

Chapter 209

SEWERS AND WATER

[HISTORY: Adopted by the Town Board of the town of Pendleton 4-7-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Drainage — See Ch. 122.

Fire prevention and building construction — See Ch. 132.

Plumbing — See Ch. 194.

§ 209-1. Definitions and word usage.

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

ABNORMAL POLLUTANT — Industrial waste, substance or wastewater characteristic in excess of that found in normal sewage, but which is otherwise acceptable into a public sewer under the terms of this chapter.

ABNORMAL POLLUTANT SURCHARGE — The charge levied against any person for services rendered during treatment of abnormal pollutants or waste. This charge is intended to partially defray the added cost of transporting and treating abnormal pollutants or waste. This charge shall be in addition to the usual monthly charge for sanitary sewerage service.

ABNORMAL SEWAGE — Any industrial waste having a suspended solids or BOD content in excess of that found in normal sewage but which is otherwise acceptable into a public sewer under the terms of this chapter.

ABNORMAL SEWAGE PERMIT — A permit approved by and received from the engineer permitting the discharge or deposit of abnormal sewage into a sanitary sewer upon payment of a surcharge.

ABNORMAL SEWAGE SURCHARGE — The charge levied against any person for services rendered during treatment of abnormal sanitary sewage or waste. This charge is intended to partially defray the added cost of transporting and treating abnormal sewage or waste. This charge shall be in addition to the usual monthly charge for sanitary sewerage service.

ACT — The Federal Clean Water Act, as amended.

APPLICANT — The person or persons who have properly applied for permission to hook up and install an acceptable sewer system within an organized Town Sewer Improvement Area.

ASTM — The American Society for Testing and Materials.

BEST MANAGEMENT PRACTICES (BMPS) — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. [Added 10-2-2007 by L.L. No. 3-2007]

BOD STRENGTH INDEX — The measure of the biochemical oxygen demand content of sewage in parts per million (milligrams per liter).

BOD (DENOTING BIOCHEMICAL OXYGEN DEMAND) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a sewerage system which receives discharge from sewerage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet [one and five-tenths (1.5)] meters) outside the inner face of the building wall.

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

CODE ENFORCEMENT OFFICER (CEO) — An individual appointed by the Town Board to enforce this section. The CEO shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel. [Added 10-2-2007 by L.L. No. 3-2007]

CONSTRUCTION ACTIVITY — Any activity requiring authorization under the SPDES Permit for Stormwater Discharges from Construction Activity, GP-02-01, as amended or revised, including construction projects resulting in land disturbance of one or more acres. Construction activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. [Added 10-2-2007 by L.L. No. 3-2007]

COOLING WATER — The water discharged from any system of condensation, such as air conditioning, cooling or refrigeration.

DEPARTMENT — The New York State Department of Environmental Conservation. [Added 10-2-2007 by L.L. No. 3-2007]

ENGINEER — The Engineer of the town or his authorized deputy, agent or representative.

GARBAGE — Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present

or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. [Added 10-2-2007 by L.L. No. 3-2007]

ILLICIT CONNECTION — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to: [Added 10-2-2007 by L.L. No. 3-2007]

- (1) Any conveyance which allows any nonstormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connection to the storm sewer system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE — Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 209-12D of this chapter. [Added 10-2-2007 by L.L. No. 3-2007]

INDUSTRIAL ACTIVITY — Activities requiring the SPDES Permit for Discharges From Industrial Activities Except Construction, GP-98-03, as amended or revised. [Added 10-2-2007 by L.L. No. 3-2007]

INDUSTRIAL WASTE PERMIT — A permit to deposit or discharge industrial waste into any sanitary sewer in the town.

INDUSTRIAL WASTES — The liquid wastes from industrial manufacturing processes, trade, business, institutions or other SIC Index, as distinct from sanitary sewage.

LABORATORY DETERMINATION — The measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test or analysis of Standard Methods for Examination of Water and Sewage, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation, or in accordance with any other method prescribed by the Commissioner by rules and regulations promulgated pursuant to this chapter.

MS4 — Municipal separate storm sewer system. [Added 10-2-2007 by L.L. No. 3-2007]

MUNICIPAL SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm sewers): [Added 10-2-2007 by L.L. No. 3-2007]

- (1) Owned or operated by the Town of Pendleton;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Which is not a combined sewer; and
- (4) Which is not part of a publicly owned treatment works (POTW) as defined at

40 CFR 122.2.

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NONSTORMWATER DISCHARGE — Any discharge to the MS4 that is not composed entirely of stormwater. [Added 10-2-2007 by L.L. No. 3-2007]

NORMAL SEWAGE — Sewage which, when analyzed, shows by weight a daily average of not more than two thousand five hundred (2,500) pounds per one million (1,000,000) gallons [three hundred (300) parts per million] of suspended solids and not more than two thousand five hundred (2,500) pounds per one million (1,000,000) gallons [three hundred (300) parts per million] of BOD, and which is otherwise acceptable into a public sewer under the terms of this chapter.

