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PARALEGALS  
JOHN W. WOODARD  
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HEATHER M. TRASK

October 19, 2023

NYS Department of State  
Division of Corporations, State Records  
And Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

Re: Filing of Local Law No. 4 of 2023  
Town of Milo, Yates County  
Our File No. M-9900-014

Dear Sir/Madam:

Enclosed is the original of Local Law No. 4 of 2023 entitled "Public Sewers Law of the Town of Milo." Please process and send us notification of the filing. If you have any questions concerning this matter please contact our office.

Sincerely,

RICHARDSON, PULLEN & BUCK, P.C.

  
Heather M. Trask, Paralegal  
htrask@rppclaw.com

:hmt

Enc.: Original Local Law 4-23

Cc: Pat Christenson-Town Clerk T/O Milo

At a regular meeting of the Town Board of the Town of Milo, County of Yates, State of New York, held at the Town Hall, 137 Main Street, Penn Yan, New York, on October 16, 2023 at 7:00 P.M. there were:

	PRESENT	ABSENT
Leslie Church, Supervisor	<u>  X  </u>	_____
James Harris, Councilperson	<u>  X  </u>	_____
Dale Hallings, Councilperson	<u>  X  </u>	_____
Arden Sorensen, Councilperson	<u>  X  </u>	_____
Gene Spanneut, Councilperson	<u>  X  </u>	_____

ALSO PRESENT: Patricia L. Christensen, Town Clerk,

At 7:00 p.m., on October 16, 2023 a Public Hearing was held before the Town Board to hear all persons wishing to comment on proposed Local Law Number 4 of 2023 “Public Sewers Law of the Town of Milo” was presented by the Town Supervisor, Leslie Church. The Town Attorney, Richard M. Buck, Jr., had prepared the draft local law at the request of the Town. It was explained that this local law is necessary to provide for the efficient, environmentally safe and legal operation of public sewers as well as prevent the introduction of harmful substances into said sewers, ensure proper construction of new sewers and connections and equitable distribution of costs to all district users to help improve health, welfare and quality of life to the people of the Town. The Town Supervisor asked if there were any questions and answered questions from those present. Noting that the public had been provided the opportunity to comment on the proposed local law, the Town Supervisor proceeded with the business of the regular Board meeting.

Supervisor Church then stated that the next order of business on the Board agenda was consideration of proposed Local Law Number 4 of 2023. She asked if any Board members had any questions for her or the Code Enforcement Officer. Following discussion, the following

resolution was offered by Councilmember Harris, who moved its adoption, and seconded by Councilmember Sorensen, to wit:

WHEREAS, Introductory Local Law Number 4 of 2023 was duly introduced and considered at a regular meeting of the Town Board of the Town of Milo, held on September 18, 2023, and a resolution was adopted calling for a public hearing before the Town Board on September 18, 2023 at 7:00 p.m., to be held at the Milo Town Hall, and

WHEREAS, the legal notice calling for such Public Hearing was duly published and posted as required by law, and such public hearing has been duly held, and all persons desiring to be heard have been given an opportunity to speak and express their wishes to the members of the Town Board of the Town of Milo, and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA and the Regulations prior to making a final determination, and

WHEREAS, the Town has prepared a Short Form Environmental Assessment Form and determined that enacting the Public Sewers Law of the Town of Milo will have no significant adverse environmental impacts and issues a negative declaration.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Milo adopts Local Law Number 4 of 2023, as submitted which is attached hereto and made part of this resolution.

Following discussion, the foregoing resolution was called to a vote which resulted as follows:

AYES: Church, Hallings, Harris, Sorensen, Spanneut

NOES: none

The Supervisor then declared the resolution to be adopted and directed the Clerk to proceed to contact the Town Attorney if necessary and to complete the publishing and posting as required by law.

STATE OF NEW YORK                    }  
  } SS.:  
COUNTY OF YATES                    }

I, the undersigned, Patricia L. Christensen, Town Clerk of the Town of Milo, Yates County, New York, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the said Town Board including the resolution contained therein, held on October 16, 2023 with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting, and that, pursuant to Section 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media:

<u>Newspaper and/or other news media</u>	<u>Date given</u>
Chronicle Express	September 19, 2023

and that further notice of the time and place of such meeting was given to the public by posting such notice in the following places on the following dates, and by giving such notice as follows:

<u>Location of posted notice</u>	<u>Date given</u>
Town Clerk's Signboard	September 19, 2023
Town Website	October 1, 2023

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town of Milo this date, October 18, 2023.



  
Patricia L. Christensen  
Town Clerk  
Town of Milo

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Niilo

Local Law No. 4 of the year 20 23

A local law "Public Sewers Law of the Town of Niilo"  
(Insert Title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Niilo as follows:

\* See attached Resolution.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 20 23 of the (County)(City)(Town)(Village) of Niilo was duly passed by the Town Board on October 16 20 23, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_ . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*  
*(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

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

*Richard M. Buel, Esq., Town Clerk*  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: *10/19/2003*

(Seal)

TOWN OF MILO

LOCAL LAW NO. 4 OF 2023

**PUBLIC SEWERS LAW OF THE TOWN OF MILO**

Section 1. Authority

This law is adopted pursuant to Article IX, Section 2(c) of the New York Constitution; Article 2 Section 10 of the Statute of Local Governments and Article 2, Section 10 of the Municipal Home Rule which authorize the Town to adopt local laws and regulations provisions that advance and protect the health, safety and welfare of the community.

