



**DEPARTMENT OF  
ENVIRONMENT & PLANNING**

**DIVISION OF  
SEWERAGE MANAGEMENT**

**RULES & REGULATIONS**  
FOR  
**ERIE COUNTY**  
**SEWER DISTRICTS**

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## **INTRODUCTION**

The protection of Sanitary Sewerage facilities can be achieved through the prevention of discharge of deleterious substances and Surface Runoff of other liquids for which they were not intended and which can render them a public nuisance and hazard instead of a public service. These regulations are for the purpose of securing optimum performance from the facilities installed and to insure compliance with all applicable state and federal laws, including the Clean Water Act (United States Code 33 Section 1251 et.seq.) and the General Pretreatment Regulations (40 CFR 403).

The County Law Article 5-A, section 264 states; The board of supervisors (now known as "County Legislature") shall have the power to adopt, amend and repeal, from time to time, rules and regulations for the operation of a county district and the use of water in a water district including regulation of the manner of making connections and the construction of the county system and all facilities and appurtenances.

**ARTICLE I**

**DEFINITIONS**

**Section 101** "Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

**Section 102** "Board" shall mean the Board of Managers of an Erie County Sewer District, or its authorized representatives.

**Section 103** "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees centigrade, expressed in milligrams per liter.

**Section 104** "Building (House) Drain" shall mean that part of the lowest horizontal piping of the drainage system which receives the discharge from soil, waste and other sanitary drainage pipes inside the walls of the building and conveys it to the Building Sewer, which begins 5 feet outside of the building.

**Section 105** "Building (House) Sewer" shall mean the Sewer from the Building Drain beginning at a point five (5) feet outside of the building wall and extending to its point of connection to the District Sewerage System. A building sewer is privately owned and maintained.

**Section 106** "Categorical Pretreatment Standards" shall mean standards promulgated pursuant to the Act specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a Sewage Treatment Plant by existing or New Sources in specific industrial categories.

**Section 107** "Construction Specifications For Erie County Sewer Districts" shall mean the standard list of materials, specifications and standard details of construction as approved by the Erie County Sewer Districts, published by and available from the Erie County Department of Environment & Planning, Division of Sewerage Management.

**Section 108** "Cooling Water" shall mean the water discharged from any system where fresh water is used for cooling but does not come into direct contact with the process reactants or products.

**Section 109** "District" shall mean Erie County Sewer Districts 1, 2, 3, 4, 5, 6 and 8 and their employees.

**Section 110** "Flash Point" shall mean the lowest temperature at which the vapor of a volatile substance will ignite as determined by using the test methods specified in 40 CFR Part 261.21.

**Section 111** "Flow Rate" shall mean the volume of Sewage wastes or liquid over a specified period of time.

**Section 112** "Garbage" shall mean solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

**Section 113** "Ground Water" shall mean all subsurface water, including, but not limited to that part which is in the zone of saturation.

**Section 114** "Industrial User" shall mean any industrial, institutional, commercial User, or a User contributing Sewage from any other non-domestic source, which utilizes the services of an Erie County Sewer District.

**Section 115** "Industrial Waste" shall mean any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, which cause or might reasonably be expected to cause pollution.

**Section 116** "Industrial Waste Surcharge – User Charge" shall mean a financial charge levied on Industrial Users of the Sewerage System for the additional cost of treating abnormal strength Sewage.

**Section 117** "I/I" shall mean Infiltration/Inflow, where Ground Water and surface water enters the sanitary sewer system.

**Section 118** "Inspection" shall mean the observation for the purpose of certification of the installation or modification of Sewers or Sewerage Systems under a valid permit issued by the District, or a District approved Sewer extension or Subdivision plan; or the verification of Pretreatment for compliance to a District Pretreatment program or Industrial Wastewater Discharge Permit. The presence of a District employee or District representative at or on a Person's premises or visits by a District employee or representative to a location where an activity has or is occurring and where a valid permit or approved Sewer extension or Subdivision plan does not exist shall not be construed as an Inspection. District representative shall include, but not be limited to, personnel designated to perform Inspection under District contracts for Sewage treatment.

**Section 119** "Interference" shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the Sewage Treatment Plant, its treatment processes or operations; or its sludge processes, use, or disposal, and therefore, causes a violation of the Sewage Treatment Plant's NPDES or SPDES permit or any other permit, or which prevents Sewage sludge use or disposal in compliance with specified applicable federal, state or local statutes, regulations or permits.

**Section 120** "May" is permissive.

**Section 121** "mg/l" shall mean milligrams per liter.

**Section 122** "NYSDEC" shall mean the New York State Department of Environmental Conservation.

**Section 123** "NPDES" shall mean the National Pollutant Discharge Elimination System established pursuant to the Act.

**Section 124** "National Pretreatment Standard" shall mean any regulation containing pollutant discharge limits promulgated by USEPA under Sections 307(b) and (c) of The Act applicable to Industrial Users, including the general and specific prohibitions found in 40 CFR 403.5.

**Section 125** "New Source" shall mean any building structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of Section 307(c) of The Act which will be applicable to such source, provided that: the building, structure, facility or installation is constructed at a site at which no other source is located; or the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or the production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

**Section 126** "Other Wastes" shall mean Garbage, refuse, decayed wood, sawdust, shavings bark, sand, lime, cinders, ashes, offal, manure, tar, dyestuffs, acids, chemicals, and all other discarded matter not Sewage or Industrial Waste which may cause or might reasonably be expected to cause pollution.

**Section 127** "Pass Through" shall mean a discharge which exits the Sewage Treatment Plant in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Sewage Treatment Plant's National or State Pollutant Discharge Elimination System discharge permit, including an increase in the magnitude or duration of a violation.

**Section 128** "Person" or "Persons" shall mean any individual, public or private corporation, political Subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.

**Section 129** "pH" shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter.

**Section 130** "Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in Wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned Sewage Treatment Plant.

**Section 131** "Pretreatment Requirement" shall mean any substantive or procedural requirement, related to Pretreatment other than a National Pretreatment Standard imposed on an Industrial User.

**Section 132** "Privately Owned" shall mean ownership of Sewers and Sewerage System components by a Person other than the District.

**Section 133** "Receiving Waters" shall mean a natural water course or body of water into which treated or untreated Sewage is discharged.

**Section 134** "SEQRA" shall mean the New York State Environmental Quality Review Act.

**Section 135** "SPDES" shall mean the State Pollutant Discharge Elimination System established by New York State under a delegation agreement with USEPA pursuant to the Act.

**Section 136** "Sanitary Sewer" shall mean a Sewer which carries Sewage and to which storm, surface, and Ground Waters are not intentionally admitted.

**Section 137** "Septage" shall mean all liquids and solids in and removed from a septic tank, cesspool or other domestic Sewage treatment system and which does not contain Industrial Waste and/or Wastewater.

**Section 138** "Sewage" shall mean the water carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such Ground Water Infiltration and surface water as may be present. Wastewater or the admixture with Sewage of Industrial Wastes or Other Wastes as herein also is considered "Sewage".

**Section 139** "Sewage Treatment Plant" shall mean a facility for the purpose of treating, neutralizing or stabilizing Sewage, including treatment or disposal plants, the necessary intercepting, outfall and outlet Sewers, pumping stations integral to such plants or Sewers, equipment and furnishings thereof and their appurtenances.

**Section 140** "Sewer" shall mean a pipe or conduit for carrying Sewage including all other constructions, devices and appliances appurtenant thereto.

