedures as may be necessary or required, may be established. No new sanitary sewers will be accepted by the Town Board until

such construction inspections have been made so as to assure the Town Board of compliance with this Law and any amendments or additions thereto. The Codes Enforcer has the authority to require such excavation as necessary to inspect any installed facilities if the facilities were covered or otherwise backfilled before they were inspected so as to permit inspection of the construction. The Codes Enforcer shall report all findings of inspections and tests to the Town Board.

Section 502 B - Plans, Specification, and Pipe Test Results Required

Plans, specifications, and methods of installation shall conform to the requirements of this Article. Components and materials of wastewater facilities not covered in this Law, such as pumping stations, lift stations, or force mains shall be designed in accordance with Section 501, and shall be clearly shown and detailed on the plans and specifications submitted for approval. Additional force main details are covered in Section 505. When requested, the applicant shall submit, to the Codes Enforcer, all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished, upon request.

Section 503 A - Sewer Pipe

(1) Sewer Pipe material shall be:

(a) Reinforced Concrete Pipe  
(Note that non-reinforced concrete pipe shall not be used.)

The pipe and specials shall conform to ASTM Specification C 76.

The reinforcing wire cage shall conform to ASTM

Specification A 15, A.82, or A 185, as appropriate, Water absorption and three-edge bearing tests shall conform to ASTM Specification C 497. Gaskets shall conform to Sections 3.3 and 3.4 of AWWA Specification C 308.

(b) Cast Iron Pipe - Extra Heavy

Pipe, fittings, and specials shall conform to the requirements of ASTM Specification A 74 or ANSI A 21.11.

Gaskets shall conform to ASTM Specification C 564 .

(c) Polyvinyl Chloride < PVC > Pipe - Heavy Wall

Pipe shall be made from Class 12454-B materials or better in accordance with ANSI/ASTM Specification I) 1784. Pipe and accessories shall conform, to the requirements of the following, with a minimum pipe stiffness of 46 PSI at a maximum deflection of five percent ( 5% ) .

ANSI/ASTM D 3034 (4" - 15")

ASTM F 679  
(IB" - 27")

(d) Ductile Iron Pipe

Pipe, fittings, and specials shall be manufactured in accordance with ASTM Specification A 746. Pipe shall have a minimum thickness of Class 50. Fittings shall conform to ANSI Specification

A 21.11 and have a minimum pressure class rating of 150 PSI.

All pipe and fittings shall be cement mortar lined in accordance with ANSI Specification A 21.4 at twice the specified thickness, and have an internal and external bituminous seal coating.

Closure pieces shall be jointed by means of a mechanical coupling of the cast sleeve type.

(e) Acrylonitrile-Butadiene-Styrene (ABS) Pipe

Pipe and fittings shall conform to the requirements of ASTM Specification D 2661.

(f) Other pipe materials

Other pipe materials require written approval of the Superintendent before being installed.

(2) The minimum internal pipe diameter shall be 8

inches.

- (3) Joints for the selected pipe shall be designed and manufactured such that "O" ring gaskets of the "snap-on" type are used.
- (4) Gaskets shall be continuous, solid, natural or synthetic rubber, and shall provide a positive compression seal in the assembled joint, such that the requirements of Section 50<sup>a</sup> are met.
- (5) Joint preparation and assembly shall be<sup>a</sup> in accordance with the manufacturer's recommendations.
- (6) Wye branch fittings shall be installed, for connection of street laterals, in accordance with Section 506.

#### Section 503 B - Safety and Load Factors

Selection of pipe class shall be predicated on the following criteria:

Safety factor	- 1.5
Load factor	- 1.7
Weight of soil lbs/cu.ft.	120
Wheel loading lbs.	- 16,000

Utilizing the foregoing information, design shall be made a outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, latest edition, "Design and Construction of Sanitary and Storm Sewers", and the pipe shall have sufficient structural strength to support all loads to be placed on the pipe, with a safety factor as specified above.

#### Section 503 C Sewer Pipe Installation

- (1) Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected. The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.

(2) The construction right-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction, removal of underbrush, logs, and stumps, and other organic matter, removal of refuse, garbage, and trash, removal of ice and snow, and removal of telephone and power poles, and posts.

Any tree which will not hinder construction shall not be removed, and shall be protected from damage by any construction equipment.

Debris shall not be burned, but hauled for disposal in an approved manner.

(3) The public shall be protected from personal and property damage as a result of the construction work.

(4) Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least one-half (1/2) of a street shall be kept open for traffic flow.

(5) Erosion control shall be performed throughout the project to minimize the erosion of soils into lands adjacent to or affected by the work. Erosion control can be effected by limiting the amount of clearing and grubbing prior to trenching, proper scheduling of the pipe installation work, minimizing time of open trench, prompt grading and seeding, and filtration of drainage.

(6) The trench shall be excavated only wide enough for proper installation of the sewer pipe, manhole, and appurtenances. Allowances may be made for sheeting, dewatering, and other similar actions to complete the work. Roads, sidewalks, and curbs shall be cut, by sawing, before trench excavation is initiated.

(7) Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways, and railroad tracks.

(8) Open trenches shall be protected at all hours of the day with barricades, as required.

(9) Trenches shall not be open for more than 30 feet in

advance of pipe installation nor left unfilled for more than 30 feet in the rear of the installed pipe, when the work is in progress, without permission of the Codes Enforcer. When work is not in progress, including over night, weekends, and holidays, the trench shall be backfilled to ground surface.

(10) The trench shall be excavated approximately six (6) inches deeper than the final pipe grade. When unsuitable soils are encountered, these shall be excavated and replaced with select materials.

(11) Ledge rock, boulders, and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five (5) feet, at the transition from rock bottom to earth bottom, centered on the transition.

(12) Maintenance of grade, elevation, and alignment shall be done by some suitable method or combination of methods.

(13) No structure shall be undercut unless specifically approved by the Codes Enforcer.

(14) Proper devices shall be provided, and maintained operational at all times, to remove all water from the trench as it enters. At no time shall the sewer line be used for removal of water from the trench.

(15) To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheetling shall not be removed but cut off no lower than one foot above the pipe crown nor no higher than one foot below final grade, and left in the trench, during backfill operations.

(16) The pipe barrel shall be supported, along its entire length, on a minimum of six (6) inches of crusher run max. 1/2 inch stone. This foundation shall be firmly tamped in the excavation.

(17) Bell holes shall be hand excavated, as

appropriate.

(18) Pipe shall be laid from low elevation to high elevation. The pipe bell shall be up-gradient; the pipe spigot shall be down-gradient.

(19) The joints shall be made, and the grade and alignment checked and made correct.

(20) Crushed stone shall be placed over the laid pipe to a depth of at least six (6) inches. Care shall be exercised so that stone is packed under the pipe haunches. Care shall be exercised so that the pipe is not moved during placement of the crushed stone.

(21) The pipe shall be in straight alignment.

(22) The remaining portion of the trench above the pipe embedment shall be backfilled in foot lifts which shall be firmly compacted. Compaction near/under roadways, driveways, sidewalks, and other structures shall be to 95% of the maximum moisture-density relationship, as determined by ASTM Specification D 698, Method D. Ice, snow, or frozen material shall not be used for backfill.

#### Section 503 D - Manhole Installation

(1) Manholes shall be placed where there is a change in slope or alignment, and at intervals not exceeding 400 linear feet.

Manhole bases shall be constructed of 3,000 psi (7 day) concrete 12 inches thick, or shall be precast bases properly bedded in the excavation. Field constructed bases shall be properly reinforced.

(3) Manhole walls shall be constructed using precast minimum 4 foot diameter concrete manhole barrel sections, and an eccentric top section, conforming to ASTM Specification C-478. All sections shall be cast solid with lifting holes plugged and sealed to prevent infiltration.

(4) All joints between sections shall be sealed with an "O"

ring rubber gasket, meeting the same specifications as pipe joint gaskets.

(5) All joints shall be sealed against infiltration.

(6) All precast sections shall be produced at a plant which is approved by the NYSDOT For manufacture of concrete pipe.

