

SEWER CONNECTION ORDINANCE

An Ordinance Establishing and Setting Forth Rules & Regulations Governing the Installation of Lateral Sanitary Sewers and Lateral Sanitary Sewer Connections, Together with Specifications Therefore in all Sanitary Sewer Districts and Within Any Extensions thereof in the Town of Kirkwood

Adopted December 1, 1964

SECTION 22. Industrial Waste Discharges
(Added September 3, 1985 by LL No. 8-1985)

1. Applicability. The discharge of industrial wastes into the sanitary sewer system of all sanitary sewer districts and extensions thereof in the Town of Kirkwood shall, in addition to any other requirements of law, be governed by the provisions of this section.

2. Reserved (Repealed April 1, 1986 - LL #1-86)

3. Authority of the Joint Sewage Board.

a. Notwithstanding any other provisions of law, the admission into any sanitary sewer district and extensions thereof of the Town of Kirkwood of any industrial wastes shall be subject to the review and approval of the joint Sewage Board. The Board is hereby granted authority, concurrent with that of the sewer district to enforce against any user within the district, all requirements necessary to ensure compliance with the provisions of the Rules and Regulations of the Board. Nothing contained herein, however, shall be construed as precluding the Town from seeing against any user such remedial action as it deems appropriate for correcting any violation of its local laws, ordinances or regulations governing use of any sanitary sewer district and extensions thereof of the Town of Kirkwood.

b. In exercising its authority over users discharging industrial wastes into the sanitary sewer system of any sanitary sewer district and extensions thereof of the Town of Kirkwood, the Board may:

1. Require pretreatment of the user's wastewater to a condition acceptable for discharge to the public sewer;
2. Require the user to apply for and obtain an industrial wastewater discharge permit as a means of controlling the quantities and rates of discharge;
3. Require payment by the user to cover any added cost of handling and treating substances in the wastewater not covered by existing fees or charges;
4. Require the development of compliance schedules by the user to meet any applicable requirements prescribed by the Board's Rules and Regulations;
5. Require the user to submit such reports and supplemental information which the Board deems necessary to assure compliance with any applicable requirements prescribed by the Board's Rules and Regulations;
6. Carry out all inspection, surveillance and monitoring necessary to ascertain the user's compliance with applicable requirements prescribed by the Board's Rules and Regulations;
7. Investigate or make inquiry in a manner to be determined by it, as to any condition within the district affecting the operation of the Joint Sewage Treatment Plant, and as to any alleged act or omission or failure to comply with the Board's Rules and Regulations; or

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8. Obtain remedies for noncompliance by any such user as specified in paragraph 7 of this Article;

9. Reject the user's wastewater, where the Board determines that the wastewater contains substances or possesses characteristics which have a deleterious effect on the sewage treatment plant and its appurtenant facilities, or the processes, equipment or receiving waters of the treatment plant, or which constitute a public nuisance or hazard; or

10. Take such other measures as it deems necessary and proper to ensure compliance with this law, with applicable state and federal law, and with the Rules and Regulations of the Board.

4. Inspections. The Joint Sewage Board, and representatives of the EPA and DEC bearing proper credentials and identification, shall be permitted to enter all 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, state and local law governing use of the district's sanitary sewer system, and with the provisions of the Rules and Regulations of the Board. The Board shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. The Board shall additionally have access to and may copy any records the user is required to maintain under the Rules and Regulations of the Board. 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.

5. Violations.

a. No user discharging or proposing to discharge wastewater into the district's sanitary sewer system shall violate any of the provisions of, or fail to perform any duty imposed by, the Rules and Regulations of the Board; or any order or determination of the Board promulgated thereunder; or the terms and conditions of any permit issued by the Board.

b. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is under the jurisdiction, ownership or control of the Joint Sewage Board;

c. No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under the Rules and Regulations of the Board.

d. No person shall knowingly make false statement in any application, report or other document required to be filed pursuant to any provision of the Rules and Regulations of the Board.

6. Industrial Waste Surcharge. In addition to any other fees, charges, sewer rents or sanitary district taxes provided by law, industrial users shall pay to the Joint Sewage Board an industrial waste surcharge for the privilege of using the Joint Sewage Treatment Plant for treating industrial wastes or other special wastes accepted for discharge into the district's sanitary sewer system. The industrial waste surcharge shall be computed and collected by the Board in accordance with its Rules and Regulations.