**Section 141** "Sewerage System" shall mean pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting Sewage, Industrial Waste or Other Wastes to a point of ultimate disposal.

**Section 142** "Shall" is mandatory.

**Section 143** "Significant Industrial User" shall mean any User subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N, any other User which discharges an average 25,000 gallons or more of process Wastewater per day (excluding sanitary, cooling and boiler blowdown water), contributes an Industrial Waste which makes up five percent (5%) or more of the dry weather average hydraulic or organic capacity of the Sewage Treatment Plant or is designated as such by the District on the basis that the Industrial User has a reasonable potential to adversely affect the Sewage Treatment Plant's operation or to violate a Pretreatment Requirement or standard.

**Section 144** "Slug Discharge" shall mean any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

**Section 145** "Subdivision" shall have the same meaning as such term is defined in Section 17 1501 of the New York State Environmental Conservation Law.

**Section 146** "Surface Runoff" shall mean water which results when the rate of precipitation, including snowmelt, exceeds the rate at which water infiltrates the ground.

**Section 147** "SSO" shall mean Sanitary Sewer Overflow.

**Section 148** "Suspended Solids" (SS) shall mean solids that either float on the surface of, or are in suspension in water, Sewage or other liquids and which are removable by floatation, skimming, sedimentation or filtration.

**Section 149** "Tamper" shall mean to interfere with or bring about an improper situation or condition, which includes, without limitation, covering or concealing a sanitary manhole cover, or any other practice which hinders access to the same.

**Section 150** "Toxic Pollutant" shall mean those pollutants, or combinations of pollutants, including disease causing agents, which upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, are known to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. Toxic Pollutants shall include, but not be limited to, any pollutant identified pursuant to Section 307 (a) of the Act.

**Section 151** "Use" shall mean that a Building Sewer is joined to the Sewerage System.

**Section 152** "USEPA" shall mean the United States Environmental Protection Agency.

**Section 153** "User" shall mean any Person who contributes, causes or permits the contribution of Sewage into the District's Sewerage System either directly or indirectly.

**Section 154** "Wastewater" shall mean fluid-carried Industrial Waste including admixtures with human or animal wastes.

**Section 155** Words, if defined in or pursuant to the Act and not otherwise defined herein, shall have the meaning so defined in or pursuant to the Act.

## **ARTICLE II**

### **USE OF SANITARY SEWERS REQUIRED**

#### **Section 201 - Connection of Facilities**

The owner of any building which has internal plumbing and is used for human occupancy, employment, recreation or other human activity, situated within a District and accessible to a Sanitary Sewer is required at the property owner's expense to connect the Building Sewer to the Sanitary Sewer in accordance with the provisions of the Construction Specifications For Erie County Sewer Districts. The connection shall be made within ninety (90) days after date of official notice to connect, providing that said Sanitary Sewer is available to the building to be serviced. Buildings located beyond three hundred (300) feet from the Sanitary Sewer or which cannot be economically connected because of unusual physical limitations may be exempt from connecting if they have a private Sewage disposal system which is operating properly and which has been approved by the Erie County Health Department or the New York State Department of Environmental Conservation, and they receive permission from the District.

## **ARTICLE III**

### **BUILDING SEWER AND SEWERAGE SYSTEM EXTENSIONS**

#### **Section 301 - Permit**

No Person shall uncover, make any connection to, opening into, use, Tamper, or disturb any District Sanitary Sewer or appurtenance thereof without a permit. Connection shall be permitted under Inspection only with a written permit from the District. The owner or his agent shall make application for a permit for connection or other work pertaining to the Sewerage System on the form furnished by the District office, supplemented by any plans, specifications or other information considered pertinent in the judgment of the District.

Plans are required for multiple dwellings, non-residential, industrial, institutional, or public buildings. All applications for non-residential connections shall provide information on proposed Wastewater discharges, or if none, a certification that no Industrial Waste or other waste will be discharged. For connections where oil and grease may be discharged, calculations for separators shall be provided by the owner or his engineer. The minimum tank size acceptable to the County is 750 gallons.

The application becomes a permit to connect when signed by a District representative. Applications when made by the owner's agent, must show written authorization from the property owner. The property owner or his agent shall also obtain all necessary Federal, State, County, City, Town or Village permits. The applicant shall advise the District, and if required, the municipality when the connection is ready for Inspection.

**Section 302 - Cost of Building Sewer**

All expenses incident to the installation and connection of the Building Sewer shall be borne by the owner. The owner shall indemnify the County for any loss or damages it sustains that may directly or indirectly be occasioned by the installation of the Building Sewer.

**Section 303 - Separate Building Sewer**

A separate Building Sewer shall be provided for each building except where special permission is received from the Erie County Department of Environment and Planning, Division of Sewerage Management (hereafter "Division of Sewerage Management").

**Section 304 - Use of Existing Building Sewer**

Existing Building Sewers may be used only when they are found, after inspection, examination and testing, to meet all requirements of the Construction Specifications For Erie County Sewer Districts as published by and available from the Division of Sewerage Management. The cost of said inspection shall be borne by the owner.

**Section 305 - Footing Drains and Roof Drains**

Footing drains, roof drains, sump pumps, or other drains discharging Surface Runoff or Ground Water shall not be connected to the Sanitary Sewer.

**Section 306 - Sewerage System Extensions - Subdivisions**

Persons desiring to construct extensions to the District Sewerage System as part of a Subdivision plan shall make application to the Division of Sewerage Management. Three (3) sets of applications to construct a Sewerage System consisting of SEQRA determination, a NYSDEC Application (No. 92 19 4), Project Data (No. 92 15 8), an engineer's report, and six (6) sets of construction plans showing the proposed construction, shall be forwarded to the Division of Sewerage Management. Such submission shall conform to the requirements of Title 6 NYCRR Part 653.3.

Extensions to the Sewerage System shall be designed and constructed in accordance with the Design Requirements for Subdivision and Sanitary Sewer Extensions as published by and available from the Division of Sewerage Management.

The Division of Sewerage Management will review the application for conformance to the Construction Specifications for Erie County Sewer Districts. Following review, the application will be submitted by the Division of Sewerage Management to the New York State Department of Environmental Conservation or their representative for final review and approval.

Any extension to the Sewerage System constructed as part of a Subdivision plan shall become the property of the District upon acceptance and connection to the District's Sewerage System, unless such extensions are approved by the District as Privately Owned Sewers. Privately Owned extensions to the Sewerage System shall only be permitted if a duly formed homeowner's association, condominium corporation, mobile home park, transportation corporation or similar legal entity exists and requests to own,

maintain and operate the extension. Approval of Privately Owned Sewers shall be limited to Subdivision plans not capable of being further extended to real property outside of the Subdivision boundary.

An easement and title form, furnished by the Division of Sewerage Management, conveying to the County of Erie the required easement and title for the planned Sewerage System shall be submitted to the Division of Sewerage Management prior to submission of the plans to the NYSDEC. For facilities other than Sanitary Sewers, such as but not limited to, pumping stations, the District may require fee simple title of the facility's site.

Inspections during construction will be made by a District representative. The Sewerage System shall not be covered until such Inspection has been completed. The Division of Sewerage Management will certify to the approving agency that installation, inspection, and testing have been completed, and the Sewerage System has been accepted.

Inspection and acceptance does not relieve the owner of the responsibility for any extra expense to the District due to faulty installation or materials nor does it relieve the owner of the responsibility to correct such faulty installation or materials. The electronic files of the record drawing containing the plans and profiles showing the final construction, locations and other pertinent information shall be submitted by the owner to the Division of Sewerage Management prior to acceptance.