(7) The elevation of the top section shall be such that the cover frame top elevation is 0.5 foot above the 100-year flood elevation (in a field), 0.5 foot above a lawn elevation, or at finished road or sidewalk grade.

(B) When located in a traveled area (road or sidewalk), the manhole frame and cover shall be heavy duty cast iron. When located in a lawn or in a field, the manhole frame and cover may be light duty cast iron. The cover shall be 24 inches in diameter. The minimum combined weight of the heavy duty frame and the cover shall be 735 + /- 5 % lbs. The minimum combined weight of the light duty frame and the cover shall be 420 + /- 5 % lbs. The mating surfaces shall be machined, and painted with tar pitch varnish. The cover shall not rock in the frame. Infiltration between the cover and the frame shall be prevented by proper design arid painting. Covers shall have "Sanitary Sewer" cast into them. Covers shall have lifting holes suitable for any lifting/jacking device. The lifting holes shall be designed so that infiltration is prevented.

(9) Benches shall be level and slope to the flow channel at about 1 inch per foot.

(10) The minimum depth of the flow channel shall tie the nominal diameter of the smaller pipe. The channel shall have a steel trowel finish. The flow channel shall have a smooth curvature from inlet to outlet.

(11) Manhole frames shall be set in a full bed of mortar with no less than two nor more than nine courses of brick underneath to allow for later elevation adjustment.

#### Section 504A – Infiltration/Exfiltration Testing

All sanitary sewers or extensions to sanitary sewers,

including manholes, shall satisfy requirements of a final infiltration test before they will be approved and wastewater flow permitted by the Town. The infiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches. An exfiltration test may be substituted for the infiltration test; the same rate shall not be exceeded. The exfiltration test shall be performed by the applicant, under the supervision of the Codes Enforcer, who shall have the responsibility for making proper and accurate measurements required. The exfiltration test consists of filling the pipe with water to provide a head of at least 5 feet above the top of the pipe or 5 feet above groundwater, whichever is higher, at the highest point under test, and then measuring the loss of water, from the pipe section under test, by the amount of water which must be added to maintain the original level. In this test, the test section must remain filled with water for at least 24 hours prior to taking any measurements. Exfiltration shall be measured by the drop of water level in a standpipe with a closed bottom end, or in one of the sewer manholes serving the test section. When a standpipe and plug arrangement is used in the upper manhole in the test section, there shall be some positive method for releasing entrapped air prior to taking any measurements.

#### Section 504 B - Test Section

The test section shall be as ordered or as approved, but in no event longer than 1,000 feet. In the case of sewers laid on steep grades, the test length may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the test section. For purposes of determining the leakage rate of the test section, manholes shall be considered as sections of 48-inch diameter pipe, 5 feet long. The maximum allowable leakage rate for such a section is 1.1 gallons per 24 hours. If leakage exceeds the allowable rate, then necessary repairs or replacements shall be made, and the section retested.

#### Section 504 C - Test Period

The test period, during which the test measurements are taken, shall not be less than two (2) hours.

#### Section 504 D - Pipe Lamping

Prior to testing, the section shall be lamped. Any "joint" out of straight alignment shall be realigned.

#### Section 504 E - Deflection Testing

Also prior to testing, all plastic pipe, in the test

section, shall be tested for deflection. Deflection testing shall involve the pulling of a ball, whose diameter is 95 percent of the pipe inside diameter, through the pipe. Any "joint" with a deflection greater than 5 percent shall be replaced. The test section shall be flushed just prior to deflection testing.

#### Section 504 F - Air Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), air testing may be employed. Low pressure air tests shall conform to ASTM Specification C 828. All sections to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. The air test shall be based on the time, measured in seconds, for the air pressure to drop from 3.5 PSI to E.T. PSI. Acceptance is based on limits stated in ASTM Specification C 828. Before pressure is applied to the line all connections shall be firmly plugged. Before the test period starts, the air shall be given sufficient time to cool to ambient temperature in the test section.

If the test section is below ground water, the test pressure shall be increased an amount sufficient to compensate for groundwater hydrostatic pressure, however, the test pressure shall not exceed 10 PSI.

The test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Codes Enforcer prior to testing.

#### Section 505 - Force Mains

Force mains serving sewage lifting devices, such as grinder pumps and pump stations, shall be designed in accordance with Section 501. Additional design requirements are:

- (1) Trenching, bedding, and backfilling shall be in accordance with Section 503 C.
- (2) Drain valves shall be placed at low points.
- (3) Automatic, air relief valves shall be placed at high points and at 400 foot intervals, on level force main runs.
- (4) Air relief and drain valves shall be suitably protected from freezing.
- (5) When the daily average design detention time, in the force main, exceeds 10 minutes, the manhole and sewer line receiving the force main discharge or the sewage shall be treated so that corrosion of the manhole and the exiting line are prevented. The corrosion is caused by sulfuric

acid biochemically produced from hydrogen sulfide anaerobically produced in the force main.

#### Section 506 - Final Acceptance and Warranty/Surety

All sanitary sewers and extensions to sanitary sewers constructed at the applicant's expense, after final approval and acceptance by the Codes Enforcer, and concurrence by the Town Board, shall become the property of the Town, and shall thereafter be operated and maintained by the Town. Said sewers, after their acceptance by the Town, shall be guaranteed against defects in materials or workmanship for one (1) 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.

#### Section 507 - Liability Insurance Coverage During Construction Period

(1) All contractors engaged in connecting house laterals with sanitary sewers, who any perform work within the Right of Way of any highway, shall file a bond in the amount of Five Thousand Dollars (\$5,000.00) 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, their or its servants or 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 Board may be revoked at any time for just cause.

(2) Before commencing work, the above contractor shall file with the Town Clerk Insurance Certificates for the following:

- (a) Worker's Compensation and Employer's Liability Insurance as required by the laws of the State covering the contractor;
- (b) Personal Injury Liability having limits of not less than \$500,000 each occurrence and \$500,000 aggregate (completed operations/products, personal injury);
- (c) 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:

- i - Premises and Operations;
- ii - Independent Contractors;
- iii - Completed Operations and Products;
- iv - Property Damage; and
- v - Explosions, Collapse and Underground;

(d) Comprehensive automobile liability (including non-owned and hired automobiles) having limits of not less than;

i - Bodily Injury - each person \$300,000  
each occurrence \$500,000  
ii - Property Damage - each occurrence \$500,000

(a) All insurance policies must provide for five (5) 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 Board.

(3) Where it is necessary to enter upon or excavate any roadway or cut any pavement, sidewalk or curbing, permission must be obtained from the Highway Superintendent if a Town Highway is involved, from the County Dept. of Public Works if a County Highway is involved, and/or the N.Y. State Dept. of Transportation if a State Highway is involved.

## Sewer Use Law

### **Article 6 - Building Laterals, Street Laterals Connections, and Fees**

#### Section 601 A - Permit Required for Sewer Connections

No unauthorized person 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 Codes Enforcer.

No work for new sewer installation shall be performed from 1 November through 1 April of any year unless approved by the Codes Enforcer. Emergency repairs shall be approved as needed.

#### 601 B - Inflow/Infiltration Prohibited

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial waters to any sanitary sewer. Swimming pool drains shall not be connected to any sanitary sewer.

#### Section 602 - Sewer Lateral Permits

There shall be two classes of sewer lateral permits:

- (1) For residential, commercial, and institutional service,
- (2) For service to establishments producing industrial wastes.

In either case, a permit application shall be submitted to the Codes Enforcer. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgment of the Codes Enforcer. A fee, established herein, shall accompany the application.

#### Section 603 A - 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 Superintendent has approved plans showing the relocation. If relocation is not physically possible, then the lateral shall be

- (1) exposed and totally encapsulated in not less than three inches of concrete, or
- (2) exposed and walled and the building rooms above positively ventilated outdoors.

All existing manholes in or under the basement shall be sealed airtight in a manner acceptable to the Codes Enforcer.

No new manholes shall be constructed on the portion of the lateral under the building.

#### Section 603 B - Laterals Serving Several Buildings

When building laterals are to serve multiple dwelling structures, the building lateral shall be sized in accordance with the metered water use and with sound professional engineering judgment.