OBJECTIONABLE WASTE — Any wastes that can harm either the sewers, sewer treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or which constitutes a nuisance.

OWNER — The owner of record of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

P (denoting phosphate) — The total phosphate determined under standard laboratory procedures, expressed in milligrams per liter.

PERSON — Any individual, firm, company, association, society, corporation, including municipal corporation, or group.

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

POLLUTANT — Any substance or wastewater characteristic present in polluted water or waste. "Pollutant" shall also mean dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, and agricultural waste and ballast discharged into water, any of which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of water quality standards. [Amended 10-2-2007 by L.L. No. 3-2007]

POLLUTED WATER OR WASTE — Any water or liquid waste containing any of the following: phenols or other substances to an extent imparting taste and odor in receiving waters; toxic or poisonous substances in suspension, colloidal state or solution; noxious odorous gases; more than ten thousand (10,000) parts per million by weight of dissolved solids of which more than two thousand five hundred (2,500) parts per million are chloride; more than ten (10) parts per million each of suspended solids and/or BOD; color exceeding fifty (50) parts per million or having a pH value of less than five point five (5.5) or more than nine point five (9.5); and/or any water or waste not approved for discharge into a stream or waterway by the appropriate state or federal authority.

PREMISES — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips. [Added 10-2-2007 by L.L. No. 3-2007]

PRETREATMENT — The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of the pollutant properties in wastewater to a less harmful state, prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly-owned treatment works. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6, General Pretreatment Regulations for Existing and New Sources of Pollution.

PROPERLY OPERATING SEPTIC SYSTEM — A septic system that meets the Health and Sanitation Code of the County of Niagara and Health Department standards of the State of New York.

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch [one and twenty-seven hundredths (1.27) centimeters] in any dimension.

PUBLIC SEWER — A sewer to which all owners of abutting properties have equal rights and which is controlled by public authority.

PUBLICLY OWNED TREATMENT WORKS (POTW) — A treatment works as defined by Section 212 of the Act (33 U.S.C. § 1292). It includes any sewers that convey wastewater to the POTW, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment.

RULES AND REGULATIONS — Any additional rules and regulations adopted by the Town of Pendleton.

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

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwater as may be present.

SEWAGE TREATMENT PLANT — Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS — All facilities for collection, pumping, treating and disposing of sewage.

SEWER — A pipe or conduit for carrying sewage.

SEWER INSPECTOR — Any person, agent or representative of the United States Environmental Protection Agency, New York State Department of Environmental Conservation or duly authorized employees of the Niagara County Health Department.

SEWER RENT — A scale of charges established and imposed in the Town of Pendleton for service by the sewer system of the Town of Pendleton. [Added 6-4-1996 by L.L. No. 1-1996]

SIGNIFICANT INDUSTRIAL USER — Any user who:

- (1) Has a discharge flow of twenty-five thousand (25,000) gallons or more per average workday;
- (2) Has a flow greater than five percent (5%) of the flow in the municipality wastewater system;
- (3) Has in his waste toxic pollutants as defined pursuant to Section 307 of the Act;
- (4) Has been identified as one (1) of the twenty-one (21) industrial categories pursuant to Section 307 of the Act; or
- (5) Is found by the town to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system.

SLUG — Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) concentrations or flows during normal operation.

SPECIAL CONDITIONS [Added 10-2-2007 by L.L. No. 3-2007]

- (1) Discharge compliance with water quality standards: the condition that applies where the Town has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Town must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- (2) 303(d) listed waters: the condition in the Town's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- (3) Total maximum daily load (TMDL) strategy: the condition in the Town's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the Town was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- (4) The condition in the Town's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4

discharges. Under this condition, the Town must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the Town must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

S.S. STRENGTH INDEX — The measure of the suspended solids content of sewage in parts per million (milligrams per liter)

STANDARD METHODS — Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, American Waterworks Association and the Water Pollution Control Federation, latest edition.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the Department that authorizes the discharge of pollutants to waters of the state. [Added 10-2-2007 by L.L. No. 3-2007]

STORM SEWER or STORM DRAIN — A sewer which carries storm- and surface waters and drainage, but excludes sewage and polluted industrial wastes other than unpolluted cooling wastes.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage. [Added 10-2-2007 by L.L. No. 3-2007]

STRENGTH INDEX — Both the biochemical oxygen demand index and the suspended solids strength index.

SUSPENDED SOLIDS — Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

SYSTEM — The trunk sewers, interceptors, pumping stations, treatment plants, outfall conduits, and so forth, designed to collect, transmit, treat and dispose of estimated flows and loadings of participants and other users of the system.