Sewerage System extensions shall not be connected to the District's Sewerage System until all required tests have been completed and approved by the Division of Sewerage Management.

**Section 307 - Sewerage System Extensions - Other**

Persons may apply to the District to allow the extension of a Sewerage System where such extension is not part of a new Subdivision plan.

The District upon finding that Sewer service can be extended to the property as proposed, and finding that the requirements of this section have been met, may authorize the extension to be installed and specify the size and location thereof.

The design, easements, construction, Inspection, testing and acceptance requirements shall be as provided in Section 306.

The Person applying shall provide to the Division of Sewerage Management SEQRA determination, three (3) sets of a NYSDEC Application (No. 92 19 4), Project Data (No. 92 15 8) and engineer's report and six (6) sets of construction plans showing the proposed construction.

Any extension to the Sewerage System approved under this section shall become the property of the District upon acceptance and connection to the District's Sewerage System, unless such extensions are approved by the District as Privately Owned. Privately Owned Sewers are required where they are located on or serve only one real property and are not capable of being further extended to serve other real property. Privately Owned Sewers may also be approved where they meet the conditions for Privately Owned Sewers pursuant to Section 306 of these Rules and Regulations.

The Person making application under this Section may petition the Board, in writing, for financial assistance in extending the Sewerage System. The petition shall demonstrate to the satisfaction of the Board that the benefits of such extension accrue to properties in the District other than the parcel or tract immediately served by said Sewerage System extension.

The District may, in consideration of the benefit to the District as a whole, supply a portion of the Sewer at the District's expense in an amount not to exceed the budgetary amount available and determined in the following manner:

a) The District may provide design, pipe and manhole materials only for a proposed public Sewerage System extension.

b) Where a road crossing was not installed by the District at the time of Sewer installation the District may provide the pipe and man-hole materials necessary for the installation of a service of sufficient size to permit future extension.

If the Board provides materials, the applicant shall, before proceeding with construction, provide a performance bond, security deposit or certified check, payable to the Erie County Comptroller, in an amount equal to the cost of materials provided by the District. In the event materials supplied by the District are lost or rendered unusable by reason of the applicant's action or inaction, the bond, security or certified check supplied by the applicant shall be forfeited.

The person making the application shall provide insurance, naming the County as insured. The insurance form shall be acceptable to the County Attorney's Office prior to commencement of any work on any proposed Sewerage System installation for which the District supplies materials.

The extension shall become the property of the District upon acceptance and connection to the District's sewerage system, unless such extension is approved by the District as Privately Owned Sewers.

An easement and title form, furnished by the Division of Sewerage Management, conveying to the County of Erie the required easement and title for the planned Sewerage System shall be submitted to the Division of Sewerage Management by the owner prior to submission of the plans to the NYSDEC. For facilities other than Sanitary Sewers, such as but not limited to, pumping stations, the District may require title of the facility's site.

Inspections during construction will be made by a District representative. The Sewerage System shall not be covered until such Inspection has been completed. The Division of Sewerage Management will certify to the owner that installation, inspection, and testing have been completed, and the Sewerage System has been accepted.

Inspection and acceptance does not relieve the owner of the responsibility for any extra expense to the District due to faulty installation or materials nor does it relieve the owner of the responsibility to correct such faulty installation or materials. A complete set of record drawings on a hard copy, including the electronic file of same, showing the final construction, locations and other pertinent information shall be submitted by the owner to the Division of Sewerage Management prior to acceptance.

Sewerage System extensions shall not be connected to the District's Sewerage System until all required tests have been completed and approved by the Division of Sewerage Management.

**Section 308 - Posting of Maintenance Bonds**

Any Person installing an extension of a 750 feet or more to a District Sewerage System shall post a bond with the County of Erie, guaranteeing the Sewerage System for a period of two (2) years from the time of acceptance by the Division of Sewerage Management. During this period, any defects in the Sewerage System, directly or indirectly occasioned by the installation of the extension, shall be corrected at the expense of said Person. The maintenance bond shall be in an amount equal to 25% of the cost of construction of the Sewerage System.

**Section 309 - Construction Specifications for Sewerage System Extensions and Building Sewers**

Sewerage System extensions and Building Sewers shall be constructed in accordance with the specifications set forth in Construction Specifications for Erie County Sewer Districts.

**Section 310 - Sewer Disconnection**

A District permit is required before a Building Sewer is disconnected or the building demolished or otherwise changed or allowed to change such that the Building Sewer is susceptible to the entrance of ground or Surface Runoff. The property owner or his authorized

representative or contractor shall expose the Building Sewer at the right of way line when the Sanitary Sewer is located near the pavement and/or sidewalk area or at the actual Sewer connection when located in unpaved areas. A permanent water tight plug or device acceptable to the District shall be installed in the Building Sewer. District personnel shall inspect the work prior to the backfilling of the excavation.

Where the Building Sewer is exposed to Surface Runoff or Ground Water Infiltration due to damage or abandonment, the Sewer shall be immediately disconnected from the District Sanitary Sewer. All costs for exposing, installing a plug or otherwise disconnecting the Building Sewer and backfilling are to be borne by the property owner.

If the property owner fails to disconnect the Building Sewer, the District may disconnect the Building Sewer 20 days after written notice, and assess the cost against the property.

#### **ARTICLE IV**

#### **/// REMEDIAL WORK MANDATE**

#### **Section 401 - I/I Removal Requirement**

Infiltration/Inflow (I/I) removal is required for any project that is consistent with Article III; Section 306 or Section 307. These projects shall provide remedial/rehabilitation work to remove I/I from the existing sanitary sewer system equal to four or more times their proposed peak flows. The amount of I/I contribution per source shall be as determined by the District and approved by NYSDEC. The locations of each rehabilitation site shall be identified by the District. This remedial work must be completed prior to the project's final acceptance and certification by the District.

**ARTICLE V**

**SEWAGE DISCHARGE REGULATIONS**

**Section 501 - Prohibited Discharges**

No Person shall discharge or cause to be discharged, either directly or indirectly to the Sewerage System, any pollutant, substance or Wastewater which causes or could cause Interference, Pass Through, be incompatible with the Sewerage System or sewerage treatment plant, limit sludge disposal options of a Sewage Treatment Plant or damages, inhibits or disrupts the operation or performance of the Sewerage System or the Sewage Treatment Plant.