Section 2. Remove Section 279, Sewers and add Section 260 Public Sewers to the Town of Milo Town Code .

This local law shall repeal Section 279 of the Milo Town Code and any local law previously adopted to create Section 279 and that Section 279 and local laws previously adopted to create Section 279 shall be amended and replaced with this local law and Section 260 as follows:

**CHAPTER 260  
Public Sewers**

**GENERAL REFERENCES**

Building construction — See Ch. 150.  
Flood damage prevention — See Ch. 204.  
On-site Wastewater Treatment Systems — See Ch. 270.  
Water — See Ch. 336.  
Zoning – See Ch. 350.

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**Article I  
Title and Purpose**

§ 260-1 Title. This Chapter shall be known as the Public Sewers Law of the Town of Milo, hereinafter referred to as “this Chapter.”

§ 260-2. Scope. Except as otherwise provided by law, all buildings, structures, and premises, regardless of use or occupancy, located within a district of the Town of Milo, which is outside the Village of Penn Yan, are subject to the provisions of this Chapter.

§ 260-3. Purpose. This Chapter provides for the following:

- A. The efficient, economic, environmentally safe, and legal operation of the public sewers; and



- B. To prevent the introduction of substances into the public sewers that will:
  - 1. Interfere with the sewage treatment plant in any way; and
  - 2. Pass through the sewage treatment plant to the state's waters and cause contravention of water quality standards for those waters or cause violation of the sewage treatment plant's SPDES permit; and
  - 3. Increase the cost or otherwise hamper the disposal of sewer treatment plant's sludge and/or residuals; and
  - 4. Endanger municipal employees; and
  - 5. Cause air pollution, or groundwater pollution, directly or indirectly; and
  - 6. Cause, directly or indirectly, any public nuisance condition; and
- C. To prevent new sources of infiltration and inflow and, as much as possible, eliminate existing sources of infiltration and inflow; and
- D. To assure that new sewers and connections are properly constructed; and
- E. To provide for equitable distribution to all users of the district(s) of all costs associated with sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.

**ARTICLE II**  
**Abbreviations, acronyms and definitions.**

§ 260-4. General.

- A. Scope. Unless otherwise expressly stated, the following abbreviations, acronyms and definitions shall, for the purpose of this Chapter, have the meanings shown in this Chapter.
- B. Interchangeability. Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- C. Terms defined in other codes. Where the terms are not defined in this Chapter and are defined in local, state or federal law, such terms shall have the meanings ascribed to them as in such law.
- D. Terms not defined. Where terms are not defined by the methods authorized by this Chapter, such terms shall have the ordinarily accepted meanings such as the context applies.

§ 260-5. Abbreviations and acronyms.

ABBREVIATION / ACRONYM	TERM
ACT	The Federal Water Pollution Control Act
AHJ	Authority Having Jurisdiction
CFR	Code of Federal Regulations
CWA	Clean Water Act
EAF	Environmental Assessment Form
EPA	U.S. Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FOG	Fats, Oils and/or Grease
NEC	National Electrical Code
NYS	New York State
NYSDEC	NYS Department of Environmental Conservation
NYSDOH	NYS Department of Health
NYSDOS	NYS Department of State
NYSDOT	NYS Department of Transportation
NYSEG	New York State Electric and Gas
OWTS	On-site Wastewater Treatment System
RCRA	Resource Conservation and Recovery Act
SIU	Significant Industrial User
SEQRA	State Environmental Quality Review Act
SPDES	State Pollutant Discharge Elimination System
U.S.C.	United States Code

§ 260-6. General definitions.

*ACT* – The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., as currently in effect and as hereafter amended from time to time.

*APPROVED* – Acceptable to the Superintendent, Town Engineer and/or other AHJ.

*AUTHORITY HAVING JURISDICTION (AHJ)* – An organization, office or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.

*BUILDING SEWER* – A plumbing system used to convey sewage from a building or structure containing sanitary facilities that begins from the exterior face of the building's exterior wall to the public sewer, grinder pump or other place of disposal.

*CONNECTION* – Attachment of one user to a public sewer.

*COUNTY* – Yates County, New York.

*DISTRICT* – The sewer districts and extensions that are established in the Town.

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

*GENERAL MUNICIPAL LAW OF NYS* – The General Municipal Law of NYS, as currently in effect and as hereafter amended from time to time.

*GRINDER PUMP* – A pump specifically designed for the grinding of sewage solids and pumping of the resulting slurry through a pressurized service to the public force main or sewer.

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

*INDUSTRIAL USER* – A discharger to the public sewer who discharges non-domestic sewage.

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

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

*INFLOW* – Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

*NATIONAL CATEGORICAL PRETREATMENT STANDARD (A.K.A., CATEGORICAL STANDARD)* – Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

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

*ON-SITE WASTEWATER TREATMENT SYSTEM (OWTS)* – This term shall bear the same meaning as "on-site wastewater treatment system" that is defined in the On-Site Wastewater Treatment System Law of the Town.