303(d) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by NYSDEC as required by Section 303(d) of the Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years. [Added 10-2-2007 by L.L. No. 3-2007]

TMDL — Total maximum daily load. [Added 10-2-2007 by L.L. No. 3-2007]

TOTAL MAXIMUM DAILY LOAD — The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant. [Added 10-2-2007 by L.L. No. 3-2007]

TOWN — The Town of Pendleton. [Added 10-2-2007 by L.L. No. 3-2007]

UNIT — The base charge for sewer rent established in this chapter. [Added 6-4-1996 by L.L. No. 1-1996]

UNPOLLUTED WATER OR WASTE — Any water or liquid waste containing none of the following: Phenols or other substances to an extent imparting taste and odor in receiving waters; toxic or poisonous substances in suspension, colloidal state or solution; noxious or odorous gases; not more than ten thousand (10,000) parts per million, by weight, of dissolved solids, of which not more than two thousand five hundred (2,500) parts per million are chloride; not more than ten (10) parts per million each of suspended solids and BOD; color not exceeding fifty (50) parts per million, nor a pH value of less than five point five (5.5) nor higher than nine point five (9.5); and/or any water or waste approved for discharge into a stream or waterway by the appropriate state or federal authority.

WASTEWATER — Water that is not stormwater, is contaminated with pollutants and has been or will be discarded. [Added 10-2-2007 by L.L. No. 3-2007]

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

B. "Shall" is mandatory; "may" is permissive.

§ 209-2. Use of public sewers required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the town or in any area under the jurisdiction of said town any human excrement, garbage or other objectionable waste.
- B. Unless specifically allowed by written permit of the Town Board, there shall be no deposit, spreading, filling or storage in any manner of organic chemical or industrial chemical material within the town. This shall include sludges and other sewage plant by-products. This shall not be construed to apply to farm animal manure and its utilization or the use of Department of Environmental Conservation (DEC) and Environmental Protection Agency (EPA) approved farm chemicals.
- C. It shall be unlawful when sewer and/or treatment facilities are available to discharge to any natural outlet within the town or in any area under the jurisdiction of said town any sanitary sewage, industrial wastes or other polluted waters, unless specifically permitted by the town and except where a federal National Pollutant Discharge Elimination Systems (NYDES) permit has been duly issued and is currently valid for such discharge. A valid copy of such a permit, and any modifications thereof, must be filed with the town for an exception under this section of this chapter.
- D. It shall be unlawful to construct any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage in an area where public sewers are available, unless specifically permitted by the town or as hereinafter provided. If application is made to the town for a temporary type toilet facility, and if said applicant has heretofore obtained the approval of the Niagara County Health

Department, said town may consent to the usage of the same for a temporary period not to exceed one hundred eighty (180) days in an area where public sewers are available.

- E. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer is hereby required, at his 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 chapter within (90) days after the date of official notice to do so, provided that said public sewer is within one hundred (100) feet [thirty and five-tenths (30.5) meters] of the property line in residential and commercial areas and within five hundred (500) feet [one hundred fifty-two and four-tenths (152.4) meters] of the property line in industrial areas, except where an existing house, building or property is served by a properly operating septic system, which shall be evidenced by a certificate of approval from the Niagara County Health Department submitted to the Sewer District by the homeowner. The certificate will remain in effect for five (5) years, unless a complaint is registered or the Sewer District requests recertification. Upon receipt of a complaint or request of the Sewer District, a building owner will have thirty (30) days in which to obtain a certificate of approval from the Niagara County Health Department. In the case where a septic system is not properly operating, the owner of such facilities shall, within (90) days after official notice to do so, enact improvements to correct such deficiencies so as to institute a properly operating septic system or hook up to the public sewer system.

§ 209-3. Private sewage disposal.

- A. Where a public sanitary sewer is not available under the provisions of § 209-2E, the building sewer shall be connected to an approved private sewage disposal system.
- B. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town and shall be consistent with such provisions of § 209-2E as apply to such private facilities.

§ 209-4. Building sewers and connections.

- A. These regulations shall apply to all sewer connection work to either gravity sewers or low pressure sewers, including the grinder pump stations hereafter installed in the Town of Pendleton for the disposal of sanitary sewage and house wastes through the public sewers.
- B. The sanitary sewer connection work to the public sewer shall be completed within ninety (90) calendar days after the date of official notice to do so has been issued by the Town Board or its authorized representative.
- C. The Town Board may, upon presentation of adequate evidence by the Code Enforcement Officer, stop and prevent the discharge into the sewers or grinder pump stations of any substance deemed by it liable to injure the sewers or grinder

pump stations or to interfere with their normal operation or to obstruct the flow or to hinder any process of sewage purification.