Without limiting the generality of the foregoing, the following substances and Wastewaters are specifically prohibited from discharge to the District Sewerage System:

- a. Any pollutant(s) or substance(s) with a Flash Point of less than 140 degrees Fahrenheit (60 degrees Celsius), or which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Sewerage System or to the operation of the Sewage Treatment Plant. Prohibited substance(s) include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substance which is a fire hazard or a hazard to the Sewerage System;
- b. Waters or wastes containing any toxic waste, pollutant or poisonous solid, liquid, or gas in sufficient concentration, either singly or by interaction with other substances, to injure or interfere with any Sewage treatment process, or to constitute a hazard to humans or animals or create a public nuisance, or create any hazardous or toxic effects in the Receiving Waters of the Sewage Treatment Plant effluent;

- c. Waters or wastes containing substances which are not amenable to treatment or reduction by the Sewage treatment processes employed;
- d. Any noxious or malodorous liquid, gas, or solid which either singly or by interaction with other substances or waste is sufficient to create a public nuisance, cause acute worker health or safety problems or is sufficient to prevent entry into the Sewers for maintenance and repair;
- e. Floating solids and solid substances of such size, or viscous substances in quantities which cause or may be expected to cause obstruction to the flow in the Sewerage System or cause Pass Through or Interference, including, but not limited to: ashes, cinders, sand, spent lime, stone or marble dust, mud, metal, glass, grinding or polishing wastes, plastics, wood, shavings, rags, waste paper, grass clippings, straw, spent grains or hops, animal blood, paunch manure, hair, hides or fleshings, feathers, entrails, animal tissues, bones, fuel, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil;
- f. Garbage is prohibited, except that Garbage grinders are permitted for the purpose of discharging food wastes to the Sewerage System. Such food wastes shall not contain particles greater than one half inch (1/2") in any dimension. The installation and operation of any Garbage grinder equipped with a motor of three fourths (3/4) horse power (0.76 hp metric) or greater shall be subject to the approval of the District;
- g. Any Sewage containing oils and/or grease, or substances which may float, precipitate, solidify, congeal, or become viscous at temperatures between 32 degrees Fahrenheit (0 degrees Celsius) and 104 degrees Fahrenheit (40 degree Celsius). No User shall discharge oil and/or grease which attaches to or builds up on pipe walls or other sewerage structures, and such oil and grease shall be limited to no more than 100 mg/l. Discharge of emulsified,

polarized or homogenized oil and grease may be permitted if specifically authorized by an industrial wastewater discharge permit issued by the Division of Sewerage Management;

- h. Any radioactive pollutant(s) or substance(s), or any radioactive isotope of half life or concentration exceeding limits established pursuant to state or federal laws or regulations;
- i. Water or wastes having a pH lower than 5.0 or higher than 12, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the Sewerage System or Sewage Treatment Plant;
- j. All discharges at temperatures that will inhibit biological activity at the Sewage Treatment Plant or cause damage to the Sewerage System, but in no case liquid or vapor having a temperature higher than 122 degrees Fahrenheit (50 degrees Celsius) or a discharge of such quantity and temperature as to cause the temperature of the influent at the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius), except that a lower temperature may be required by the District for oil or grease removal facilities;
- k. Surface Runoff, Ground Water, roof runoff, sump pump discharge, subsurface drainage, or Cooling Water;
- l. Discolorations, such as, but not limited to, dye waters and vegetable tanning solution;
- m. Slug Discharges;
- n. Livestock wastes or Wastewater not specifically authorized by an Industrial Wastewater Discharge Permit issued by the District;

- o. Any trucked or hauled pollutant(s) except at designated discharge points as specifically authorized by a Wastehauler Discharge Permit issued by the District and the appropriate approved NYSDEC Waste Transporter Permit; or
- p. Any pollutant, including oxygen-demanding pollutants such as Biochemical Oxygen Demand (BOD), released in a discharge at a Flow Rate and/or pollutant concentration which will cause Interference.

**Section 502 - Procedures for Setting Discharge Limits**

The Board shall adopt specific limits for chemical elements, chemical compounds, other substances or physical characteristics of Wastewater discharge as the Board determines appropriate:

- a. For Sewage Treatment Plants owned by the District, the User discharge limits shall be determined by the Board based on the capability of the Sewage Treatment Plant, applicable State and Federal regulations and the District's Pretreatment program.
- b. For Sewage Treatment Plants owned or under the jurisdiction of a Sewer District, municipality, public authority or Person other than the District and to which the District discharges its Sewage for conveyance, treatment and/or disposal, the Board shall utilize the limits duly established by the owner of such Sewage Treatment Plant, applicable state and federal regulations and the District's Pretreatment program, to the extent such limits are more restrictive than the limits established pursuant to these Rules and Regulations.

The Board shall, by resolution, propose limits to be adopted. This resolution shall be published once in the official newspapers of the County and a newspaper of general circulation in the areas affected. The resolution shall identify each limit proposed by the Board for Sewage Treatment Plants owned by the District, otherwise the limits duly adopted for a Sewage Treatment Plant owned or controlled by

another District, municipality, public authority or Person may be identified by reference to such ordinance, rule or regulation of the Sewage Treatment Plant owner. There shall be thirty (30) days provided for public comment, after which, at a regularly scheduled Board meeting, the Board shall hold a hearing on the proposed resolution so published. At such regularly scheduled meeting or at a regular meeting thereafter, the Board shall adopt limits by resolution taking into account any comments received at the hearing, including any comments sent by mail in time for presenting at the hearing.

In the event the Board determines that any of the limits hereunder established need to be changed, modified, added to or deleted, the Board shall follow the same procedures of this article as for the original adoption of limits.

**Section 503 - Discharge of Abnormal (Surchargeable) Strength Sewage**

No Person shall discharge or cause to be discharged to the public Sewerage System Wastewater or Other Wastes containing or causing in excess of the following:

- a) Abnormal concentrations of inert Suspended Solids (SS), which are defined as concentrations exceeding 250 mg/l;
- b) Abnormal concentrations of BOD, which are defined as concentrations exceeding 250 mg/l;
- c) Abnormal concentrations of phosphorus (P), which are defined as concentrations exceeding 5.0 mg/l measured as total phosphates expressed as phosphorus;
- d) Abnormal concentrations of any other chemical element, chemical compound, substance or characteristic not otherwise specifically prohibited by these Rules and Regulations where such abnormal concentrations are defined as exceeding by one and one half (1.5) times the concentration normally found in domestic Sewage, unless such Person has received written prior permission from the District, or has been issued an Industrial Wastewater Discharge Permit for such discharge.

Abnormal strength pollutants or Wastewater not otherwise prohibited by these Rules and Regulations may be permitted by the Board through Industrial Wastewater Discharge Permits. In cases where effluent characteristics of a Wastewater discharge exceed the limits for BOD, SS, P, or other pollutants the acceptability of such Wastewater will be determined by the District based upon the volume and character of the discharge, compliance with these Rules and Regulations and the capacity of the Sewage Treatment Plant. The payment of an Industrial Waste Surcharge may be required to cover the costs of treatment for the abnormal strength Sewage.

**Section 504 - Oil and Grease and/or Sediment Separators**

Oil and grease and/or sediment separators shall be provided by the owner when, in the opinion of the District, they are necessary for the proper handling of Sewage containing oil and grease in excessive amounts, sediment or other harmful ingredients. Such separators may not be required for private living quarters that house greater than a single family home. All separators shall be of a type and capacity approved by the District and shall be located as to be readily and easily accessible for cleaning and Inspection. Such separators shall be designed and sized such that Wastewater residence time within the separator is sufficient to effect separation. Wastewater temperature, where coagulation is relevant to oil and grease removal, shall be limited pursuant to Section 501(f) of these Rules and Regulations. For buildings converted to Uses which require oil and grease and/or sediment separation, such separator shall be installed at the time of conversion.

Where local zoning permits a new building Use which would require oil and grease and/or sediment separators, the design of such building shall allow the future installation of oil and grease and/or sediment separation facilities.

All separators shall be maintained by the User, at the User's expense, in continuously efficient operation. Cleaning, pumping and off-site disposal records shall be maintained by the User for three (3) years and supplied to the District upon written request to the User.

**Section 505 - Spill Notification Procedures**

In cases of any unpermitted or Slug Discharge to the Sanitary Sewer, it is the responsibility of the User to immediately notify the District and the affected Sewage Treatment Plant of the discharge. The notification shall include the location, type, concentration and amount of material discharged, and corrective actions taken.