#### Section 603 C - Laterals Serving Complexes

Where a lateral sewer is to serve a complex of industrial, commercial, institutional, or dwelling structures, special design of the building lateral system shall be required. Plans and specifications shall be prepared and submitted for approval pursuant to this Law.

#### Section 603D - Dry Sewers

Dry sewers shall be designed and installed in accordance with this Law.

#### Section 604 - Using Existing Building Laterals

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the Codes Enforcer, to meet all requirements of this local Law.

#### Section 605 - Lateral Pipe Materials

Building and street lateral pipe materials shall be

one of the following:

(1) Tar-coated, service grade, cast iron soil pipe conforming to ASTM Specification A-74, "Cast Iron Pipe and Fittings". All dimensions, weight and markings of the pipe shall conform to the requirements of ANSI, Designation A112.5.1, except spigot ends shall be "plain end", if gasket joints are used.

(2) Polyvinyl Chloride (PVC) pipe and fittings conforming to ASTM Specification D-3034-73, "SDR-35 Polyvinyl Chloride (PVC) Sewer Pipe and Fittings". All pipe shall be suitable for gravity sewer service. Provisions shall be made for contraction and expansion at each joint with a rubber ring. The bell shall consist of an integral wall section stiffened with two PVC retainer rings which securely lock the solid cross-section ring into position. Minimum "Pipe Stiffness" (F/Y) at five percent (5%) deflection shall be 46 PSI when tested in accordance with ASTM Specification D-2412.

Any part of the building or street lateral that is located within five (5) feet of a water main or water service shall be constructed of cast iron soil pipe. Cast iron soil pipe may be required by the Superintendent where the building or street lateral is likely to be damaged by tree roots. If installed on fill or unstable ground, the building or street lateral shall be of cast iron soil pipe, although other pipe material may be permitted if such pipe is uniformly supported on a poured concrete cradle approved by the Codes Enforcer.

The distance between consecutive joints, as measured along the centerline of the installed pipe, shall be not less than ten (10) feet, except under abnormal circumstances, in which case this dimension may be diminished, if approved by the Codes Enforcer. The size and slope of building and street laterals shall be subject to approval by the Superintendent, but in no event shall the internal pipe diameter be less than 4 inches, nor shall the pipe slope be less than 1/4 inch per foot.

#### Section 606 A - Street Lateral to Public Sewer Connection

At the point of connection of a street lateral to a main sewer, a standard wye fitting and sufficient one-eighth (45 degree) bend fittings shall be used. The wye fittings shall be installed so that flow in the "arm" shall transition smoothly into the flow in the public sewer. No lateral connection shall be made to the public sewer which permits the flow into the public sewer from the lateral to enter at a right angle.

#### Section 606 B - Future Connection Locations; As-Built Drawings

The street lateral, including the wye and eighth bend fittings, shall be connected to the main sewer at the time of constructing the main sewer, for each proposed lot for either immediate or future development. Laterals installed for future development shall be fitted with a standard plug approved for us by the Codes Enforcer. All sewer connections shall be via a properly installed saddle on the main sewer pipe. No portion of the lateral pipe shall protrude into the main sewer pipe. The location of all lateral connections shall be field marked with a 2 inch by 6 inch corrosion and rot resistant board. The marker board shall extend from the depth of the lateral to a minimum of two (2) feet above grade. The location of all lateral connections shall be indicated on a drawing and four (4) copies of this drawing, showing the as-built location of these connections, shall be furnished to the Codes Enforcer. A refundable deposit shall be placed with the Town to assure receipt of these as-built, drawings. The deposit shall be placed when application is made; the amount of the deposit shall be \$ 100 per sheet of plans showing locations of lateral connections. No sanitary sewer shall be accepted by the Town until four (4) copies of this record drawing have been so filed with the Codes Enforcer and the Codes Enforcer has approved the submitted drawings.

#### Section 606 C – Special Manhole Requirements

When any street lateral is to serve a school, hospital, or similar institution, or public housing, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Codes Enforcer, will receive wastewater or industrial wastes of such volume or character that frequent maintenance of said building or street lateral is anticipated, then such street lateral shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Codes Enforcer. If required, a new manhole shall be installed in the public sewer pursuant to Sections 503 D and 1007, and the lateral connection made thereto as directed by the Codes Enforcer.

#### Section 607 - Laterals At and Near Buildings

Whenever possible, the building lateral shall be brought to the building at an elevation below the basement floor. Building-laterals laid parallel with a bearing wall shall not be installed closer than three (3) feet to such wall. The building lateral shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Changes of direction of 90 degrees or greater shall be made with a cleanout which extends to grade,

terminating in a terminal box set in concrete. The ends of all building or street laterals, which are not connected to the interior plumbing of the building, for any reason, shall be sealed against infiltration by a suitable stopper, plug, or by other approved means.

#### Section 608 - Sewage Lifting

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such drain shall be lifted by mechanical means and discharged to the building lateral, on approval of the Codes Enforcer.

#### Section 609 - Lateral Pipe Installation

All excavations required for the installation of a building or street lateral shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfilling, regardless of pipe material used, shall be performed in general accordance with paragraphs 3 through 6 of ASTM Specification C-12, except that trench width, measured at the top of the installed pipe, shall not exceed the outside pipe diameter plus 14 inches and, except that no backfill shall be placed until the work has been inspected. The depth of cover over the pipe shall be sufficient to afford protection from frost, but in no case shall such depth be less than four (4) feet six (6) inches.

#### Section 610 A - Watertight Joints

All joints and connections shall be made watertight.

#### Section 610 B - Cast Iron Pipe Poured Joints

Poured joints for cast iron pipe shall be firmly packed with oakum or hemp, and the annulus filled with an approved compound not less than one inch deep. The said compound shall be run in with a single pouring, and caulked tight, if appropriate for the compound used. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast iron pipe and other pipe materials shall be made with special adaptors and jointing materials approved by the Codes Enforcer. If such joints are hot- poured, the material shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees F, nor be soluble in any of the wastes carried by the lateral.

### Section 610 C Cast Iron Push Joints

Premolded gaskets may be used for hub and plain end cast iron pipe joints and joints with fittings, if approved by the Codes Enforcer. The gasket shall be a neoprene compression-type unit which provides a positive seal in the assembled joint. The gasket shall be pre-molded, one-piece unit, designed for joining the cast iron hub and plain end soil pipe and fittings. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendations using acceptable lubricant and special pipe-coupling tools designed for that purpose. The plain spigot end shall be forced into the hub end of the pipe for the full depth of the hub itself. Lubricant shall be a bland, flax-base, non-toxic material, and shall not chemically attack the gasket material.

### Section 610 D PVC Push Joints

Joints for PVC sewer pipe shall follow the manufacturer's recommendations, using properly designed couplings and rubber gaskets pursuant to the published information relating thereto, and conforming with the applicable ASTM specification identified in Section 605.

### Section 611 A – Building Lateral/Street Lateral Connection

(1) The connection of the building lateral to an existing street lateral shall be made at the property line. Except as provided under Section 502, if a street lateral has not previously been provided, the street lateral will be constructed from the existing public sewer to the property line, by a plumber, at the owner's expense. The street lateral shall be installed with a properly sealed arid covered clean-out to grade located at the property line. The clean-out shall terminate in a metal box imbedded in concrete.

(2) The cost of constructing the street lateral from the existing public sewer to the property line shall be at the owner's expense; all subsequent costs and expense incidental to the installation and connection of the building lateral shall also be borne by the owner.

(3) The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building lateral.

(4) It shall be the responsibility of the property owner to maintain, repair, or replace the building lateral, as needed.

(5) The method of connection of the building lateral to the street lateral will be dependent upon the type of sewer pipe material, and, in all cases, shall be approved by the Superintendent. Any subsequent repairs to the new street lateral shall be made by the owner at the owner's expense.

#### Section 611 B - Cleanout Repair/Replacement

If, in the judgment of the Codes Enforcer, it is determined that a building lateral, without a property line clean-out, needs repair or replacement, the Town may install a clean-out at the property line, at the owner's expense, such that the street lateral can be maintained independently of the building lateral.