*ORDER TO REMEDY* – An order issued by the Superintendent pursuant to the applicable provisions of this chapter.

*OWNER* – Any person, agent, operator, firm or business entity having a legal or equitable interest in the

property as recorded in the official records of the County as holding title to the property.

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

*PRESSURIZED SERVICE* – A pipe running from a pumping facility to a public sewer or force main.

*PROFESSIONAL ENGINEER* – An individual who is licensed professional engineer (PE) in accordance with Article 145 of the Education Law of NYS, as currently in effect and as hereafter amended from time to time.

*PUBLIC SEWER* – A sanitary sewer in which all owners of abutting properties have equal rights and which is controlled by a public authority.

*RULES AND REGULATIONS* – Rules and/or regulations adopted by the Town Board covering the installation, operation and use of the sewage works.

*SANITARY FACILITY* – A water closet (a.k.a., toilet), urinal, lavatory (a.k.a., sink), bathtub or shower, drinking fountain, slop sink, utility sink, or other similar type of plumbing fixture, or a combination thereof.

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

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

*SEWAGE WORKS* – All facilities and their associated appurtenances for collecting, pumping, transmission, treating and disposing of sewage.

*SEWER* – A pipe or conduit for carrying sewage.

*SEWER, SANITARY* – A sewer which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

*SEWER DISTRICT* – Sewer district and extensions thereto established and administered in accordance with Article 12 of the Town Law of NYS and/or any other applicable law.

*SEWER RENTS* – A scale of unit method of annual charges established and imposed in the district on the basis of equivalent single-house units (hereinafter referred to as "units") for the use of the sewage works or any part or parts thereof.

*SIGNIFICANT INDUSTRIAL USER (SIU)* – An industrial user of the district who is:

- A. Subject to National Categorical Pretreatment Standards promulgated by the EPA; or
- B. Having substantial impact, either singly or in combination with other industries, on the operation

of the sewage treatment plant; or

- C. Using, on an annual basis, more than 10,000 pounds or 1,000 gallons of raw material containing priority pollutants and/or substances of concern and discharging a measurable quantity of these pollutants to the public sewer; or
- D. Discharging more than five percent (5%) of the flow or load of conventional pollutants received by the sewage treatment plant.

*SPDES PERMITTEE* – This term shall bear the same meaning as “Permittee” as defined in 6 NYCRR Part 750 Environmental Conservation Law (ECL).

*STOP WORK ORDER* – An order issued pursuant to the applicable provisions of this chapter.

*STORM SEWER* – A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*SUPERINTENDENT* – That individual appointed by the Town Board as the Sewer Superintendent. This definition shall also include his/her/their authorized deputy, agent, or representative.

*TOWN* – The Town of Milo, New York.

*TOWN BOARD* – The Town Board of the Town.

*TOWN CLERK* – The Town Clerk of the Town.

*TOWN ENGINEER* – The Engineer of the Town and/or Town Engineer.

*TOWN LAW OF NYS* – The Town Law of NYS, as currently in effect and as hereafter amended from time to time.

*TOXIC SUBSTANCES* – Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to the sewage treatment plant as well as its operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. This definition shall also include any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA 307 (A), or other Acts.

*UNAPPROVED WASTE* – *FOG, garbage (shredded or unshredded), rubbish, refuse, wood, eggshells, seafood shells, coffee grounds, diapers, cleaning wipes, flushable wipes, sanitary napkins, tampons, sawdust, shavings, cat/kitten litter, bark, sand, lime, ashes, and/or all other discarded matter that is not normally present in sewage or industrial wastes as determined by the Superintendent, Town Engineer and/or an AHJ.*

*UNIFORM CODE* – This term shall bear the same meaning as “Uniform Code” that is defined in the Building Construction and Fire Prevention Law of the Town, as currently in effect and as hereafter amended from time to time.

*USER* – Any person who contributes, causes, or permits the contribution of sewage into the public sewer.

*VILLAGE OF PENN YAN* – The Village of Penn Yan, New York.

*WATER QUALITY PROTECTION ZONE 1* – This term shall bear the same meaning as “water quality protection zone 1” that is defined in the KWIC Polices and Procedures Manual.

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

*WATERSHED INSPECTOR* – This term shall bear the same meaning as “watershed inspector” that is defined in the On-Site Wastewater Treatment System Law of the Town, as currently in effect and as hereafter amended from time to time.

*ZONING LAW* – The Zoning Law of the Town, as currently in effect and as hereafter amended from time to time.

### **Article III General Requirements**

#### § 260-7. Prohibited actions.

- A. It shall be prohibited for any person to connect to the public sewer without approval obtained from the Superintendent.
- B. It shall be prohibited for any person to modify, operate, remove and/or perform any other action to the public sewer and/or its appurtenances (e.g., curb stop) without approval obtained from the Superintendent.
- C. It shall be prohibited for any person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property, within the Town or in any area under the jurisdiction of the said municipality, any human or animal excrement, garbage, rubbish or objectionable waste. Also, no person shall discharge sewage onto the surface of the ground or discharge it in a way that permits it to come to the surface of the ground.
- D. It shall be prohibited for any person to discharge to any drainage ditch, natural outlet, storm sewer, stream and/or watercourse within Town, or in any area under the jurisdiction of the said municipality, any sewage and/or other polluted waters, except where suitable treatment has been provided in accordance with the law.
- E. It shall be prohibited for any person to discharge sewage into a well.