The User shall, within five (5) days of the unpermitted or Slug Discharge submit to the District a detailed written report describing the cause of the discharge and measures taken or to be taken to prevent future occurrences. Compliance with this section shall not relieve the User of any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable laws.

**Section 506 - Excessive Sewerage System Maintenance and/or Repair Expense**

Any User who causes discharges of Sewage that creates a stoppage, plugging, breakage, reduction in Sewer capacity or any other damage to the Sewerage System shall be liable for any additional maintenance and/or repair expenses caused by such a discharge. Expenses attributable thereto will be charged to that User.

Any Person who causes damage, stoppage, plugging, breakage, removal or disturbance of covers, reduction in Sewer capacity or any other damage to the Sewerage System shall be liable for the additional maintenance and/or repair expense. Expenses attributable thereto will be charged to that Person.

Refusal to pay the additional maintenance and/or repair expenses duly determined and levied by the Board shall constitute a violation of these Rules and Regulations and may be subject to fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable laws.

**Section 507 - Dilution of Discharge**

Except where expressly authorized to do so by an applicable Pretreatment Requirement or standard, no Industrial User shall ever increase the Use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Requirement or standard.

The Board may impose mass limitations on Users who are using dilution, or in the reasonable opinion of the Board may be using dilution. The Board may also impose mass limitations on Users in other cases where the imposition of mass limits may be appropriate in the reasonable opinion of the Board.

**ARTICLE VI**

**PRETREATMENT**

**Section 601 Pretreatment of Industrial Wastewaters**

Users shall comply with National Pretreatment Standards and Pretreatment Requirements.

Pretreatment prior to discharge to the Sewerage System is required for Wastewaters which exceed the effluent limitations established by these Rules and Regulations or which fail to meet any State or Federal standards which may govern a particular Industrial Waste and any other limits established by the Board.

The District may require any Industrial User to install and operate an Industrial Wastewater Pretreatment system to treat industrial flows prior to discharge to the District Sewerage System when it is necessary to measure, sample, restrict or prevent the discharge to the Sewerage System of certain wastes and constituents, to more equally distribute peak discharges of Industrial Wastewater or to accomplish any Pretreatment results required by the District.

When Pretreatment is required, three sets of a report and plans of the proposed system, prepared and signed by a professional engineer licensed in the State of New York, shall be submitted to the District for review and approval. The report shall contain the basis of design for the proposed facilities or processes. Plans shall include schematics or diagrams sufficient to describe the proposed facilities or processes. Such approval shall not relieve the User of the responsibility of meeting any required effluent limitations or complying with these Rules and Regulation or any other regulations, laws and codes.

Where Pretreatment facilities are provided for Wastewater, they shall be maintained continuously in satisfactory and effective operation, by the User at the User's expense.

#### **ARTICLE VII**

#### **INDUSTRIAL WASTEWATER DISCHARGE PERMIT**

##### **Section 701 - Industrial Wastewater Discharge Permit**

The Board may issue Industrial Wastewater Discharge Permits for any Wastewater discharge to the Sewerage System.

Prior to discharge of Industrial Waste to the District's Sewerage System the User shall make application for an Industrial Wastewater Discharge Permit. Application shall be made by completing an application form provided by the District. The completed application along with an application fee established by the Board shall be filed with the District. If after review of the application it is determined that a permit is necessary, the applicant shall provide any additional information necessary including, but not limited to, analyses of the Wastewater and measurement or estimate of Flow Rates.

Where spill potential has been identified by the District, the Industrial Wastewater Discharge Permit shall contain provisions for spill prevention requirements. An Industrial Wastewater Discharge Permit may be required even if no Wastewater is proposed to be discharged.

Spill prevention requirements shall include submitting a Spill Prevention and Control Plan and reporting yearly and upon significant change in conditions, that the plan has been followed. The plan shall contain, at a minimum, the following elements:

- a. Description of discharge practices, including non routine batch discharge, wash waters and rinses;
- b. Description of stored materials, chemicals and Toxic Pollutants if any;
- c. Steps for immediately notifying the Sewage Treatment Plant of spills or any discharge that is prohibited under Section 501 herein;
- d. Procedures for submitting a written notification within five days of a spill or prohibited discharge to the District; and
- e. Procedures used to prevent adverse impact from accidental spills or prohibited discharges to include, at a minimum, information on the following:
  - 1.) Inspection and maintenance of storage areas;
  - 2.) handling and transfer of materials;
  - 3.) loading and unloading operations;
  - 4.) control of plant site run off;
  - 5.) employee training;
  - 6.) containment structures or equipment including means to prevent entry to the Sanitary Sewer;
  - 7.) equipment available for spill response;
  - 8.) measures for containing, intercepting, absorbing and collecting pollutants;
  - 9.) Slug Control Plan - procedures to prevent Slug Discharge;
  - 10.) wash-up/cleanup operation; and
  - 11.) disposal of spilled materials.

#### **Section 702 - Transfer of Permit**

Industrial Wastewater Discharge Permits are issued to a specific User for a specific operation or process. An Industrial Wastewater Discharge Permit shall not be reassigned, transferred or sold to a new owner, new User, different premises, or a new or changed operation without the written approval of the District.

#### **Section 703 - Permit Duration**

All Industrial Wastewater Discharge Permits shall be for maximum three (3) year duration. The User shall apply for a permit reissuance no later than 90 days prior to the expiration of the User's existing permit. If the User fails to apply for a permit reissuance is not later than 90 days prior to the expiration of the User's permit, the User shall make a new application for an Industrial Wastewater Discharge Permit.

#### **Section 704 - Changes of Industrial Wastewater Discharge Permits**

As USEPA or NYSDEC adds or amends specific effluent guidelines, or as the Board deems necessary to protect employees, the Sewerage System, operations of the sewerage treatment plant, or to comply with the Sewage Treatment Plant's discharge permit requirements, the conditions of an Industrial Wastewater Discharge Permit may be amended by the Division of Sewerage Management. Written notice of proposed changes shall be sent to the permittee.

USEPA or NYSDEC mandated changes shall be complied within the time limits prescribed by the documents requiring the change. Changes required by the Board may include a reasonable time for compliance.

No fee shall apply to any amendment to a permit initiated by the Board.

When changes in permit conditions are necessary, the permittee shall submit a compliance schedule within thirty days of the notice of

the proposed changes. If such compliance schedule extends beyond the time set by the Board, such compliance schedule shall be subject to approval by the Board.

**Section 705 - Substantial Changes in Wastewater Character**

Whenever a User substantially alters the volume, character or strength of its Wastewater discharge to the Sewerage System as a result of production process change, process addition or subtraction, or other change in conditions, the User must notify the Board 30 days prior to altering the discharge. If this change or alteration significantly alters an existing Industrial Wastewater discharge Permit, the permittee shall apply for a new permit as outlined in Section 701.

**Section 706 - Industrial Waste Survey/Discharge Permit Application**

Users shall, when requested, complete an Industrial Waste Survey/Discharge Permit Application. The District may request the survey/application to be updated annually.

**Section 707 - Reporting Requirements**

The following reports are required to be submitted by the User to the District within the time period stated:

**a. Baseline Monitoring Report:** A Baseline Monitoring Report is required from all New Sources and Industrial Users who fall under new Categorical Pretreatment Standards.

Requirements for existing sources are that within one hundred eighty (180) days after the EPA's final administrative decision made upon a Categorical Pretreatment Standard, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a sewerage treatment plant are required to submit to the District the information listed in items (1) through (8) below.