#### Section 611 C - Street Lateral Replacement; Ownership

Any existing street lateral which, upon examination by the Codes Enforcer, is determined to be in need of replacement will be replaced with a new street lateral with a property line clean-out. The replacement street lateral shall be constructed by a plumber. The cost of constructing the replacement street lateral and clean-out shall be at the owner's expense. Any repairs to the new street lateral shall be made by the owner at the owner's expense.

#### Section 612 - Testing

The street lateral, building lateral, or the combined lateral shall be tested for infiltration/exfiltration by

- (a) any full pipe method described in Section 504, or
- (b) a suitable joint method, with the prior written approval of the Codes Enforcer.

#### Section 613 A - Connection Inspection

The applicant for the building lateral permit shall notify the Codes Enforcer when the building lateral is ready for inspection and connection to the street lateral is to be made. The connection shall be made under the supervision of the Codes Enforcer. When street laterals are installed pursuant to Section 402, the property owner, builder, or developer shall notify the Superintendent when the street lateral is ready for inspection and connection to the main sewer, and such connection shall be made under the supervision of the Codes Enforcer.

### Section 613 B - Trench Inspections

When trenches are excavated for the laying of building lateral pipes or for laying of street lateral pipes pursuant to Section 402, such trenches shall be inspected by the Codes Enforcer. Before the trenches are backfilled, the person performing such work shall notify the Superintendent when the laying of the building lateral is completed, and no backfilling of trenches shall begin until approval is obtained from the Codes Enforcer.

### Section 614 - Public Safety Provisions Required; Restoration of Disturbed Areas

All excavations for constructing building laterals shall be adequately protected with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed, in the course of the work, shall be restored in a manner satisfactory to the Codes Enforcer and Highway Superintendent. When installation requires disturbance of paved public roads and shoulders, restoration shall involve backfilling to road grade. Owner shall complete road and shoulder restoration to Town standards. The cost for such final road and shoulder restoration shall be paid by owner.

### Section 615 - Interior Clean-Out

An interior clean-out fitting shall be provided for each building lateral at a readily accessible location, preferably just inside the basement wall. The fitting shall contain a 45-degree branch with a removable plug or test tee, and so positioned that sewer cleaning equipment can be inserted therein to clean the building lateral.

The clean-out diameter shall be no less than the building lateral diameter.

### Section 616 - Costs Borne by Owner

All 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 that may be directly or indirectly occasioned by the installation of the building and street laterals, and connections and appurtenances.

## Sewer Use Law

### **ARTICLE 7 - INFLOW**

#### **Section 701 - New Inflow Sources Prohibited**

No connections shall be made to a sanitary or to a combined sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.

#### **Section 702 - Existing Inflow Sources Disconnected**

For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the Superintendent, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the Codes Enforcer, prior to the sale of the property.

#### **Section 703 - Existing Inflow Property Sold Sources Disconnected When**

Upon notice from the Tax Assessor, the Codes Enforcer shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and, if so, if all connections which contribute inflow have been disconnected.

#### **Section 704 - No Re-connection of Inflow Source Allowed**

It shall be a willful violation of this Law for any person to reconnect any inflow source which has been disconnected pursuant to this Article.

#### **Section 705 - Charges for Inflow**

The Codes Enforcer is enabled to take whatever action is necessary to determine the amount of inflow, including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to Article 12, however, the Town Board may cause a surcharge at a rate not to exceed five (5) times

that for normal sewage volume charge.

Sewer Use Law

**ARTICLE 8 - SCAVENGER WASTES**

**Section 801 - Licenses and Application**

The discharge of scavenger wastes into the Town sewer system and public sewers tributary thereto will be permitted only with the written approval (license) of the Codes Enforcer. Applicants for such license shall apply on a form provided by the Codes Enforcer. These forms may require information such as vehicle specifications, vehicle license number, vehicle color, NYSDEC permits issued under 6 NYCRR Part 364, approximate annual septic volume expected, service area, and any other information that the Codes Enforcer may require, to determine whether the scavenger wastes could adversely impact the POTW. The application shall be accompanied by a fee prescribed by the Codes Enforcer, not to exceed \$ 100.

The scavenger licensee will also be charged a fee for each dumping, in accordance with Article 12. The dumping fee shall be paid prior to dumping.

**Section 802 - Concurrent Requirements**

The applicant for a license shall be the owner of the vehicle or vehicles to be used for such discharge. Any false or misleading statement, in any license application, shall be grounds for invalidating the license. All licenses, issued by the Codes Enforcer, for this purpose, shall be for one (1) year. The licensee shall also be duly permitted by the NYSDEC under 6NYCRR Part 364 ("364 Permit"). If, for any reason, the 364 permit is revoked, lapses, or becomes invalid, then the license issued under this Article shall become invalid immediately. All acts performed in connection with the license shall be subject to the inspection and regulations, as established by the Codes Enforcer, the terms and conditions of the license and all local and general laws, ordinances, and regulations, which are now or may come into effect, and such license may be suspended or revoked, at any time, by the Codes Enforcer for willful, continued, or persistent violation thereof.

**Section 803 - Dumping Location and**

**Timing**

The Codes Enforcer may require discharging only at certain locations within the POTW, and only at certain times,

and only on certain days of the week, or seasons of the year as shall be stated on said license or as may be relocated by the Codes Enforcer. The time and conditions for permissible discharge shall be as set forth on the license, or as may be revised by the Codes Enforcer.

#### Section 804 - Notification of Dumping

Each discharge of scavenger wastes shall be made only with the approval of the Codes Enforcer. The Codes Enforcer may require inspection, sampling, and analysis of each load prior to the discharge of a load. Any extra costs associated with such inspection, sampling, and analysis shall be paid by the licensee.

Sewer Use Law

**ARTICLE 9 -**

**DISCHARGE**

**RESTRICTIONS**

**Section 901 - Pretreatment Standards**

All users of the Town POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act.

**Section 902 - General Prohibitions**

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. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards, or any other National, State or Local Pretreatment Standards or Requirements.

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 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, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, and sulfides, and any other substance which the Village, 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 one-half (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 marble dust, metal, glass, straw, shavings, grass clippings, rags, spent

grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 11.0, unless the POTW was specifically 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 toxic pollutants in sufficient quantity, 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 to 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.

(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 floatable fats, waxes, grease, or oils, or which become floatable when the wastes cool to the temperature prevailing, in the wastewater at the POTW treatment plant, during the winter season; also any commercial, institutional, or industrial wastes containing more than 100 mg/l of emulsified oil or grease; also any substances which will cause the sewage to become substantially more viscous, at any seasonal sewage temperature in the POTW.

(7) Any substance 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 65 degrees C (150 degrees F); however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 40 degrees C ( 104 degrees F). The Superintendent reserves the right, in certain instances, to prohibit wastes at temperatures lower than 65 degrees C.

(10) Unusual flow rate or concentration of wastes, constituting slugs, except by Industrial Wastewater Permit.

(11) Any wastewater containing any radioactive wastes except as approved by the Superintendent, and in compliance with applicable State and Federal Regulations.

(12) Any waste-water 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.

#### Section 903 - Concentration Based Limitations

No person shall discharge, directly or indirectly, into the POTW, wastewater containing any of the following substances in concentrations exceeding those specified below on either a daily or an instantaneous basis, except by permit or as provided for in Section 903. Concentration limits are applicable to wastewater effluents at point just prior to discharge into the POTW ("end of pipe" concentrations).