7. Enforcement; Penalties.

a. Any person who violates any provision of paragraph 5 above shall be liable to the Board for a civil penalty not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00) for each violation, to be assessed by the Board after a hearing or opportunity to be heard in ac-

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cordance with the procedures set forth in the Board's Rules and Regulations. Each violation shall be a separate and distinct violation, and in the case of a 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 Board's attorney in any court of competent jurisdiction.

b. In addition to the power to assess penalties as set forth in subsection (1) above, the Board is hereby empowered, following a hearing or opportunity to be heard in accordance with the provisions of its Rules and Regulations, to issue an order in the name of the Board and of the District enjoining the violator from continuing the violation. Any such order of the Board shall be enforceable in an action brought by the Board's attorney in any court of competent jurisdiction.

c. Any civil penalty or final order issued by the Board pursuant to subsection (b) may be reviewed in a proceeding brought pursuant to Article 78 of the New York CPLR. Application for such review must be made within 30 days after service in person or by mail of a copy of the determination or order upon the attorney of record for the applicant and of each person who has filed a notice of appearance; or upon the applicant in person if not represented by an attorney.

d. Any person who willfully violates any provisions of paragraph 5 above shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Three Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment of not more than six months, or by both such fine and imprisonment. 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.

e. Any person violating any provision of paragraph 5 above shall, in addition, be liable to the joint Sewage Board for any expense, loss or damage occasioned to the Board by reason of such violation, and any expense incurred in correcting the violation.

f. The Board's attorney, or the attorney acting on behalf of any such district or extensions thereof at the request of the Joint Sewage Board, shall have the right to seek equitable relief in the name of the District to restrain the violation of, or to compel compliance with, any provision of paragraph 5 above.

g. Notwithstanding any inconsistent provisions of law, whenever the Board finds after investigation, that any user within the District is causing, engaging in or maintaining a condition or activity which, in its judgment, presents an imminent danger to the public health, safety or welfare, or to the environment, or is likely to result in irrevocable or irreparable damage to the Binghamton-Johnson City Joint Sewage Treatment Plant, 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 Board may, without prior hearing, order such user by notice in writing whenever practicable, or in such other form as in the Board's judgment will reasonably notify such person whose 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. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of notice is impracticable, the Board may take all appropriate action (including disconnecting the user's premises from the District's sanitary sewer system) in order to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) days, the Board shall provide the user an opportunity to be heard in accordance with the provisions of its Rules and Regulations.

8. Cooperation of Town Officials. Town officers and employees shall cooperate fully with the Board in the Board's enforcement and administration of its Rules and Regulations within the sewer districts and extensions thereof in the Town of Kirkwood.

9. Continuation of Prior Agreements and Understandings. Adoption by the Town of the within local law as requested by the Joint Sewage Board is not intended by the Town of Joint Sewage Board to modify in any respect,

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the provisions of Articles 4 and 13 of the agreement dated December 20, 1968 by and between the Town, the City of Binghamton and the Village of Johnson City, acting for and on behalf of the later created Joint Sewage Board, which obligated the Joint Sewage Board “to receive and dispose of sewage from the sewer system of the User and from any addition to such system within the Town of Kirkwood” and obligated the Town “to furnish, for treatment in accordance with the agreement all of the sewage originating within its boundaries as defined in Exhibit I and received by a public sewer system and to pay the charges for such treatment during the life of this agreement and” obligated the Joint Sewage Board “to receive all of such sewage and to furnish sufficient facilities for treatment during the life of this agreement.” All contractual rights of the parties incident to said agreement dated December 20, 1968 remain valid and in full force and effect.

A Memorandum of Understanding has been entered into between the Town and Joint Sewage Board providing, among other things, that:

- a. The Joint Sewage Board has developed pursuant to Title 40, Section 403.8 of the Code of Federal Regulations, a pretreatment program and pursuant thereto has adopted rules and regulations pertaining to the discharge of waste waters to the jointly-owned waste collection and treatment system.
- b. Incident to rules and regulations, a new industry locating within the Town intending to discharge more than one percent (1%) of the Joint Sewage Board is required to seek a permit from said Joint Sewage Board prior to discharging any effluent to be treated in said plant.
- c. The purpose of requiring such new industry to comply with the permitting process is to permit the Joint Sewage Board to attempt to identify any pollutants which such new industry may be discharging to the treatment plant.
- d. Should the industrial waste water from said new industry consist only of sanitary waste water containing no types of pollutants designated for control by EPA regulations or by Joint Sewage Board rules and regulations, in such event the application for said permit by said new industry shall not be denied solely by reason of the fact that said anticipated discharge may exceed one percent (1%) of the average daily flow tributary to the treatment plant of the Joint Sewage Board.
- e. The Joint Sewage Board will not seek to control the volume of flow from any new industry locating within the Town discharging only sanitary waste water to the treatment plant by reason of the adoption by the Joint Sewage Board of its said rules and regulations and the adoption by the Town Board of said model sewer local law and without reference to the said agreement of December 20, 1968.
- f. Adoption by the Town of this Local Law is in reliance upon the provisions of said Memorandum of Understanding.