#### § 260-8. Discharge restrictions.

- A. Discharge of runoff or unpolluted waters. Stormwater and all other unpolluted drainage shall be discharged to sewers that are specifically designated as storm sewers or to a natural outlet.

Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the NYSDEC or any other AHJ.

B. Prohibited discharge to public sewer.

1. It shall be prohibited for any person to connect roof downspouts, interior or exterior foundation drains, areaway drains, catch basins, swimming pools, sump pumps or other sources of surface runoff, unpolluted cooling water or groundwater, acidic condensate drains from mechanical equipment (e.g., tankless water heater), and/or other types of unapproved connections, which shall be determined by the Superintendent, to a building sewer which in turn is connected directly or indirectly to a public sewer.
2. No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any sewage, toxic substances and/or other unapproved wastes which will interfere with the operation or performance of the public sewer and/or sewage treatment plant. These general prohibitions apply to all such users whether or not the user is subject to National Categorical Pretreatment Standards, or any other federal, state or local pretreatment standards or requirements.
3. The Town Board may reject a user's sewage, on recommendation of the Superintendent and/or Town Engineer, when it is has been determined that it contains substances or possesses characteristics which have a deleterious effect on the public sewer and/or the sewage treatment plant and its processes, and/or on the receiving water, or which constitute a public nuisance or hazard.

§ 260-9. Building Permit allowed only when approved sewage disposal is available. No owner shall be issued a Building Permit for any building or structure requiring sanitary facilities unless an approved method of sewage disposal, conforming to the law, is available.

§ 260-10. Health regulations. The Watershed Inspector, NYSDEC, NYSDOH, EPA or such other state or federal agencies which have enforcement powers, may issue directives and/or orders calling for the mandatory use of the public sewer, for reasons including, but not limited to, disconnecting a OWTS for the proper discharge of sewage or the discharge of industrial wastes and other wastes to a district.

- A. OWTS. Any building or structure located in a district and served by an OWTS that has been inspected and determined to be in failure by the Watershed Inspector is required to connect to the public sewer. The term "failure" shall be determined by the Watershed Inspector and all costs to connect to the public sewer as well as decommission the applicable OWTS shall be borne by the owner. Lastly, an OWTS located within a district shall be inspected by the Watershed Inspector in the same interval as required for an OWTS in water quality protection zone 1.

#### **Article IV Districts**

§ 260-11. General.

- A. Establishment and administration. Districts and extensions thereto shall be established and administered in accordance with Article 12, 12-A, and 12-C of the Town Law of NYS and/or any other applicable law.
- B. Compliance required.
  - 1. Owner. An owner of a lot located within a district shall comply with the requirements of such district.
  - 2. Sewage works.
    - i. Standards. Sewage works shall be designed, constructed, maintained, and tested in compliance with the Ten State Recommended Standards for Wastewater Facilities, NYS Design Standards for Intermediate Sized Wastewater Treatment Systems, any applicable rules, regulations and/or standards adopted by an AHJ, Uniform Code, or law, as currently in effect and amended from time to time.
- C. Easements. Duly authorized employees or agents of the Town shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- D. Pretreatment standards. All users of a district shall comply with any applicable standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including but not limited to 40 CFR Parts 406 - 471.
- E. Industrial users.
  - 1. Discharge reports. As a means of determining compliance with this Chapter, an applicable SPDES permit conditions, and an applicable law, each industrial user shall be required to notify the SPDES Permittee of any new or existing discharges to the public sewer by submitting a completed Industrial Chemical Survey (ICS) form and a completed Industrial Wastewater Survey (IWS) form. The SPDES Permittee may require any user discharging sewage into the public sewer to file wastewater discharge reports and to supplement such reports as the SPDES Permittee deems necessary. All information shall be furnished by the user in complete cooperation with the SPDES Permittee.
  - 2. Notification to industrial users. The SPDES Permittee shall, from time to time, notify each industrial user of applicable Pretreatment Standards, and of other applicable requirements under Section 204(B) and Section 405 of the Clean Water Act, and Subtitles C and D of RCRA.
  - 3. Discharge permits required for significant industrial users. All significant industrial users proposing to connect to or to discharge to the public sewer shall obtain a discharge



permit from the SPDES Permittee before connecting to or discharging to the public sewer. Existing significant industrial users shall make an application for a discharge permit within thirty (30) days after the effective date of this Chapter and shall obtain such a permit within ninety (90) days after making application.

4. Other industrial users. The SPDES Permittee may issue discharge permits to other industrial users.
  5. Discharge permits to storm sewers are not authorized. The SPDES Permittee does not have the authority to issue permits for the discharge of any sewage to a storm sewer. This authority rests with the NYSDEC.
- F. Grease, oil, and sand interceptors. Grease, oil, and sand interceptors shall be provided, when, in the opinion of the Superintendent, they are necessary for the proper handling of sewage containing excessive amounts of grease, flammable substances, sand, or other harmful substances. All interceptors shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his/her/their expense. Lastly, the owner shall keep records of maintenance, cleaning, and repairs of his/her/their interceptor, which is mandated by the Uniform Code. These records shall be available for inspection by the Code Enforcement Officer and/or Superintendent upon request.