Requirements for New Sources are that at least ninety (90) days prior to commencement of discharge, New Sources and sources that become Industrial Users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the District a report which contains the information listed in items (1) through (5) as well as item (7) as listed below. New Sources shall also be required to submit information on the method of Pretreatment that the User intends to Use to meet applicable Pretreatment standards.

- 1) The name and address of the facility, including the name of the operator and owners.
- 2) A list of any environmental control permits held by or for the facility.
- 3) A brief description of the nature, average rate of production and standard industrial classification of the operations carried out by the User. The description shall include a schematic process diagram showing the point of discharge to the Sewage Treatment Plant from the regulated processes.
- 4) The average daily and maximum daily flow of all regulated process streams and all nonregulated process streams which are combined with the regulated process streams prior to discharge to the Sewage Treatment Plant. The time, date, place and method of flow monitoring shall be indicated.
- 5) The results of sampling and analysis showing the nature and concentration in parts per million by weight (mg/l) (or mass units when required by the standard or the District) of all regulated pollutants for each regulated process. The daily average and maximum shall be reported for each regulated pollutant. The time, date, place, method of sampling, and analysis shall be indicated.

- 6) For existing Users, a statement shall be included by an authorized representative of the Industrial User and certified by a professional engineer registered in the State of New York as to whether the Categorical Pretreatment Standards or other Pretreatment Requirements are being met on a consistent basis and, if not, whether additional operation, maintenance or additional Pretreatment or treatment is required to consistently meet the standards or requirements.
- 7) For new Users, a statement shall be included by an authorized representative of the Industrial User and certified by a professional engineer registered in the State of New York that the User will meet all Categorical Pretreatment Standards and other applicable Pretreatment Requirements on a consistent basis.
- 8) For existing Users that require increased operations and maintenance to achieve compliance or which require additional treatment or Pretreatment prior to discharge to the Sewage Treatment Plant, a compliance schedule shall be included. This compliance schedule shall contain increments of progress such as completion dates of major events leading to the construction and operation of the additional treatment or Pretreatment facilities. No increment of the schedule shall exceed nine (9) months. Final acceptance of this compliance schedule is dependent on the prior approval of the District.

**b. Ninety (90) Day Compliance Monitoring Report:** A Ninety day Categorical Report is required for all Users subject to Categorical Pretreatment Standards. An initial report of compliance is required beginning ninety (90) days after the final issuance of Pretreatment standards as established by the EPA for existing Users, or for New Sources, ninety (90) days after commencement of discharge to the Sewage Treatment Plant.

**c. Operation and Maintenance/Pretreatment Certification:**

An operation and maintenance/Pretreatment certification is required from a categorical Industrial User or non-categorical Significant Industrial User. This certification must consist of a Baseline Monitoring Report and a ninety (90) day categorical report, and the Industrial User must obtain a statement reviewed by an authorized representative of the Industrial User and certified by a New York State Licensed Professional Engineer, indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional Pretreatment is required by the Industrial User to meet the Pretreatment standards.

**d. Changed Conditions Report:** Each Industrial User must notify the District of any planned significant changes to the User's operation or system which might alter the nature, quality, or volume of its Wastewater at least thirty (30) days before the change.

Immediate notification must be provided to the Division of Sewerage Management for any changes affecting the potential for a slug discharge, thereby allowing the District to reevaluate the need for a slug control plan or other actions to prevent such discharges.

1. The District may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater discharge permit application.
2. The District may issue an Industrial Wastewater Discharge Permit or modify an existing Industrial Wastewater Discharge Permit, in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are not limited to, flow or mass loadings changes of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

**e. Periodic Compliance Report:** All Users subject to Categorical Pretreatment Standards and all significant non categorical Users shall submit to the District a periodic compliance report twice yearly, unless more frequent reporting is required by their Industrial Wastewater Discharge Permit. Periodic compliance reports containing the information specified in Paragraphs a. 4) and a. 5) of this section.

**f. Notice of Violation/Resampling Requirements:** If sampling or analyses indicates a violation of the Industrial Wastewater Discharge Permit, the User subject to Categorical Pretreatment Standards or a significant non-categorical User shall notify the District immediately. The User shall also repeat the sampling and analysis and submit a written report with the results of the repeat analysis to the District within 30 days after becoming aware of the violation.

**g. Compliance Schedule Progress Reports:** All Users who have submitted a compliance schedule as part of the Baseline Monitoring Report shall, within fourteen (14) days of a compliance schedule milestone date and within 14 days of the final date for compliance, submit a progress report to the District indicating whether or not the milestone or final compliance date was met and, if not, when compliance with the milestone event is expected and its probable effect on the remainder of the compliance schedule.

**h. Notification of Discharge of Hazardous Wastes:** All Industrial Users shall notify the District, the EPA Regional Waste Management Division Director and the State Hazardous Waste Authority, in writing, of any discharge into the Sewage Treatment Plant of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261.

**i. Additional Reports:** Additional reporting requirements including, but not limited to, all water Uses, off-site Wastewater disposal and mass balances, may be specifically required by the Industrial Wastewater Discharge Permit, or by the District.

**j. Record Keeping:** All Industrial Users must keep records of monitoring activities and results for a minimum of three (3) years. In the case of pending litigation or when requested by the District, a longer retention period may be required.

**Section 708 - Discharge Monitoring**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these Rules and Regulations shall be determined in accordance with procedures approved in 40 CFR, Part 136 and conform with the New York State Department of Health, Environmental Laboratory Approval Program for Environmental and Wastewater samples. The sampling procedures and reports shall conform to the District's Sampling, Measurement and Analytical Guidelines.

**Section 709 - Refusal to Sample and Analyze**

If a User refuses to sample and analyze the Wastewater as requested, the Board may arrange to have the sampling and analysis performed. The User shall be liable for all costs for the sampling and analysis of the Wastewater in addition to any penalties which may apply under Article XI.

**Section 710 - Control Manhole**

An Industrial User shall provide an approvable sampling man-hole(s) or other sampling point(s) if required by the District. Measurement of Wastewater Flow Rates at the sampling point, and/or the set up and maintenance on the premises of sampling devices in a manner approved by the District, shall be provided if required by the District. Sampling required under an Industrial Wastewater Discharge Permit shall be obtained from the approved sampling point(s). The Industrial User shall ensure unrestricted access by District personnel to any sampling point.

**Section 711 - Calibration of Flow Rate Measuring Equipment**

Devices to measure Flow Rates shall be calibrated and certified at least once per year by a service Person authorized by the equipment manufacturer or otherwise by an independent Person qualified to calibrate and certify the device to measure Flow Rates. A copy of the certification shall be provided to the District. The cost of the certification shall be paid by the User. Temporary Flow Rate measuring devices shall be installed and calibrated in a manner acceptable to the District.

**ARTICLE VIII**

**WASTEHAULERS**

**Section 801 – Wastehauler Discharge Permit**

The Board may issue a Wastehauler Discharge Permit for any operator of liquid transport vehicle wishing to discharge Septage or Sewage to the District's Sewerage System. The operator must have a NYSDEC Septic Tank Cleaner & Industrial Waste Collector Permit, which indicates the Sewer District as the location and manner of disposing of waste, and must have an approved Erie County Standard Insurance Certificate.