EFFLUENT CONCENTRATION LIMIT -  
mg/l

SUBSTANCE	DAILY MAXIMUM	MAXIMUM 4 DAY
AVERAGE		
Alum		
inum		
Anti		
mony		
Arse		
nic		
Bari		

um		
Bery		
lliu		
m Bi		
smut		
h B		
romi		
ne		
Cadmium (T)	1.2	0.5
Chlorides		
Chlorine		
Chromium (hex)		
Chromium (T)	7.0	4.0
Cobalt		
Copper (T)	4.5	2.7
Cyanide (T)	1.9	1.0
Cyanide (free)		
Fluorides		
Gold		
Iodine		
Iron		
Lead (T)	0.6	0.4
Manganese		
Mercury		
Molybdenum		
Nickel (T)	4.1	2.6
Phenols, total		
Selenium		
Silver (T) (2)	1.2	0.7
Sulfates		
Sulfides		
Tin		
Titanium		
Vanadium		
Zinc ( T )	4.2	2.6
Total Metals (3)	10.5	6.8
Total Toxic		
Organics(1)	2.13	

- (1) No regulation of the maximum 4-day average for TTO.
- (2) The silver pretreatment standard applies only to precious metals plating.
- (3) Total metals is defined as the sum of the concentration of copper, nickel, total chromium, and zinc.
- (4) Other substances which may be limited are:

antibiotics, chemical compounds which, upon acidification, alkalinization, oxidation or reduction, in the discharge or after admixture with wastewater and its components in the POTW produce

toxic, flammable, or explosive compounds pesticides, including algicides, fungicides, herbicides, insecticides, rodenticides polyaromatic hydrocarbons viable pathogenic organisms from industrial processes or hospital procedures

#### Section 904 - Mass Discharge Based Limitations

At no time shall the influent to the POTW contain quantities in excess of those specified below:

SUBSTANCE	ALLOWABLE INFLUENT LOADING AVERAGE DAILY (POUNDS PER DAY)
Aluminum	
Antimony	1.0 (action level)
Arsenic	
Barium	
Beryllium	
Cadmium	.23
Chromium (hex)	
Chromium (total)	1.5 (action level)
Cobalt	
Copper	3.1
Cyanide complex)	
Cyanide free	
Gold	
Iron	
Lead	.5
Mercury	.01 (action level)
Nickel	5.1 (action level)
Phenols (total)	
Selenium	
Silver	.23 (action level)
Tin	
Zinc	1.4

To assure that none of the above noted limitations are violated, the Codes Enforcer shall issue permits to significant industrial users limiting the discharge of the substances noted above. Each permit shall restrict the discharge from each significant industrial user to a portion of the total allowable influent loading. In determining what portion of the total of each substance that each significant industrial user shall be allowed to discharge, the Codes Enforcer shall consider; (1) the quantities of each substance that are uncontrollable because they occur naturally in wastewater, (2) the quantities of each substance that are anthropogenic but are nonetheless uncontrollable, (3) historical discharge trends, (4) past pollution control efforts of each significant industrial user as compared to other significant industrial dischargers of the same substance, (5) potential for growth in the POTW service area, (6) potential for more restrictive regulatory

requirements to be placed on the POTW discharge or sludge disposal or sludge reuse method, and (7) treatability of the substance. The Codes Enforcer shall apply a 15% safety factor protective of the POTW.

Permits issued in accordance with this section may allow for discharges in excess of limitations set forth under Section 902.

#### Section 905 - Modification of Limitations

Limitations on wastewater strength or mass discharge contained in this Law may be supplemented with more stringent limitations when, in the opinion of the Codes Enforcer:

- (1) The limitations in this Law are not sufficient to protect the POTW,
- (2) The limitations in this Law are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's SPDES permit,
- (3) The POTW sludge will be rendered unacceptable for disposal or reuse as the Town desires, as a result of discharge of wastewaters at the above prescribed concentration limitations,
- (4) Municipal employees or the public will be endangered, or
- (5) Air pollution and/or groundwater pollution will be caused.

The limitations on wastewater strength or mass discharge shall be recalculated not less frequently than once every five (5) years. The results of these calculations shall be reported to the Town Board. This Law shall then be amended appropriately. Any issued industrial wastewater discharge permits, which have limitations, based directly on any limitations, which were changed, shall be revised and amended, as appropriate.

#### Section 906 - Dilution

Except where expressly authorized to do so by an applicable Pretreatment Standard, no sewer 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.

### Section 907 - Grease, Oil, and Sand Interceptors

Grease, oil, and sand interceptors shall be provided, when, in the opinion of the Superintendent, 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 Codes Enforcer 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.

## Sewer Use Law

### **ARTICLE 10 - DISCHARGE PERMITS AND PRETREATMENT REQUIREMENTS**

#### **Section 1001 - Wastewater Discharge Reports**

As a means of determining compliance with this Law, with applicable SPDES Permit conditions, and with applicable State and Federal law, each industrial user shall be required to notify the Superintendent of any new or existing discharges to the POTW by submitting a completed Industrial Chemical Survey (ICS) form and a completed Industrial Wastewater Survey (IWS) form to the Codes Enforcer. The Codes Enforcer may require any user discharging wastewater into the POTW to file wastewater discharge reports and to supplement such reports as the Codes Enforcer deems necessary. All information shall be furnished by the user in complete cooperation with the Codes Enforcer.

#### **Section 1002 - Notification to Industrial Users**

The Codes Enforcer shall, from time to time, notify each industrial 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.

#### **Section 1003 A - Wastewater Discharges**

No Significant Industrial User shall discharge wastewater to the POTW without having a valid Wastewater Discharge Permit, issued by the Codes Enforcer. Significant Industrial Users shall fully comply with the terms and conditions of their permits in addition to the provisions of this Law. Violation of a permit term or condition is deemed a violation of this law.

#### **Section 1003 B -Wastewater Discharge Permits Required For Significant Industrial Users**

All significant industrial users proposing to connect to or to discharge to the POTW shall obtain a Wastewater Discharge Permit before connecting to or discharging to the POTW. Existing significant industrial users shall make application for a Wastewater Discharge Permit within 30 days after the effective date of this Law, and shall obtain such a permit within 90 days after making application.

#### **Section 1003 C - Other Industrial Users**

The Codes Enforcer may issue Wastewater Discharge

Permits to other industrial users of the POTW.

Section 1003 D - 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.

Section 1004 A - Application for Wastewater Discharge Permits

Industrial users required to obtain a Wastewater Discharge Permit shall complete and file with the Codes Enforcer an application in the form prescribed by the Town. The application shall be accompanied by a fee, as set forth in Section 1203. In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC code of both the industry and any categorical processes.
- (3) Wastewater constituents and characteristics including, but not limited to, those mentioned in Article 10 of this Law and which are limited in the appropriate Categorical Standard, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be performed in accordance with Standard Methods.
- (4) Time and duration of the discharge.
- (5) Average daily peak Wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances.
- (7) Description of activities, facilities, and plant

processes on the premises, including all materials which are or could be discharged to the POTW.

- (8) Each product produced by type, amount, process or processes, and rate of production.
- (9) Type and amount of raw materials processed (average and maximum per day).
- (10) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system.
- (11) The nature and concentration of ay pollutants in the discharge which are limited by any County, State, or Federal Standards, and a statement whether or not the standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable standards.

(12) If additional pretreatment and/or O&M will be required to meet the Standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and beginning routine operation).
- (b) No increment referred to in (a) above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
- (c) No later than 14 calendar days following each date in the schedule and the final date for

compliance,  
the user shall submit a progress report to the Superintendent including, as a minimum, whether or  
not it complied with the increment of progress to  
be met on such date and, if not, the date on which  
it expects to comply with this increment of progress, the reason for the delay, "and the steps  
being taken by the user to return to the established schedule. In no event shall more than  
9 months elapse between such progress reports to  
the Codes Enforcer

(13) Any other information as may be deemed by the Codes Enforcer to be necessary to evaluate the permit application.

The Codes Enforcer will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

#### Section 1004 B - Permit

##### Modifications

Wastewater Discharge Permits may be modified by the Codes Enforcer, 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 Section 903 of this Law,
- (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 as set forth in Section 1004 A (12) (a).

#### Section 1004 C - Permit Conditions

Wastewater Discharge Permits shall be expressly subject to all the provisions of this Law, and all other applicable regulations, user charges and fees established by Town. Permits may contain the following:

- (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 Town, and affording the Codes Enforcer access thereto.
- (9) Requirements for notification of 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 notification of the Town of any change in the manufacturing and/or pretreatment process used by the permittee.
- (11) Requirements for notification of excessive, accidental, or slug discharges.
- (12) Other conditions as deemed appropriate by Town to ensure compliance with this Law, and State and Federal laws, rules, and regulations.