§ 260-12. New sewage work located within an existing district.

- A. Approval required. The owner of any lot proposing to install new sewage work within a district shall obtain approval from the Town and any other AHJ prior to the start of any work.
- B. Costs. The owner of any lot proposing to install new sewage works within a district shall be responsible for any costs to design and construct such works including but not limited to any incurred costs by the Town to review, inspect and approve this work.
- C. Dedication to the Town.
  1. General. Any sewage works proposed to be dedicated to the Town shall be accepted by the Superintendent, Town Engineer, and the Town Board.
  2. As-built drawings. No sewage works dedicated to the Town until one electronic copy and four paper copies of as-built drawings have been so filed and approved by the Superintendent and Town Engineer.
  3. Guarantee of materials and workmanship. Sewage works proposed to be dedicated to the Town shall be guaranteed against defects in materials or workmanship for two years by the owner. The guarantee shall be in such form and contain such provision as deemed necessary by the Town Attorney, secured by a surety bond or such other security as the Town Attorney may approve.
- D. Inspections. The owner shall notify the Superintendent and/or Town Engineer prior to the

installation of any sewage works proposed to be dedicated to the Town. This work shall be subject to inspection and approval by the Superintendent and/or Town Engineer. Approval of this work shall in no way relieve the owner of any responsibilities for workmanship, materials, or any other liabilities.

- E. Standards. Sewage works shall be designed, constructed, maintained, and tested in compliance with the Ten State Recommended Standards for Wastewater Facilities, NYS Design Standards for Intermediate Sized Wastewater Treatment Systems, any applicable rules, regulations and/or standards adopted by an AHJ, Uniform Code, or law, as currently in effect and amended from time to time.

§ 260-13. Sewage from outside a district.

- A. Approval required. The Town Board, on the recommendation of the Superintendent, shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by, or discharged from persons outside a district.
  - 1. If the person is a municipality, that municipality shall have enacted a Sewer Use Law as restrictive on the discharge of sewage and other wastes as the restrictions contained in this Chapter.
  - 2. If the person is not a municipality, the acceptance shall be made only with the expressed written consent of the Superintendent and resolution of the Town Board setting forth the terms and conditions of such an acceptance.
- B. Costs. The owner of any lot proposing to install new sewage works from outside a district shall be responsible for any costs to design, construct, inspect and test such works including but not limited to any incurred costs by the Town to review, inspect and approve this work.
- C. Dedication to the Town. Sewage works located outside a district may be dedicated to the Town by creating a new or extension to an existing district as prescribed in this chapter.

## **Article V**

### **Building Sewers and Connections to the Public Sewer**

§ 260-14. Permit required. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.

§ 260-15. Permits; application; fees. The Town shall establish connection permit forms, fees and standards which may be amended from time to time by resolution of the Town. The owner shall apply on a form furnished by the Town. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Town.

§ 260-16. Standards.

- A. The Town Board shall adopt and modify from time to time as necessary rules and regulations concerning standards for construction, maintenance and/or use of a building sewer and its connection to the public sewer. The Town, after initial adoption of said rules and regulations, shall have the right to modify same as it deems necessary by subsequent resolution of the Town.

§ 260-17. Inspections; connections. The owner shall notify the Superintendent prior to construction of the building sewer and its connection to the public sewer. This work shall be subject to inspection and approval by the Superintendent. Approval of this work shall in no way relieve the owner of any responsibilities for workmanship, materials, or any other liabilities.

§ 260-18. Guarding of excavations. All excavations required to install a building sewer shall be adequately guarded by the owner to protect the public from hazard.

## **Article VI Infiltration and Inflow**

§ 260-19. Infiltration sources. Infiltration sources to a public sewer shall be corrected in a fashion approved by the Superintendent.

§ 260-20. Inflow sources.

- A. New inflow sources. No connections shall be made to a public sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.
- B. Existing inflow sources. Existing inflow sources to a public sewer shall be disconnected in a fashion approved by the Superintendent.
- C. No re-connection of inflow source allowed. No person shall reconnect any inflow source to a public sewer which has been disconnected pursuant to this article.

§ 260-21. Inspections.

- A. General. The Superintendent shall inspect a lot if it is discovered that it contributes infiltration or inflow to a public sewer.
- B. Real property transfer. The Superintendent shall inspect a lot prior to a real property transfer for the purpose of determining if all connections to the public sewer which contribute inflow have been disconnected.

§ 260-22. Charges for inflow. The Town is enabled to take whatever action is necessary to determine the amount of inflow including the requirement for installation of a control manhole. The owner of a lot from which the inflow originated shall be billed for inflow, however, the Town shall not cause a surcharge at a rate that exceeds five (5) times that for normal sewage volume charge.

**Article VII**  
**Rental Rates; Collection**

§ 260-23. Sewer rents established.