- D. Each building which is served by a public sewer must be connected separately and independently with the public sewer. No multiple connections involving two (2) or more buildings will be permitted, except by written approval of the Town Board.
- E. All connections to grinder pump stations shall be made in accordance with the following specifications:
 - (1) Sewer connections shall be laid solidly on a true grade of not less than one-quarter (1/4) inch per foot. They shall be laid in a straight line. Change in direction, if necessary, shall be made with proper fittings. All pipes shall be clear of dirt or other foreign materials as the work progresses.
 - (2) The fill over and around the pipe up to a depth of one (1) foot over the top of the pipe must be carefully selected material, free from clay, large stones or debris. It shall be carefully compacted.
 - (3) Adequate cleanouts shall be installed not over fifty (50) feet apart so that at all times the route of flow can be rodded or cleaned mechanically between the building and the grinder pump unit.
 - (4) All materials used shall be in accordance with Chapter 194, Plumbing.
 - (5) All work must be inspected by the Code Enforcement Officer or his authorized representative. No work shall be inspected or approved unless the trench is open for its entire length and all pipe and joints visible. Any trench backfilled before such inspection is made and the work approved shall be reopened for its entire length by the party performing the work. The party performing the work shall notify the Code Enforcement Officer, giving at least twenty-four (24) hours notice in advance of the time when the connection will be laid and ready for inspection.
 - (6) No connection will be permitted for draining stormwater, roof water, surface water from roads, driveways, lawns, groundwater runoff, subsurface drainage, cooling water, cellar drains, including sump pumps or other ponded water. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated by the town.
 - (7) Electrical.
 - (a) The applicant shall be responsible for the cost of supply, delivery and installation of all electrical parts, materials, labor and equipment required for complete and proper operation for the grinder pump station.
 - (b) All electrical work, equipment and apparatus provided and installed shall conform to the National Electrical Code and the municipal and statutory requirements.
 - (c) The applicant shall be responsible for the cost of installing and connecting the following electrical equipment for each grinder pump

unit installation:

- [1] Load center: one hundred twenty/two hundred thirty (120/230) volts, one-phase, four-pole load center in a NEMA 1 surface-mounted enclosure with a twenty-amp, two-pole breaker for simplex grinder pump units; thirty-amp, two-pole breaker for duplex grinder pump units; and fifteen-amp, one-pole breaker for alarm systems. The load center shall be installed near the existing house panel.
- [2] Portable generator connection: surface mounted, NEMA 3R enclosure with padlock provisions with twist lock thirty-amp, three-pole grounding cable plug and receptacle. The size of enclosure shall be sufficient to contain a plug and receptacle, fully wired, and to allow removal for disconnection and connection to a portable generator unit. The enclosure shall be sixteen-gauge galvanized steel with gray baked enamel finish. The size shall be eight by six by four (8 x 6 x 4) inches minimum. This unit shall be mounted outside the house on the building wall unless otherwise determined by the Town Engineer.
- [3] Alarm panel.
 - [a] The alarm panel shall be a NEMA 1 enclosure with screw retained cover. It shall be complete with control relay, alarm transformer and buzzer.
 - [b] The alarm buzzer shall be similar to General Electric Catalog No. GE 2226-0, except with a volume control. The transformer shall be sized for the buzzer and be energy limiting NEC Class 2.
 - [c] The alarm panel, buzzer, transformer and control relay shall be furnished at the cost of the applicant. Mount buzzer on face of alarm panel.
 - [d] For simplex grinder pump units installed inside, the applicant will be responsible for the cost of providing female twist-lock receptacles for pump power, seal failure and over-temperature. These shall be mounted on the side of the alarm panel and wired up complete.
 - [e] For duplex grinder pump units, the applicant shall be responsible for the cost of installing the complete alarm/control panel.
- [4] Wire.
 - [a] The applicant shall be responsible for the cost of all wire and installation. Interior wiring shall be rated six hundred (600) volts and may be multiconductor (Romex) or single

conductor THHN or THWN rated for wet locations. Wiring shall be VRD-type multiconductor.

[b] Alternate exterior. As an alternate, the applicant may install PVC conduit and wire for exterior work. PVC shall be thick-wall-approved for use and wire shall be THWN- or THHN-approved for use.

(d) Installation.

[1] The applicant shall be responsible for the cost of all wire, materials, connections, labor, tools, etc., required for the complete electrical work associated with the grinder pump station installations.

[2] For all units, the applicant shall be responsible for the cost of the load center and its installation adjacent to the existing house panel and wire from the main feed to the load center main breaker for electrical supply. The generator connection shall be mounted on the outside of the building where directed. Wiring connections through walls shall be sealed weathertight.

[3] Wiring between pump units with manways and buildings may be installed direct buried. Direct-buried cable shall be protected with select backfill of sand or screenings free of rocks, sticks, glass, etc., for a minimum of six (6) inches on top and sides and two (2) inches below wire. The applicant will be responsible for the cost of excavating a trench approximately one (1) foot wide and two (2) feet deep from finish grade for the installation of direct-buried cable. Cable shall be installed a minimum of twenty-four (24) inches below finished grade. Approved weathertight seal shall be provided at the entrance to the building. The manway shall be provided with two (2) inch conduit HUB for a wire entrance. Connection at this point shall be watertight. Wire runs within buildings shall be concealed in finished areas. In unfinished basements, wiring may be installed between and/or through joists and be run exposed in a neat manner.

[4] Special care shall be taken in installation and routing of wiring to protect existing conditions and to conceal wiring.

[5] Simplex units without manways (inside units) shall be furnished with ten-foot cords with male plugs installed for power and alarm. At time of installation, the applicant shall, at his cost, remove plugs and shorten cords to the length required to provide neat installation and reinstall plugs.