#### Section 1004 D - Permit Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years.

#### Section 1004 E - Permit 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 Codes Enforcer, during the term of the permit, as limitations or requirements, as identified in Section 1004 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 as set forth in Section 1004 A (12)(a).

#### Section 1004 F - Permit Transfer

Wastewater Discharge Permits are issued to a specific User for a specific operation, or discharge at a specified 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.

#### Section 1004 G - Permit Revocation

Wastewater Discharge Permits may be revoked for the following reasons: falsifying self-monitoring reports, tampering with monitoring equipment, refusing to allow the Codes Enforcer timely access to the industrial premises, failure to meet effluent limitations, failure to pay fines, failure to pay sewer charges, and failure to meet compliance schedules.

#### Section 1004 H - Public Notification

The Town will publish in the Town's official daily newspaper(s), informal notice of intent to issue a Wastewater Discharge Permit, at least 14 days prior to

issuance.

#### Section 1005 - Reporting Requirements for Permittee

##### (1) Baseline Monitoring Report

Within 180 days after promulgation of an applicable

Federal Categorical Pretreatment Standard, a User subject to that standard shall submit, to the Codes Enforcer, the information required by paragraphs (8) and (9) of Section 1004 A of this Law.

##### (2) 90-Day Compliance Report

Within 90 days following the date for final compliance with applicable Pretreatment Standards, or, in the case of a New Source, following commencement of the introduction of Wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit, to the Codes Enforcer, a report indicating the nature and concentration of all pollutants in the discharge, from the regulated process, which are limited by Pretreatment Standards and Requirements, and the average and maximum daily flow for these process units in the User's facility which are limited by such Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards and Requirements are being met on a consistent basis, and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User and certified to by a qualified professional.

##### (3) Periodic Compliance

###### Reports

(a) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Codes Enforcer, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Codes Enforcer, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average

daily flow reported in Section 1004 A. At the discretion of the Codes Enforcer, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted, however, no fewer than two reports shall be submitted per year.

(b) The Codes Enforcer may impose mass limitations on Users, which are using dilution to meet applicable Pretreatment Standards or Requirements, or, in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Section 1005 (3) (a) shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of discharge sampling and analysis, including the flow, and the nature and concentration, or production and mass, where requested by the Codes Enforcer, of Pollutants contained therein, which are limited by the applicable Pretreatment Standard. All analyses shall be performed in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses.

(4) Other reports

The Codes Enforcer may impose reporting requirements equivalent to the requirements imposed by Section 1005 (3) for users not subject to pretreatment standards.

Section 1006 - Flow Equalization

No person shall cause the discharge of slugs to the POTW. Each person discharging, into the POTW, greater than 125,000 gallons per day or greater than five percent (5%) of the average daily flow in the POTW, whichever is lesser, 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 (24) hour period. The facility shall have a capacity for at least fifty percent (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 Codes Enforcer. A wastewater discharge permit may be issued

solely for flow equalization.

Section 1007 - Monitoring Stations (Control Manholes)

(a) All Significant Industrial Users, and other industrial users whose industrial waste discharge has caused or may cause Interference or Pass-Through shall install and maintain a suitable monitoring station, on their premises at their expense, to facilitate the observation, sampling, and measurement discharge of their industrial wastewater

(b) If there is more than one street lateral serving an Industrial User, the Codes Enforcer may require the installation of a control manhole on each lateral.

(c) The Codes Enforcer may require that such monitoring station(s) include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater. Such station(s) shall be accessibly and safely located, and the Industrial User shall allow the immediate access, without prior notice, to the station by the Codes Enforcer, or his designated representative.

Section 1008 - Proper Design and Maintenance of Facilities and

Monitoring Stations

Preliminary treatment, and flow equalization facilities, or monitoring stations, if provided for any wastewater, shall be constructed and maintained continuously clean, safe, and continuously operational by the owner at his expense. Where an Industrial User has such treatment, equalization, or monitoring facilities at the time this Law is enacted, the Code Enforcer may approve or disapprove the adequacy of such facilities. Where the Codes Enforcer disapproves of such facilities and construction of new or-upgraded facilities for treatment, equalization, or monitoring are required, plans and specifications for such facilities shall be prepared by a licensed professional engineer and submitted to the Codes Enforcer. Construction of new or upgraded facilities shall not commence until written approval of the Codes Enforcer has been obtained.

Section 1009 - Vandalism, Tampering with Measuring Devices

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, prevent access to, or render inaccurate, or cause or permit the malicious, willful, or negligent breaking,

damaging, destroying, uncovering, defacing, tampering with, preventing access to, or rendering inaccurate to:

- i - any structure, appurtenance, or equipment which is
  - a part of the Town POTW, or
- ii - any measuring, sampling, and/or testing device or
  - mechanism installed pursuant to any requirement under this Law.

#### Section 1010 - Sampling and Analysis

All measurements, tests, and analyses of the characteristics of waters and wastes required in any section of this Law shall be carried out in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations described in Section 1007, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise, or unless specifically not allowed in Federal regulation, samples shall be gathered as composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).

#### Section 1011 - Accidental Discharges

Each user shall provide for protection from accidental discharges of prohibited materials or of materials in volume or concentration exceeding limitations of this Law or of an Industrial Wastewater Discharge Permit. When required by the Superintendent, detailed plans and procedures to provide for this protection shall be submitted to the Codes Enforcer for approval. This plan shall be called a spill Prevention, Control, and Countermeasure (SPCC) Plan. Users shall immediately notify the Superintendent of the discharge of wastes in violation of this Law or any Permit. Such discharges may result from:

- (1) breakdown of pretreatment equipment
- (2) accidents caused by mechanical failure, or
  - Negligence
- (3) other causes.

Where possible, such immediate notification shall allow the Codes Enforcer to initiate appropriate

countermeasure action at the POTW. The user shall prepare a detailed written statement, which describes the causes of the discharge and the measures being taken to prevent future occurrences, within five (5) days of the occurrence, and the Codes Enforcer shall receive a copy of such report no later than the fifth calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.

#### Section 1012 - Posting Notices

In order that the Industrial User's employees be informed of Town requirements, a notice shall be permanently posted on appropriate bulletin boards within the user's facility advising employees of Town requirements and whom to call in case of an accidental discharge in violation of this Law.

#### Section 1013 - Sample Splitting

When so requested in advance by an industrial user, and when taking a sample of industrial wastewater, Town representative(s) shall gather sufficient volume of sample so that the sample can be split into two nearly equal volumes, each of size adequate for the anticipated analytical protocols. One of the volumes shall be given to the industry whose wastewater was sampled, and the other shall be retained by Town for its own analysis.

#### Section 1014 - Access to Information

When requested, the Codes Enforcer shall make available, to the public, for inspection and/or copying, information and data on industrial users obtained from reports, questionnaires, permit applications, permit and monitoring programs, and inspections, unless the Industrial User specifically requests, and is able to demonstrate to the satisfaction of the Codes Enforcer, that such information, if made public, would divulge processes or methods of production entitled to protection as trade secrets of the user. Wastewater constituents and characteristics, and reports of accidental discharges will not be recognized as confidential.

Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed, upon written request, to governmental agencies, for uses related to this Law, or the SPDES Permit, providing that the governmental agency making the request agrees to hold the information confidential, in accordance with State or Federal Laws and Regulations. The Codes Enforcer shall provide written notice to the industrial user of any disclosure of confidential information to another

governmental agency.

#### Section 1015 A - Access to Property

The Codes Enforcer and other authorized representatives of the Town, representatives of EPA, NYSDEC, and NYSDOH, bearing proper credentials and identification, shall be permitted to enter upon all non-residential properties at all reasonable 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 Local Law. Inspections of residential properties shall be performed in proper observance of the resident's civil rights. Such representatives 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. Guard dogs shall be under proper control of the User while the representatives are on the User's property or property rented/leased by the User. Such representative(s), additionally, shall have access to and may copy any records the User is required to maintain under this Law. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, inspecting personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities.

#### Section 1015 B - Access to

##### Easements

The Codes Enforcer, bearing proper credentials and identification, shall be permitted to enter all private premises through which 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.