- A. Pursuant to Article 14-F of the General Municipal Law of NYS, sewer rents are established, as a means of producing revenue for the District, by the Town and imposed on the owners of all premises located within the limits of the District or extensions thereto which are connected with or are required to be connected with and are served by or are required to be served by the sewer system. Sewer rents shall continue to be payable whether or not the premises are occupied. The total annual sewer rents due to the District shall be determined on an annual basis by the Town, pursuant to Town Board resolution.
- B. After the establishment and imposition of the annual sewer rent schedule for the calendar year, should an emergency arise wherein there is an unplanned for significant expense passed through from Village of Penn Yan or an unplanned sewer rent expense within the District, then the District may, pursuant to resolution and upon public notice, revise its sewer rent schedule for that particular calendar year, to address the emergency matter.

§ 260-24. Unit basis to be used. Sewer rents shall be charged on an equivalent-dwelling-unit (EDU) basis, subject to the following definitions:

*BUILDING* – Any structure used or intended for supporting or sheltering any use or occupancy.

*DWELLING UNIT* – A single unit providing complete, independent living facilities for one or more person, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*DWELLING, MULTIPLE-UNIT* – A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces.

*DWELLING, SINGLE-UNIT* – A building designed or arranged to be occupied by one family living independently, with such building having only one dwelling unit.

*DWELLING, TWO-UNIT* – A building designed or arranged to be occupied by two families living independently, with such building having only two dwelling units.

The definitions of "building," "dwelling unit," "dwelling, single-unit," and "dwelling, two-unit," as set forth above, are applicable in determining the number of dwelling units for each building, as referred to in Subsection A hereinbelow.

EDUs shall be assessed on the following schedule:

- A. Each dwelling unit shall be charged one unit for EDU purposes, whether the dwelling unit is in a single-unit dwelling, or a two-unit dwelling, or a multiple-unit dwelling.

- B. Mobile homes in a mobile home park will be assessed at the rate of 1/2 unit per mobile home. A "mobile home" is described as a portable vehicle designed to be transported on its own wheels (whether on wheels, foundation or any stand), designed to be used as permanent detached single-family housing, having living quarters, sleeping accommodations, toilet, shower or tub and kitchen facilities.
- C. Vacant land: Developable residential lots will be charged 1/2 unit per lot. "Developable lots" are defined as any undeveloped lot, vacant parcel or any portion thereof upon which a dwelling or commercial building may be constructed. Lots larger than one acre shall be assessed at 1/2 unit per acre, rounded down to the nearest 1/2 unit. The designation of developable lots will be made by the Code Enforcement Officer in accordance with the Zoning Law.
- D. Commercial or industrial buildings: one EDU for the first 4,000 square feet; one EDU for each additional 4,000 square feet thereafter rounded down to the nearest whole unit. Commercial or Industrial shall be assessed on either the acreage or building-square-footage basis, whichever is greater.
- E. Campground, Camp Cory: seven EDUs, based on 220 campers and 60 staff minimum. Additional units based on 40 persons (campers and staff) per unit.
- F. Golf clubs and country clubs, Lakeside Country Club: eight EDUs minimum, based on a dining seating capacity of 170.
- G. Restaurants and bars: one unit per 12 seats, rounded down to the nearest full unit (one unit minimum). The seating capacity shall be determined by the Code Enforcement Officer in accordance with the occupant load calculations prescribed in the Uniform Code.
- H. Motel and Hotel rooms 1/4 unit per room.
- I. Church: 1/4 unit for each church building with a water connection.
- J. Church parsonages: one unit.

§ 260-25. Sewer rents for the sewer system shall be billed quarterly for residential and commercial properties by the Town. A late payment of 15% shall be added to the sewer rent bill if not paid in full within 30 days of the due date on the Town bill.

§ 260-26. Use of sewer rents. The sewer rental derived in the manner aforesaid shall be applied toward:

- A. The payment of the cost of the operation, maintenance and repair of the sewer system.
- B. The payment of treatment charges and/or other charges imposed by the Village of Penn Yan.
- C. The payment of interest on and amortization of or payment of indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer rents have been established and imposed (other than indebtedness, and the interest thereon, which is to be paid in the first instance from assessments upon benefitted real property).

D. A reserve fund created for the replacement of any of the parts or portions of the system.

§ 260-27. Rents to constitute a lien. Sewer rents shall constitute a lien upon the real property served by the sewer system for which sewer rents have been established. The Town Clerk shall annually on or before November 1 of each year certify to the Town the amounts of all unpaid sewer rents, including interest and a fee, to be set by resolution of the Town Board, per delinquent account to cover the costs of levy and collection which remain unpaid as of that date. The Town shall levy such amounts against the real property liable therefor as part of the annual Town, county and state tax levied in January of each year, such amount to be set forth as a separate item on the tax roll. The sewer fund shall be credited with the amount of an unpaid sewer rent, including interest and fee, when collected.

### **Article VIII Capital Improvements**

§ 260-28. Capital rates. In order to pay for the full annual cost of debt service, including the interest on and amortization of and payment of all outstanding indebtedness which has been or will be incurred for the construction and addition to the District sewage system, the Town shall levy and collect assessments for capital improvements on a benefit basis, pursuant to Article 15 of the Town Law of NYS.

§ 260-29. Unit basis to be used. The annual capital charge shall be based on an equivalent-dwelling-unit (EDU) basis, a "dwelling unit" being defined as a separate living unit complete with bath or shower, toilet, and kitchen. EDUs shall be assessed in the same manner as set forth in this chapter.