Prior to discharge of trucked waste to the Districts' Sewerage System, the User shall make application for a Wastehauler Discharge Permit. Application shall be made by completing an application form provided by the District. The completed application along with an application fee established by the Board, shall be filed with the District. If after review of the application it is determined that more information is necessary, the applicant shall provide such additional information.

The Wastehauler Discharge Permit may specify limitations on the type character, quantity, time and location of wastes permitted to be discharged and the conditions for and manner of discharge, Flow Rates, sampling, analysis, and record keeping requirements.

The Wastehauler Discharge Permit will be valid for a period of one (1) year and a fee to discharge as determined by the Board shall be paid by the date indicated in the Permit.

The Board may immediately amend or revoke a Wastehauler Discharge Permit for noncompliance to its terms, to protect the Sewerage System or Sewage Treatment Plant, protect human life, the environment or to eliminate a nuisance, upon written notice to the permit holder.

#### **ARTICLE IX**

#### **CONFIDENTIAL INFORMATION**

#### **Section 901 - Availability of Information to Public Restrictions**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the District's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the District, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state or federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the SPDES or pretreatment programs, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

**ARTICLE X**

**INSPECTIONS**

**Section 1001 - Powers and Authority of Inspectors**

Per Erie County Administrative Code Section 9.02 (d); The commissioner of environment and planning or any authorized employee of the department may inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or for the purposes of ascertaining compliance or non-compliance with any rule or regulation or other promulgated pursuant to the County Charter or Code; provided, however, except in the case of emergency, such entry shall be at reasonable times and with due prior notice to the owner or occupant of said property.

Authorized representatives of the District, bearing proper identification, shall be permitted to enter all properties in the District and contracting areas which are served by a Sanitary Sewer for the purpose of Inspection, observation, records examination and copying, measurement, sampling and testing and the performance of any additional duties relative to the Use or connection to the Sanitary Sewer, in accordance with the provisions of these Rules and Regulations. Such access shall be provided during normal business hours upon notification to the owner, User, their employees, security personnel or representative. Inspection of sampling or measuring points identified in Industrial Wastewater Discharge Permits however, shall be permitted at any time. Unreasonable delays in allowing access to the User's premises or denial of such access shall be a violation of these Rules and Regulations.

In the event the District has reasonable cause to suspect that a violation exists, the District personnel shall be granted access upon so informing the owner, User, their employees, security personnel or representative that there is a suspected violation. In the event access is denied, or otherwise prevented, the District may seek a warrant from a court of competent jurisdiction to enter such property.

Pursuing a warrant to enter a property shall not limit the application of other remedies under these Rules and Regulations.

## **ARTICLE XI**

### **ENFORCEMENT**

#### **Section 1101 - Notice of Violation**

When the District finds that a User has violated or is violating any provision of these Rules and Regulations or the terms of an Industrial Wastewater Discharge Permit or order issued hereunder, or any other Pretreatment Requirement or standards, the District may serve upon that User a written Notice of Violation.

The User shall correct or eliminate the violation as soon as possible upon receipt of the Notice of Violation. Within twenty (20) days of the receipt of such Notice of Violation, the User shall submit to the District a written explanation of the cause of the violation and, if not corrected or eliminated, a plan and schedule for the correction and prevention thereof. The plan and schedule are subject to approval by the District. Submission of this explanation and plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the District to take any action, including but not limited to, emergency actions or any other enforcement action, without first issuing a Notice of Violation.

#### **Section 1102 - Consent Stipulations**

The Board may enter into a Consent Stipulation whereby a User agrees to voluntary compliance in lieu of further enforcement for non-compliance. Such Consent Stipulation shall include specific actions to be taken by the User to correct the noncompliance within time periods specified. Such Consent Stipulation shall have the same force and effect as a Compliance Order issued pursuant to Section 1103 of these Rules and Regulations and shall be judicially enforceable.

### **Section 1103 - Enforcement Hearing**

**a. Notice of Hearing:** Whenever it shall appear that there has been a violation of any provision of these Rules and Regulations, the Board may schedule a compliance hearing. If a User is other than the property owner, the Board may bring an enforcement action against either or both parties. The alleged violator(s) shall be served a Notice of Hearing at least twenty (20) days prior to the day specified for the hearing. The Notice of Hearing shall state the time and place designated for the holding of the hearing and particulars of the violation(s) charged.

**b. Hearing Procedure:** At the time of the hearing the alleged violator may be represented by legal counsel, and may present evidence, and shall have the opportunity to be heard. Failure to appear or to produce evidence or information relative to the alleged violation may be presumed an admission of the alleged violation(s).

The Board may, in lieu of conducting the hearing itself, appoint a hearing officer to conduct the hearing.

The Board shall determine if violation(s) have occurred based upon its own investigation as well as the evidence and statements presented at the hearing, and upon the hearing officer's report and recommendation where a hearing officer has been appointed.

**c. Hearing Findings:** Upon finding that a violation occurred the Board may levy a premium assessment for such violation pursuant to Section 1104. Where the Board finds that violations are continuing, or can be reasonably expected to continue, the Board may in addition to or in lieu of a premium assessment, issue a Compliance Order to the User requiring that the User come into compliance within a specified time frame, with milestone dates; or the Board may issue a Cease and Desist Order to the User directing the User to take such appropriate remedial or preventive action as may be needed to halt or prevent continuing or threatened violations including halting operations and/or suspending Wastewater discharge.

The Board may enforce these Rules and Regulations by stipulation, agreed settlement, consent order or other conciliation agreements.

A Compliance Order or Cease and Desist Order does not relieve the User of liability for any violation, including any continuing violation. The levy of a premium assessment or issuance of a compliance order or cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

#### **Section 1104 - Penalties**

Violations of Article III, Building Sewer and Sewerage System Extensions, Article V, Sewage Discharge Regulations, Article VI, Pretreatment, Article VII, Industrial Wastewater Discharge Permit, Article VIII, Wastehaulers, or Article X, Inspections will be subject to a premium assessment not to exceed a maximum of ten thousand dollars (\$10,000) for each violation.

Violations of any other Article of these Rules and Regulations will be subject to a premium assessment not to exceed a maximum of five hundred dollars (\$500) for each violation. Violations include the failure to pay any fees, charges or surcharges imposed hereby.

In determining the amount of the above premium assessments the Board may consider factors such as, but not limited to, the nature of the violation, the magnitude of impact of the violation on human health, the environment and/or treatment plant operation, economic benefit, the Users past violation record, and any other relevant factors.

Each day a violation exists shall constitute a separate violation. A day shall be a twenty four hour period beginning at 12:01 a.m. and ending the following 12:01 a.m.

### **Section 1105 - Emergency Suspensions**

The District may immediately suspend a User's discharge whenever such suspension is deemed necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of Persons. In case of such emergency suspension, the District shall attempt to provide reasonable advance notice to the User to correct the threatening discharge.

The District may also immediately suspend a User's discharge after informal notice to the User, if the discharge does or threatens to interfere with the operation of the Sewage Treatment Plant and/or Sewerage System or the discharge presents, or may present, an endangerment to the environment. In case of such suspension, the District shall attempt to provide reasonable advance notice to the User to correct the threatening discharge.

Any User notified of a suspension of its discharge shall immediately stop or eliminate the discharge. In the event of a User's failure to immediately comply voluntarily with the suspension order, the District may take such steps as deemed necessary including immediate severance of the Sewer connection to prevent or minimize damage to the Sewage Treatment Plant, its receiving stream, or endangerment to any Persons. The District may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the revocation proceedings in Section 1107 of the Rules and Regulations are initiated against the User.