F. All connections to gravity sewers shall be made in accordance with the following specifications:

- (1) All materials used shall be in accordance with Chapter 194, Plumbing. Any part of the building sewer that is located within ten (10) feet of water service pipe shall be constructed of cast-iron soil pipe with leaded joints. Cast-iron pipe with leaded joints may be required by the town where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast-iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle, as approved by the town. Infiltration of groundwater into any sewer shall not exceed one hundred (100) gallons per inch diameter per mile of sewer per day. The town may require infiltration tests on any sewer.
- (2) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of Chapter 132, Fire Prevention and Building Construction, and Chapter 194, Plumbing, or other applicable rules and regulations of the Town of Pendleton, but in no event shall the diameter be less than four (4) inches. The slope shall be one-eighth (1/8) inch per foot, unless otherwise permitted. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials and the Water Pollution Control Federation Manual of Practice No. 9 shall apply.
- (3) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight. Changes in direction greater than forty-five degrees (45°) shall be provided with cleanouts accessible for cleaning or manholes, when approved by the town.
- (4) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means, approved by the town, and discharged to the building sewer.
- (5) The connection of the building sewer into the public sewer shall conform to the requirements of Chapter 132, Fire Prevention and Building Construction, and Chapter 194, Plumbing, or other applicable rules and regulations of the town, and/or the procedures set forth in appropriate specifications of the American Society for Testing and Materials and the Water Pollution Control Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the town before installation.
- (6) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, footing drains, floor drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

- (7) The applicant for the building sewer permit shall notify the town when the building sewer is ready for inspection and connection to the public sewer. The connections shall be made under the supervision of the town.
- (8) All excavations for building sewer installations shall be adequately guarded 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 town.
- G. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town.
- H. All building sewers and drains shall be separated from potable house water connections by impervious soil layers measuring one and five-tenths (1.5) feet clear out to out in a vertical direction when the waterline is benched on undisturbed soil or as required by the Niagara County Health Department, the New York State Health Department and/or the New York State Uniform Fire Prevention and Building Code. [Amended 6-4-1996 by L.L. No. 1-1996]

§ 209-5. Discharge of water.

- A. No person shall discharge or cause to be discharged any stormwater, groundwater, roof runoff, subsurface drainage or drainage from downspouts, yard drains, sump pumps, yard foundations and ponds or law sprays into any sanitary sewer, except as provided by these rules and regulations. Water from dechlorinated swimming pools, unpolluted industrial water, such as water drains, blowoff pipes, or cooling water from various equipment, shall not be discharged into sanitary sewers if a closed storm sewer is available. If a closed storm sewer is not available, such water may be discharged into any sanitary sewer by indirect connection whereby such discharge is cooled, if required, and flows into the sanitary sewer at a rate not in excess of five gallons per minute, provided that the waste does not contain materials or substances in suspension or solution in violation of the limits prescribed by this chapter. [Amended 10-2-2007 by L.L. No. 3-2007]
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Engineer, to a storm sewer, combined sewer or natural outlet.

§ 209-6. Industrial discharges.

- A. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
 - (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in

sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including, but not limited to, cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewers.

- (3) Any waters or wastes having pH lower than five point five (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (5) Any noxious or malodorous substances which can form a gas which, either singly or by interaction with other wastes, is capable of causing objectionable odors or hazards to life or form solids in concentration exceeding limits established in this chapter, or creates any other condition deleterious to structures or treatment processes or requires unusual provisions, attentions or expense to handle such material.
 - (6) Cooling water shall not be discharged into any public sewer unless it is unpolluted and below one hundred fifty degrees Fahrenheit (150° F.). If in the opinion of the town lower temperatures of such wastes can harm either the sewers, sewer treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance, the town may prohibit such discharges.
 - (7) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludge or scums, to be unsuitable for reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal development pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act or state criteria applicable to the sludge management method being used.
- B. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the town, that such wastes can harm either the sewers, sewer treatment process or equipment, have on adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the town will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the

sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) [sixty-five degrees Celsius (65° C.)] or in such quantities that the temperature at the treatment works influent exceeds one hundred four degrees Fahrenheit (140° F.) [forty degrees Celsius (40° C.)].
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two degrees and one hundred fifty degrees Fahrenheit (32° and 150° F.) [zero degrees and sixty-five degrees Celsius (0° and 65° C.)].
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower [seventy-six hundredths (0.76) metric horsepower] or greater shall be subject to the review and approval of the Engineer.
- (4) Any waters or wastes containing strong-acid iron-pickling wastes or concentrated plating solutions, whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works is in excess of the concentrations prescribed herein, or other substances that exceed the limits established by the town for such materials.
- (6) Salts of a heavy metal in solution or suspension in concentrations exceeding the following or elements which will damage collection facilities or are detrimental to treatment processes:

Substance	Concentration (milligrams per liter)
Chromium (as Cr)	0.25
Copper (as Cu)	0.2
Zinc (as Zn)	0.5
Nickel (as Ni)	1.0
Cadmium	0.1
Arsenic	0.05
Barium	1.0
Boron	1.0

Lead	0.05
Manganese	1.0
Mercury	0.005
Selenium	0.02
Silver	0.05

- (7) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the Engineer as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies or jurisdictions for such discharge to the receiving waters.
 - (8) Any waters or wastes having a pH in excess of nine point five (9.5).
 - (9) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - (c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (d) Unusual volume of flow or concentration of wastes constituting slugs, as defined herein.
 - (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies.
 - (11) Any water or waste that contains more than ten (10) parts per million of the following gases: hydrogen sulfide, sulfur dioxide or nitrous oxide.
- C. Drains receiving acid waste shall be constructed of any acid-resisting material. Such drains located outside of a building shall be constructed of vitrified clay or earthenware pipe or other approved acid-resisting material. Joints shall be constructed by caulking with asbestos rope wicking and pouring a heated sulfur and carbon compound or a heated bituminous compound in such manner as to secure tight joints. In no case shall corrosive waste be discharged into a drain, sanitary sewer, storm sewer or soil or waste pipe without being first diluted or neutralized in such manner as to render such wastes noncorrosive. These wastes shall be treated by passing through a properly trapped dilution or neutralizing catch basin which

shall function automatically.

- D. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subsection B of this section and which, in the judgment of the town, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Engineer may:
- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Subsection I of this section.
- E. If the town permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the town and subject to the requirements of all applicable codes, ordinances and laws.
- F. Grease, oil and sand interceptors shall be provided when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Engineer and shall be located as to be readily and easily accessible for cleaning and inspection.
- G. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner, at his expense.
- H. The admission into the public sewers of any waters or wastes of abnormal strength or containing any quantity of substances having the characteristics described in this section or having an average daily flow greater than two percent (2%) of the average daily sewage flow of the town shall be subject to review and approval of the town. Where necessary, in the opinion of the town, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the five-day BOD, suspended solids, phosphate or objectionable characteristics or constituents to within the maximum limits provided for in this section or control the quantities and rates of discharge of such waters or wastes. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be prepared and submitted by a qualified engineer for the approval of the town, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

- I. Where the strength of sewage from an industrial, commercial or institutional establishment exceeds three hundred (300) parts per million of biochemical oxygen demand or three hundred (300) parts per million by weight or suspended solids or the total phosphorous, measured as P, is greater than ten (10) parts per million by weight and where such wastes are permitted to be discharged to the sewer system by the town, an added charge, as noted below, will be made against such establishment according to the strength of such wastes. The strength of such wastes shall be determined by composite samples taken over a sufficient period of time to ensure a representative sample. The cost of sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory. Added charges shall be determined by the town in their rules and regulations governing abnormal pollution surcharges. These charges shall be based on the cost of operation, maintenance, administration, depreciation, and amortization plus sufficient coverage for the sewage works.
- J. Where preliminary treatment facilities are provided for any waters and wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- K. The owner of any property served by a building sewer carrying industrial wastes shall install a wastewater flow meter and sampling device in a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the town. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- L. To determine the sewage flow from any establishment, the Engineer may use one (1) of the following methods:
 - (1) The amount of water supplied to the premises by the town or a private water company as shown upon the water meter if the premises are metered;
 - (2) If the premises are supplied with river water or water from private wells, the amount of water supplied from such sources as estimated by the town from the water, gas or electric supply;
 - (3) If such premises are used for an industrial or commercial purpose of such nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the town from the water, gas or electric supply;
 - (4) The number of gallons of sewage discharged into the sewer system as determined by measurements and samples taken at a wastewater flow meter and sampling device installed by the owner of the property served by the sewer system at his own expense, in accordance with the terms and conditions of the permit issued by the town pursuant to this section; or
 - (5) A figure determined by the town by any combination of the foregoing or by any other equitable method.

M. Industrial permits.

- (1) No industrial wastewater shall be discharged to a trunk sewer or a sewer discharging directly or indirectly to a trunk sewer until a permit for industrial wastewater discharge has been approved by the town.
- (2) Permit applications shall include volume, constituents and characteristics of wastewater, flow rates, each product produced by type, amount and rate of production, and a description of activities, facilities and plant process on the premises, including all materials processed and types of materials which are or could be discharged.
- (3) On industrial user permits, terms and conditions may be rescinded or subject to modification and change by the Town Board of the Town of Pendleton.
- (4) The maximum time period for the permit to discharge shall be four (4) years, which may be renewed by approval of the Town Board of the Town of Pendleton.
- (5) A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.
- (6) An industrial discharger shall apply for a permit modification if production or process is changed so that the wastewater characteristics or flow is altered.
- (7) When pretreatment regulations are adopted by the United States Environmental Protection Agency (USEPA) or New York State Department of Environmental Conservation (NYSDEC) for industry, then that industry must immediately conform to the USEPA or NYSDEC timetable for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by USEPA or NYSDEC in accordance with Section 307 of the PL 95-217. Additionally, such industries shall comply with any more stringent standards necessitated by local conditions as determined by the town.

N. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town subject to payment therefor by the industrial concern.

§ 209-7. Protection from damage.

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal sewage works.

§ 209-8. Power and authority of inspectors.

A. The Sewer Inspector or other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all sewered properties for the purpose of inspection, observation, measurement, sampling, maintenance and

testing for conformance with the provisions of this chapter within forty-eight (48) hour proper notification or with a suitable writ issued by a court of law. The Engineer shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. [Amended 6-4-1996 by L.L. No. 1-1996]

- B. The Sewer Inspector bearing proper credentials and identification may also have the right within forty-eight (48) hour proper notification or with a suitable writ issued by a court of law to enter all properties for the purpose of determining if a septic system is operating properly as provided in § 209-2.
- C. While performing the necessary work on private properties referred to in Subsection B above, the Engineer and/or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the town employees, and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this chapter.
- D. The Engineer and/or other duly authorized employees of the Town Sewer District bearing proper credentials and identification may be permitted to enter all private properties through which the district holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved and Subsection B of this section.

§ 209-9. Penalties for offenses. [Amended 6-4-1996 by L.L. No. 1-1996]

- A. Any violation of § 209-2, 209-4 or 209-5 of this chapter is hereby declared a violation, except as otherwise provided by law. Any person who violates the provisions of § 209-2, 209-4 or 209-5, upon conviction thereof in a court of competent jurisdiction, may be punished by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for a term of not more than fifteen (15) days, or both, and each day on which there is a failure to comply shall be and is hereby declared to be a distinct and separate offense and punishable as such.
- B. Any violation of § 209-6 is hereby declared a misdemeanor except as otherwise provided by law. Any person who violates the provisions of § 209-6, upon conviction thereof in a court of competent jurisdiction, may be punished by a fine of not more than ten thousand dollars (\$10,000.), and each day on which there is a failure to comply shall be and is hereby deemed to be a distinct and separate offense and punishable as such.
- C. Any person violating any of the provisions of this chapter shall become liable to the

district for such expense, loss or damage occasioned the district by reason of such violation.

§ 209-10. Industry cost recovery formulas; sewer rents.

- A. All industry cost recovery formulas used by the town shall be the same as those of the Niagara County Sewer District No. 1 as they now exist or as they may change from time to time.
- B. Rates for sewer rents. [Added 6-4-1996 by L.L. No. 1-1996]
 - (1) Pursuant to Article 14-F of the General Municipal Law of the State New York, there are hereby established the following sewer rents for producing revenue for all improvement districts within the Town of Pendleton.
 - (2) The sewer charge for services to real property within the Town of Pendleton improvement districts shall be as follows:
 - (a) Each owner or other person in control of premises using the POTW shall pay a sewer rent for wastewater disposal, which rent shall be determined annually by the Town of Pendleton within the sewer budget. Each dwelling unit (EDU) and each commercial, institutional and industrial user within any of the Town of Pendleton sewer improvement districts shall be responsible for payment of an equivalent dwelling unit charge based upon one (1) such unit for each forty-four thousand (44,000) gallons of water consumed per year.
 - (3) Consumption of water shall be based upon the most recent annual reading prior to the rent levy or the best estimate of the Town of Pendleton.
 - (4) The rate per unit and gallons per unit shall be established from time to time by resolution of the Town Board.
 - (5) Sewer rents shall constitute a lien upon the real property served by the sewer system pursuant to Article 14-F of the General Municipal Law. Sewer rents will be billed annually as provided by said law, which bill will provide that if not paid within thirty (30) days of the date of said bill, a penalty in the amount of ten percent (10%) will be added. Any unpaid bills shall be presented in the form of notice of lien to the Niagara County Legislature on or before November 1 of any year, which Board shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as county or town taxes. Said amount shall be set forth in a separate column in the annual tax rolls. The amounts so levied, including penalty, shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of county and town taxes.
 - (6) Sewer rents shall become due and payable thirty (30) days after billings as above provided, which billing will be based upon operation and maintenance (O & M) charges as set forth in the annual budget of the Town of Pendleton

pursuant to this section.

- (7) Each equivalent dwelling unit receiving sewer service and subject to sewer rents pursuant hereto not being assessed a direct capital sewer charge pursuant to this section shall be liable for a sewer charge for sewer rent in an amount to be determined by the Town Board based on budget requirements per EDU per year such unit is not paying an assessed valuation charge for sewer service in addition to the sewer rent provided in this section.

§ 209-11. Intent; construal of provisions.

The terms, conditions, rules, regulations, definitions, requirements, restrictions, use, charges, rates, permits, power and authority of inspectors and penalties contained in this chapter and the rules and regulations of the town are complementary, and what is called for by any one (1) shall be as binding as if called for by both.