§ 260-30. Procedure for collection. The amount of each property owner's annual installment will be the amount necessary to pay the property owner's proportionate share of principal and interest due on the obligations issued by the Town. These annual installments are levied by Yates County at the time and in the manner provided by law for the levy of state and county taxes.

### **Article IX Enforcement**

§ 260-31. Violations unlawful. It shall be unlawful for any land, structure and/or use to be in violation of this chapter or fail in any manner to comply with any notice, directive, or order of the Superintendent.

§ 260-32. Public nuisance. Any condition caused or permitted to exist in violation of any provision of this chapter shall be deemed a public nuisance and shall be abated as such by the owner pursuant to law.

§ 260-33. Stop work order.

A. Authority. The Superintendent is authorized to issue a stop-work order to halt any of the following work:

1. Any work that is determined by the Superintendent to be contrary to any applicable provision of this chapter; or

2. Any work that is determined by the Superintendent to be dangerous or unsafe.
- B. Content. The stop-work order shall:
1. Be in writing; and
  2. Be dated and signed by the Superintendent; and
  3. State the reason or reasons for issuance; and
  4. If applicable, state the conditions which must be satisfied before the work is permitted to resume.
- C. Method of service. The Superintendent shall cause the stop-work order, or a copy thereof, to be served to the owner of the affected property personally or by certified mail. The Superintendent shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Imminent danger. Where an imminent danger exists, the Superintendent shall not be required to give a written stop-work order prior to stopping the work. However, this written order shall be issued within a reasonable amount of time but no greater than five business days from the Superintendent's order to stop the work.
- E. Effect of order. Upon issuance of a stop-work order, the owner of the affected property and any other person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the stop-work order, other than work expressly authorized by the Superintendent to correct the reason for issuing the stop-work order.
- F. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in this chapter.
- G. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty prescribed in this chapter or any other applicable law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 260-34. Order to remedy. An order to remedy shall be in accordance with all the following:

- A. Be in writing.

- B. Include a description of the real estate sufficient for identification.
- C. Include a statement of the violation or violations and why the notice is being issued.
- D. Include a correction order allowing a reasonable time to take the necessary actions to comply with this chapter.
- E. Inform the owner of the right to appeal.
- F. Include a statement of any applicable penalties and the right to file a lien in accordance with this chapter.

§ 260-35. Method of service. An order to remedy shall be deemed to be properly served if a copy thereof is:

- A. Delivered to the owner personally; or
- B. Sent by certified mail addressed to the owner at the last-known address with the return receipt requested; or
- C. If the order is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

§ 260-36. Compliance with order. An order to remedy issued or served as provided by this article shall be complied with by the owner, operator, occupant, and other person responsible for the condition or violation to which the order pertains.

§ 260-37. Vandalism. The malicious, willful, or negligent breaking, damaging, destruction, uncovering, defacing or tampering with any structure, appurtenance or equipment which is part of this sewage works shall be a violation of this chapter, and any person violating this section shall be subject to the fines herein provided and shall be liable for any damage or loss suffered by the District or Town.

§ 260-38. Abatement of unlawful acts. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this chapter, or any term or condition of any notice or order issued by the Superintendent pursuant to any provision of this chapter. No action or proceeding described in this subsection shall commence without the appropriate authorization from the Town Board.

§ 260-39. Prosecution of a violation. If the order to remedy is not complied within the period of time prescribed within such notice, the Superintendent is authorized to request the Town Board to authorize the Town Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful structure and/or use in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

§ 260-40. Penalties for offenses.

- A. Civil penalty. Any person who undertakes any action regulated by this chapter, or who violates, disobeys or disregards any provision of this chapter, shall be liable to the Town for civil penalty



not to exceed \$250 per day for every such violation. 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. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

- B. Criminal penalty. Any violation of any part of this chapter shall constitute a "violation" as defined in the Penal Law of NYS, as currently in effect and as hereafter amended from time to time, and shall be punishable by a fine not to exceed \$250, or 15 days' imprisonment, or both such fine and/or 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. The criminal penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.
- C. Restoration. A court of competent jurisdiction may order or direct a violator to restore the affected equipment, land, sign, structure and/or system to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Superintendent or his/her designate.

## **Article X Miscellaneous**

§ 260-41. Prior Sewers Law of the Town. This law repeals, supersedes and replaces Chapter 279, Sewers, of the Code of the Town of Milo that was adopted on October 18, 2004, as well as its subsequent amendments.

§ 260-42. Relationship to other standards. The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of public health, morals, safety, and general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted local rules, regulations, statutes, or ordinances, the most restrictive thereof, or those imposing the highest standards, shall govern.

§ 260-43. Responsibility of owners. The owner shall be responsible for compliance with this chapter regardless of any agreement between or among agents, contractors, lessors, operators, occupants, or persons as to which party shall be responsible.