A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit, within five (5) days, a detailed written statement to the District describing the causes of the harmful contribution and the measures taken to prevent any future occurrence of the endangerment.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

**Section 1106 - Suspension of an Industrial Wastewater Discharge Permit**

The Board may suspend an Industrial Wastewater Discharge Permit after a hearing pursuant to Section 1103, if such suspension is found to be necessary to stop an actual or threatened discharge of Wastewater which presents, or may present, a hazard to public health, safety or welfare, to the environment, to the Sewerage System or sewerage treatment plant or which causes, or may be reasonably expected to cause, the Sewage Treatment Plant to violate its NPDES or SPDES discharge permit.

A User, when notified of the suspension of its Industrial Wastewater Discharge Permit, shall immediately cease the discharge of its Wastewater identified in such notice.

The Board may reinstate the User's Industrial Wastewater Discharge Permit when the User provides proof acceptable to the District that its discharge will not present a hazard or cause Interference, Pass Through or limit sludge disposal options.

**Section 1107 - Revocation of an Industrial Wastewater Discharge Permit**

The Board may revoke an Industrial Wastewater Discharge Permit, after a hearing, pursuant to Section 1103.

Any User who violates any of the following conditions may be subject to revocation of its Industrial Wastewater Discharge Permit:

- a) Violation of these Rules and Regulations which the Board has determined warrants revocation;
- b) Violation of an Industrial Wastewater Discharge Permit where the Board determines that future compliance cannot be expected to occur;
- c) Failure to accurately report the Wastewater constituents and characteristics of its discharge;

- d) Failure to report significant changes in operations or Wastewater volume, constituents, and characteristics prior to discharge;
- e) Refusal of reasonable access to the User's premises for the purpose of Inspection, monitoring, or sampling; or
- f) Falsification of data or information required or related to compliance.
- g) Failure to pay Sewer charges or premium assessments within ninety (90) days from the District's notice requesting payment of amounts past due.

Any User whose permit has been revoked shall immediately cease all discharge of Wastewater covered by the permit. The Board may order the Wastewater discharge line(s) that are in violation to be disconnected or blocked from the Sanitary Sewer to insure compliance with the order of revocation.

The Board may authorize the issuance of a new permit upon proof of satisfactory compliance with all discharge requirements of these Rules and Regulations and receipt of a new application and payment of all fees and premium assessments. Costs incurred by the Board in revoking the permit and disconnecting or blocking the industrial discharge shall also be paid by the permittee before a new permit can be issued.

#### **Section 1108 - Liability**

Any Person violating any of the provisions of these Rules and Regulations shall become liable to the District for any expense, loss or damage occasioned the District by reason of such violation.

In addition, if the NYSDEC and/or USEPA fines the District as the result of any Person violating any of the provisions of these Rules and Regulations, the fine shall be passed on to the responsible Person.

#### **Section 1109 - Legal Action**

Nothing in this article shall be construed to limit the right of the Board to enforce or avail themselves to the benefits of any and all other applicable laws and ordinances, including injunctive relief.

The Board has the right to seek injunctive relief for a User's non compliance with any Pretreatment Requirements or standards or any other provisions of these Rules and Regulations.

When the Board finds that a User has violated, or continues to violate, any provision of these Rules and Regulations, an Industrial Wastewater Discharge Permit, or Order issued hereunder, or any other Pretreatment Requirement or standard, the Board may petition to a Court of competent jurisdiction, through the County Attorney's office, for the issuance of a temporary or permanent injunction. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action including but not limited to seeking specific performance or assessing civil penalties against a User.

#### **Section 1110 - Publication of Violators**

The District shall make public, annually, a list of Industrial Users which, over the previous 12 months were in significant noncompliance with the requirements or conditions of these Rules and Regulations or any National Pretreatment Standards or other Pretreatment Requirements.

The publication of violators shall be in a newspaper with circulation in the District. In the publication the District shall list each Industrial User with the following information:

- 1) Name and address of the company;
- 2) Description of the violation;
- 3) Date of violation;
- 4) Action taken by the District; and
- 5) Whether the violation has been corrected.

Additionally, the publication will contain an address and telephone number for any persons wishing to request more information with regards to this publication.

For the purposes of these Rules and Regulations significant non-compliance shall occur when any of the following conditions arise:

- a) Chronic violations of Wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.);
- c) Any other violation of a Pretreatment effluent limit (daily maximum or longer-term average) that the District determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the District's or Treatment Agency's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B);
- e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- g) Failure to accurately report noncompliance; and
- h) Any other violation or group of violations which the District determines will adversely affect the operation or implementation of the District Pretreatment program.

## **ARTICLE XII**

### **CONFIDENTIALITY**

#### **Section 1201 - Confidentiality**

Confidentiality must be specifically requested by the User at the time of submission of any information required under these Rules and Regulations. If a written request for confidentiality is not made, such information will be made available to the public without further notice. Data on Wastewater constituents and characteristics will not be recognized as confidential information.

The confidentiality granted any material submitted will be governed by applicable State and Federal laws.

## **ARTICLE XIII**

### **SEWER CHARGES TAXES AND FEES**

#### **Section 1301 - Fee for Permit to Connect and Inspection Charges**

Each applicant for a Permit to Connect shall pay a fee for the permit and applicable Inspection charges. The amount of the fee and Inspection charges shall be determined by the Board and will be posted in each District office. The fee and Inspection charges shall be paid at the time the permit is issued.

#### **Section 1302 – Sewer Taxes**

The sewer taxes are set and collected in accordance with the County Law Article 5-A, Sections 266, 270 and 271.

A Significant Industrial User or an industrial User classified as a high volume water User (volume of water used is in excess of 91,250 gallon in one year) may request a credit due to partial retention of the metered water volume in their process. Said User may, at the User's expense, retain the services of an engineer to develop an engineer's report certifying the proportion of metered water usage that does not enter the sanitary sewer system. The engineering report shall be stamped and signed by a licensed professional engineer and approved by the Division of Sewerage Management. Following approval of the engineering report, the Division of Sewerage Management will in subsequent years adjust the water meter data used for billing based on the proportion. As an alternative, the User may, at its expense, install and maintain a certified flow meter to monitor and record the actual wastewater flows discharged in the sanitary sewer system, with the flow data to be used in lieu of water meter data for billing purposes. Said flow meter shall be installed at a location on the User's property determined by the Division of Sewerage Management. The flow meter shall be calibrated a minimum of once a year at the User's expense, with certified calibration reports submitted to and approved by the Division of Sewerage Management.

**Section 1303 - Unpaid Sewer Charges**

Payment of Sewer charges are due within thirty (30) days of invoice. Unpaid Sewer charges including premium assessments shall become a lien upon the real property for which, or in connection with which, sewer services were provided and from the first day fixed for payment of such charges. Interest shall be due and payable in the same manner as other County taxes.

**ARTICLE XIV**

**SAVING CLAUSE**

**Section 1401 - Validity**

The invalidity of any section, clause, sentence or provision of these Rules and Regulations shall not affect the validity of any other part of these Rules and Regulations which can be given effect without such invalid part or parts.

**ARTICLE XV**

**EFFECTIVE DATE**

**Section 1501 - Rules and Regulations in Force**

These Rules and Regulations shall be in full force and effect and shall supercede previous Rules and Regulations upon their adoption as provided by law.

Adopted by the Erie County Legislature at the 5th session on March 26, 2009 being Committee Reference 5E-15 (2009).

MAS:ss  
3/19/2009

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