§ 209-12. Storm sewers. [Added 10-2-2007 by L.L. No. 3-2007]

A. Purpose/intent. The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the Town of Pendleton through the regulation of nonstormwater discharges to the MS4 to the maximum extent practicable as required by federal and state law. This law establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with the requirements of the SPDES General Permit for MS4s. The objectives of this section are:

- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- (3) To prohibit illicit connections, activities and discharges to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this law; and
- (5) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

B. Applicability and conflict.

- (1) Applicability. This section shall apply to all water entering the MS4 generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- (2) Conflict. Where the conditions imposed by any provisions of this section are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards

or requirements shall govern.

- C. Responsibility for administration. The CEO shall administer, implement, and enforce the provisions of this section. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the CEO as may be authorized by the municipality.
- D. Discharge prohibitions.
 - (1) Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided below. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:
 - (a) The following discharges are exempt from discharge prohibitions established by this section, unless NYSDEC or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm sewers, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire-fighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
 - (b) Discharges approved in writing by the CEO to protect life or property from imminent harm or damage; provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the CEO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this section.
 - (c) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the CEO prior to the time of the test.
 - (d) The prohibition of illegal discharges shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of NYSDEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.
 - (2) Prohibition of illicit connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
 - (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (c) A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- E. Prohibition against activities contaminating stormwater.
 - (1) Activities that are subject to the requirements of this section are those types of activities that:
 - (a) Cause or contribute to a violation of the Town's MS4 SPDES stormwater discharge permit; or
 - (b) Cause or contribute to the Town being subject to the special conditions.
 - (2) Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town's MS4 SPDES stormwater discharge permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the Town's MS4 SPDES stormwater discharge permit authorization.
- F. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices. Where the CEO has identified illicit discharges or an activity contaminating stormwater, as defined in Subsection E of this section, the Town may require implementation of BMPs to control those illicit discharges and activities.
 - (1) The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
 - (2) Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, or an activity contaminating stormwater, as defined in Subsection E of this section, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- G. Industrial or construction activity discharges. Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all

provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

H. Suspension of access to MS4.

- (1) Illicit discharges in emergency situations. The CEO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of people, or to the MS4. The CEO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the CEO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to people.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this section may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The CEO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the CEO for a reconsideration and hearing. Access may be granted by the CEO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the CEO determines in writing that the illicit discharge has not ceased or is likely to reoccur. A person commits an offense if the person reinstates MS4 access to the premises terminated pursuant to this section without the prior approval of the CEO.

I. Access and monitoring of discharges.

- (1) This subsection applies to all facilities that the CEO must inspect to enforce any provision of § 209-12, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of § 209-12.
- (2) Access to facilities.
 - (a) The CEO shall be permitted to enter and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this section. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the CEO.
 - (b) Facility operators shall allow the CEO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this section.
 - (c) The Town shall have the right to set up on any facility subject to this section such devices as are necessary in the opinion of the CEO to conduct monitoring and/or sampling of the facility's stormwater

discharge.

- (d) The Town has the right to require the facilities subject to this section to install monitoring equipment as is reasonably necessary to determine compliance with this section. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) An unreasonable delay in allowing the CEO access to a facility subject to this section is a violation of this section. A person who is the operator of a facility subject to this section commits an offense if the person denies the CEO reasonable access to the facility for the purpose of conducting any activity authorized or required by this section.
- (f) If the CEO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section or any order issued hereunder, then the CEO may seek issuance of a search warrant from any court of competent jurisdiction.

J. Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Town in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

K. Enforcement.

(1) Notice of violation.

- (a) When the CEO finds that a person has violated a prohibition or failed to meet a requirement of this section, he or she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- [1] The elimination of illicit connections or discharges;
- [2] That violating discharges, practices, or operations shall cease and desist;
- [3] The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- [4] The performance of monitoring, analyses, and reporting;
- [5] Payment of a fine; and
- [6] The implementation of source control or treatment BMPs.

(b) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(2) Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this section shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this section shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

L. Appeal of notice of violation. Any person receiving a notice of violation may appeal the determination of the CEO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger.

M. Corrective measures after appeal.

(1) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the municipal authority upholding the decision of the CEO, then the CEO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate

the violation and/or restore the property.

- (2) If refused access to the subject private property, the CEO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the CEO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.
- N. Injunctive relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this section. If a person has violated or continues to violate the provisions of this section, the CEO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- O. Alternative remedies.
- (1) Where a person has violated a provision of this section, he/she may be given alternative remedies in lieu of a civil penalty, upon recommendation of the Town Attorney and concurrence of the CEO, where:
 - (a) The violation was unintentional;
 - (b) The violator has no history of pervious violations of this chapter;
 - (c) Environmental damage was minimal;
 - (d) The violator acted quickly to remedy violation; and/or
 - (e) The violator cooperated in investigation and resolution.
 - (2) Alternative remedies may consist of one or more of the following:
 - (a) Attendance at compliance workshops;
 - (b) Storm sewer stenciling or storm sewer marking; and/or
 - (c) River, stream, or creek cleanup activities.
- P. Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.
- Q. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.