§ 260-44. Assistance to the Superintendent and/or designated approval authority. The Superintendent and/or designated approval authority, as authorized by the Town Board, shall have the authority to obtain assistance from any Town department, agency or employee as may be deemed necessary and appropriate under the circumstances. Furthermore, the Superintendent and/or designated approval authority, as authorized by the Town Board, shall have the authority to obtain assistance from qualified consultants as may be deemed necessary and appropriate under the circumstances. The owner shall pay any expense incurred by the Town as it pertains to such assistance.

§ 260-45. Private agreements. This chapter is not intended to annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such

easements, covenants or other private agreements or legal relationships, the regulations of this chapter shall govern.

§ 260-46. Payment of fees and incurred expenses. No application required by this chapter shall be approved until all applicable fees and administrative costs have been paid to this Town.

§ 260-47. Fees. Fees in the amounts set forth in a fee schedule established from time to time by resolution of the Town Board shall be submitted with the application.

§ 260-48. Administrative costs and professional fees.

- A. In addition to the fees required in this section, the owner shall reimburse the Town for administrative costs and/or professional fees (including, but not limited to, engineering, attorneys', and surveying fees) attributable to an application or the administration and/or enforcement of this chapter.
- B. All administrative costs and/or professional fees (including, but not limited to, engineering, attorneys', and surveying fees) incurred by the Town in the review and processing of the applications shall be charged back to the owner as a fee related to the application submitted.
- C. The Town may also require the owner to deposit a lump sum to retain any professional service providers (including, but not limited to, engineers, attorneys, and surveyors), consultants and/or third-party agencies/inspectors the Town determines are necessary for its review of an application. If such a sum is insufficient to fund the necessary consulting or inspection services, the Town may require additional deposits. Such payment(s) shall:
  1. Be deposited with the Town Clerk who shall establish a line item for this purpose. Expenditures from this line item may be made at the direction of the Town Clerk without further appropriation.
  2. Pay only for the expenditures rendered in connection with the project for which an application has been submitted by the owner.
  3. At the completion of the Town's review of a project, any excess amount in the line item attributable to the project shall be repaid to the owner. A final report of said line item shall be made available to the owner by the Town Clerk if requested.
- D. In the event that the Town is required to refer for collection any outstanding administrative cost and/or professional fees (including, but not limited to, engineering, attorneys', and surveying fees) for any reimbursement, the owner shall, in addition to the reimbursements, be obligated to pay a reasonable attorneys' fee and costs incident to any action commenced by the Town to collect such fees. Reasonable attorneys' fees shall also include any disbursements that may result from the commencement of litigation. Any owner shall be deemed to be in default of their obligation of fee reimbursement for their failure to remit said reimbursements within 30 days of notice to pay.
- E. The Town may assess penalties at the rate approved by the Town Board for delinquent

reimbursements.

§ 260-49. Refunds. Any payment of a fee or administrative cost to the Town is not refundable regardless if a permit has been issued pursuant to this chapter.

§ 260-50. Assessment. The failure of the owner to pay any fee, expense incurred by the Town and/or penalty in connection with the administration and enforcement of this chapter shall be assessed against the lot of record that is subject to any action prescribed in this chapter and shall be levied and collected in the same manner as provided in the Town Law of the NYS, as currently in effect and as hereafter amended from time to time, for the levy and collection of Town taxes or special ad valorem levies.

§ 260-51. Appeals.

- A. General. The Town Board is hereby appointed as the designated approval authority as it pertains to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation and/or determination by the Superintendent.
- B. Deadline to submit an appeal. An applicant applying for an appeal shall submit a complete application to the Town Clerk within sixty (60) days after the date of the order, decision, or determination made by the Superintendent that is the subject of the appeal.
- C. Application. An applicant applying for an appeal shall submit a complete application to the Town Clerk, along with any applicable fee and payment of incurred costs. Such application shall be in writing on a form furnished by the Town for that purpose. At a minimum, such application shall contain all the following:
  - 1. The applicant's contact information and signed consent to the filing of this application.
  - 2. A short or full EAF, if an environmental review is mandated by SEQRA.
  - 3. A copy of the order, decision, or determination made by the Superintendent that is the subject of the appeal.
  - 4. A written statement by the applicant that explains how the Superintendent incorrectly interpreted the requirements of this chapter, the provisions of this chapter do not fully apply or an equal or better form of compliance is proposed.
- D. Determination criteria. An application for an appeal shall be based on a claim that the true intent of this chapter or the requirements legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply or an equal or better form of compliance is proposed.
- E. Limitations. A determination pertaining to an application for an appeal shall not amend or waive any requirement of this chapter.

§ 260-51. Intermunicipal agreements. The Town Board may, by resolution, authorize the Supervisor of the Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms

of this chapter, provided that such an agreement does not violate any applicable law.

**Article X**  
**Severability; Interpretation; Effective Date**

§ 260-52. Severability. If any clause, sentence, paragraph, section, or a part of this chapter shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, but shall be confined in its operation to the clause, sentence, paragraph, section or a part directly involved in a controversy in which such judgment shall have been rendered.

§ 260-53. Interpretation. This chapter shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect. Whenever the requirements of this chapter are at variance with the requirements of other lawfully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern.

§ 260-54. When effective. This chapter shall be operative immediately and effective upon being filed with the New York State Secretary of State pursuant to § 27 of the Municipal Home Rule Law of NYS, as currently in effect and as hereafter amended from time to time.