#### Section 1015 C - Liability of Property Owner

During the performance, on private premises, of inspections, sampling, or other similar operations referred to in Sections 1014 A and 1014 B, the inspectors shall observe all applicable safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be held harmless for personal injury or death of the inspector and the loss of or damage to the inspector's supplies and/or equipment; and the inspector shall indemnify

the owner and/or occupant against loss or damage to property of the owner or occupant by the inspector and against liability claims asserted against the owner or occupant for personal injury or death of the inspector or for loss of or damage to the inspector's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

#### Section 1016 - Special Agreements

Nothing in this Article shall be construed as preventing any special agreement or arrangement between 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 Section 102
- (5) prevent the equitable compensation to Town for wastewater conveyance and treatment, and sludge management and disposal

No discharge which violates the Federal Pretreatment Standards will be allowed under the terms of such special agreements.

Sewer Use Law

ARTICLE 11 -

ENFORCEMENT AND PENALTIES

Section 1101 - Enforcement Response Plan

The Codes Enforcer shall prepare an Enforcement Response Plan. The Enforcement Response Plan, in a step-by-step fashion, shall outline the procedures to be followed to identify, document, and respond to violations by Users of the POTW. All violations by Users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.

The Enforcement Response Plan shall:

Describe how the Codes Enforcer will investigate instances of non-compliance

describe the types of escalated enforcement actions that the Codes Enforcer will take in response to all anticipated types of User violations and the time periods within which to initiate and follow-up these actions

adequately reflect the Town Board's responsibility to enforce all applicable standards and requirements

The Enforcement Response Plan shall contain

criteria for scheduling periodic inspection and/or sampling visits to POTW Users

forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence

systems to track due dates, compliance schedule milestones, and pending enforcement actions

criteria, responsible personnel, and procedures to select and initiate an enforcement action

The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors, such as;

magnitude of the violation  
duration of the violation

effect of the violation on the receiving water  
effect of the violation on the POTW  
compliance history of the User

good faith of the User

and shall promote consistent and timely use of enforcement remedies.

The Town Board shall approve the Enforcement Response Plan. The Enforcement Response Plan provides for a consistent and timely approach to enforcement and the Board's approval is not needed before an enforcement action is undertaken. The Enforcement Response Plan shall be reviewed at least every five years.

#### ADMINISTRATIVE REMEDIES

##### Section 1102 - Notification of

###### Violation

Whenever the Codes Enforcer finds that any User has violated or is violating this Law, or any Wastewater Discharge Permit, order, prohibition, limitation, or requirement permitted by this Law, the Codes Enforcer may serve upon such person a written notice stating the nature of the violation. Within 10 calendar days of the date of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Superintendent, 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.

##### Section 1103 - Consent Orders

The Codes Enforcer is hereby 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.

##### Section 1104 - Administrative or Compliance Order

When the Superintendent finds that a User has violated or continues to violate this Law or a permit or order issued there under, he may issue an order to the User responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless the violation is corrected and that there is no reoccurrence of the violation. Orders may also contain such other requirements as might reasonably be necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-

monitoring, and management practices.

The User may, within 15 days of receipt of such order, petition the Codes Enforcer to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Codes Enforcer by registered mail. The Codes Enforcer may:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order,
- (3) Request additional information from the User, or
- (4) Order the petitioner to show cause in accordance with Section 1109.

#### Section 1105 - Administrative Fines

Notwithstanding any other section of this Law, any user who is found to have violated any provision of this Law, or permits and orders issued hereunder, shall be fined in an amount not to exceed one thousand dollars (\$ 1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.

The User may, within 15 calendar days of notification of such fine, petition the Codes Enforcer to modify or suspend the fine. Such petition shall be in written form and shall be transmitted to the Codes Enforcer by registered mail. The Codes Enforcer may:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the fine,
- (3) Request additional information from the user, or
- (4) Order the petitioner to show cause in accordance with Section 1109.

#### Section 1106 - Cease and Desist Orders

When the Codes Enforcer finds that a User has violated or continues to violate this Law or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- a) Comply forthwith
- b) 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 days of receipt of such order, petition the Codes Enforcer to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Codes Enforcer by registered mail. The Codes Enforcer may:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order,
- (3) Request additional information from the user, or
- (4) Order the petitioner to show cause in accordance with Section 1109.

Section 1107 - Termination of  
Permit

Any user who violates the following conditions of this Law or a wastewater discharge permit or order, or any applicable State or Federal law, is subject to permit termination:

- a) Violation of permit conditions
- b) Failure to accurately report the wastewater constituents and characteristics of its discharge
- c) Failure to report significant changes in operations or wastewater constituents and characteristics
- d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Non-compliant industrial users will be notified, by registered mail, of the proposed termination of their wastewater permit.

The User may, within 15 calendar days of receipt of such notification, petition the Codes Enforcer to permit continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Codes Enforcer by registered mail. The Codes Enforcer may:

- (1) Reject any frivolous petitions,
- (2) Request additional information from the user, or
- (3) Order the petitioner to show cause in accordance with  
Section 1109.

Section 1108 - Water Supply Severance

Whenever a User has violated or continues to violate the provisions of this Law or an order or permit issued hereunder, water service to the User may be severed and service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply. The User may, within 15 days of severance, petition the Codes Enforcer to reconnect water supply service. Such petition shall be in written form and shall be transmitted

to the Codes Enforcer by registered mail. The Codes Enforcer may:

- (1) Reject any frivolous petitions,
- (2) Reconnect the water supply,
- (3) Request additional information from the user, or
- (4) Order the petitioner to show cause in accordance with Section 1109.

#### Section 1109 - Show Cause Hearing

The Codes Enforcer may order any User appealing administrative remedies for violations of this Law to show cause, before the Town Board, why an enforcement action, initiated by the Codes Enforcer, 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 personally or by registered or certified mail (return receipt requested) at least ten (10) calendar days before the hearing. Service may be made on any Principal or executive officer of a User's establishment or to any partner in a User's establishment.

The Town Board may itself conduct the hearing and take evidence, or may designate any of its members or any officer or employee of the Department of Public Works to: any

- (1) Issue, in the name of the Town Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to matter involved in such hearings,
- (2) Take the evidence,
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Board for action thereon.

After the Town Board has reviewed the evidence, it may order the user to comply with the Codes Enforcer's order or fine, modify the Codes Enforcer's order or fine or vacate the Codes Enforcer's order or fine.

#### JUDICIAL REMEDIES

#### Section 1110 - Civil Penalties

Any person who violates any of the provisions of or who fails to perform any duty imposed by this Law, or any order

or determination of the Codes Enforcer promulgated under this Law, or the terms of any permit issued hereunder, shall be liable to the Town for a civil penalty not to exceed one thousand dollars (\$1,000.00) for each such violation, to be assessed after a hearing held in conformance with the procedures set forth in this Article. Each violation shall be a 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 at the request of the Codes Enforcer in the name of the Town in any court of competent jurisdiction. In addition to the above described penalty and damages, the Codes Enforcer may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. Such civil penalty may be released or compromised by the Codes Enforcer 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 Codes Enforcer.

#### Section 1111 - Court Orders

In addition to the power to assess penalties as set forth in this Section, the Codes Enforcer shall have the power, following the hearing held in conformance with the procedures set forth in this Article, to seek an order:

- (1) suspending, revoking, or modifying the violator's Wastewater Discharge Permit
- (2) enjoining the violator from continuing the violation.

Any such order shall be sought in an action brought by the Town Attorney at the request of the Codes Enforcer in the name of the Town, in any court of competent jurisdiction.

The Codes Enforcer shall petition the Court to impose, assess, and recover such sums imposed according to this Section. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

#### Section 1112 - Criminal Penalties

Any person who willfully violates any provision of this Law or any final determination or order of the Superintendent made in accordance with this Article shall, in addition, be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00). 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. In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than 3 years or both.

Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Law, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation per day or imprisonment for not more than one year or both. In the event of a second conviction, the User shall be punishable by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than 3 years or both.

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

#### Section 1113 - Injunctive Relief

Whenever a User has violated or continues to violate the provisions of this Law or permit or order issued hereunder, the Codes Enforcer, 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 thereunder by the Codes Enforcer.

#### Section 1114 - Damages

Any person violating any of the provisions of this Law shall, in addition, be civilly liable to the Town for any expense, loss, or damage occasioned to the Town by reason of such violation.

#### Section 1115 - Summary Abatement

Notwithstanding any inconsistent provisions of this Law, whenever the Codes Enforcer finds, after investigation, that any User is causing, engaging in, or maintaining a condition or activity which, in his judgment, present an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in irreparable damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Codes Enforcer 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 Codes Enforcer may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) calendar days, the Codes Enforcer shall provide the User an opportunity to be heard, in accordance with the provisions of this Article.

The Codes Enforcer, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety, or welfare, or to preserve the POTW.

#### MISCELLANEOUS

##### Section 1116 -- Delinquent Payments

If there shall be any payments which are due to the Town, or any Department thereof, pursuant to any Article or Section of this Law, which shall remain due and unpaid, in whole or in part, for a period of twenty (20) calendar days from the date of billing by the Town, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to twenty percent (20%) of the original bill, and interest shall accrue on the unpaid balance, at the rate of two percent (2%) per month, retroactive to the date of the original billing.

In the event that there are any sewer taxes, assessments, or other service charges which shall have been delinquent for a period of at least sixty (60) calendar days as of December 15 of any year, the Sewer and Water Commissioner shall report the names of the defaulting persons to the Town Supervisor, the Town Clerk, Chief Assessor, on or before December 15 of the same year. The Town Assessor is hereby directed to add the entire amount of the sewer rent,

assessment, or other service charge which shall be in default, plus penalty and interest, as provided for in this Law, to the real property taxes due and owing to the Town in the next succeeding year, and the Town Clerk is directed to collect the same in the same manner as real property taxes due and owing to the Town are collected.

Where charges are delinquent and the violator is not a resident of the Town, then the town attorney is authorized to seek recovery of charges, including punitive damages, in a court of competent jurisdiction.

#### Section 1117 - Performance Bonds

The Codes Enforcer may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder unless such User first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Codes Enforcer to be necessary to achieve consistent compliance.

#### Section 1118 - Liability Insurance

The Codes Enforcer may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

#### Section 1119 - Informant Rewards

The Codes Enforcer, is authorized to pay up to \$500.00 for information leading to the discovery of noncompliance by a User. In the event that the information provided results in an administrative fine or civil penalty levied against the User, the Superintendent is authorized to disperse up to ten (10%) percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000.00.

#### Section 1120 - Public Notification

The Codes Enforcer shall provide public notification, in the daily newspaper with the largest circulation in the Town, of Users which were significantly in violation of local or Federal pretreatment standards or requirements since the last such notice. The frequency of such notices shall be at least once per year. For the purposes of this Section, a significant violation shall be a violation:

- (1) Which remains uncorrected 45 days after

notification of noncompliance.

(2) Which is a part of a pattern of noncompliance over the past 12-month period.

(3) Which involves a failure to accurately report noncompliance.

(4) Which resulted in the Codes Enforcer exercising his emergency authority to halt or prevent any discharge which presents an imminent danger to persons or property.

#### Section 1121 - Contractor Listings

a) Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Town.

b) Existing contracts for the sale of goods or services to the Town held by a User found to be in significant violation with pretreatment standards may be terminated at the discretion of the Town Board.

Sewer

Use

Law

## **ARTICLE 12 - CHARGES**

### **Section 1201 - Normal Sewage Service Charges**

All persons discharging or depositing wastes into the public sewers shall pay a sewer service charge proportional to the liquid volume of waste so deposited. This proportional percentage shall be the same as set forth by the Village of Herkimer. Sewer rent rates assessed to that percentage shall be set by resolution by the Town Board of the Town of Herkimer.

### **Section 1202 - Surcharge for Abnormal Sewage**

**RESERVED**

### **Section 1203 - Measurement of**

**Flow**

The volume of flow to be used in computing sewer service charges and abnormal sewage charges shall be based upon metered water consumption as shown on the records of meter readings maintained by the Town Water Department. In the event that a person discharging wastes into the POTW produces evidence, to the Codes Enforcer, demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the Superintendent shall either establish a percentage of the total metered water to be used as a basis for such computations, or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from unmetered sources, the Codes Enforcer shall either direct the installation of water meters on the other sources of

water supply, or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this Section shall be of a type and design acceptable to the Superintendent and shall be installed, maintained, and periodically tested as required by the owner, at his expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing, and reading by the Codes Enforcer. Any person discharging wastes into the POTW may install a flow measuring device at his option, of the type, design, installation, and maintenance standards of the Codes Enforcer, at the owner's expense.

#### Section 1204 - Billing Period

The Billing Period shall be quarterly for both industrial and non-industrial users.

#### Section 1205 - Pretreatment Program Costs

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the User, and include:

- (1) reimbursement of costs of setting up and operating the pretreatment program
- (2) issuing permits
- (3) monitoring, inspections, and surveillance procedures
- (4) costs of equipment and supplies
- (5) reviewing accidental discharge procedures
- (6) construction inspections
- (7) filing appeals
- (8) application for consistent removal status as outlined  
in 40 CFR 403
- (9) other reasonable expenses to carry out the program to satisfy the requirements of this Law, the NYSDEC, and the Federal government

#### Section 1206 - Charges for Scavenger

## Wastes

The charge for dumping septage into the POTW shall be \$20.00 per 1000 gallons dumped. The manner of determining the volume dumped shall be at the discretion of the Codes Enforcer.

## Section 1207 - Capital Recovery

The Town may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat, and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

## Section 1208 - Collection of Charges

Provisions of Article 11 of this Law relating to the collection of penalties shall apply to the collection of Sewer Service Charges and Abnormal Sewage Service Surcharges, unless where otherwise provided by application of the Sewer Rent Law by Town.

## Section 1207 - Fiscal Year for System

The POTW shall be operated on the basis of a fiscal year commencing on the first day of June and ending on the thirty-first day of May.

## Section 1210 -- Impact Fees

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

- (1) cause enlargement of the service area of the POTW
- (2) cause increased hydraulic and/or treatment demands on the POTW

## Section 1211 - 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 functions:

- (a) For the payment of the operation and maintenance, including repair and replacement costs of the Town POTW,
- (b) For the discovery and correction of

inflow and infiltration,

(c) For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Town POTW, and

(d) For the extension, enlargement, replacement of, and/or additions to the Town POTW, including any necessary appurtenances.

#### Section 1212 - Records and Accounts

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 audit of such books of record and account for the proceeding fiscal-year to be made by a recognized independent certified public account, and will supply such audit report to authorized officials, and the public, on request.

In conjunction with the audit, 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 industrial users should also be reviewed annually.

The Town shall maintain and carry insurance on all physical properties of the POTW, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

Sewer Use Law

**ARTICLE 13 - PUBLIC DISCLOSURE  
OF POTW OPERATIONS**

**Section 1301 - POTW Operations Open to the Public**

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

**Section 1302 - Procedural Requirements Available**

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

**Section 1303 - Validity through 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 Law. No rule, regulation, or civil order shall be valid until it has been available for public inspection.

Sewer Use Law

**ARTICLE 14 - CONFLICTS, SEVERABILITY, EFFECTIVE DATE  
AND APPLICABILITY**

Section 1401 - Conflicts

The provisions of any local law in conflict with any provision of this Law are hereby repealed.

Section 1402 - Severability

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law which shall nonetheless remain in full force and effect.

Section 1403 - Effective Date

This Law shall take effect 30 days after its filing in the office of the Secretary of State.

Section 1424 - Applicability

All Articles herein shall apply in all incorporated areas of the Town.

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 2013 of the Town of Herkimer, was duly passed by the Town Board on Sept 3, 2013 in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

(SEAL)

Nancy L. Reese  
Nancy L. Reese, Town Clerk  
Dated: 09-04-13

STATE OF NEW YORK  
COUNTY OF HERKIMER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Jessica Manieri  
Jessica Manieri, Esq.,  
Town Attorney  
Town of Herkimer  
Dated: 9/4/13