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Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Batavia
Year (adopted, written, etc.):	1997
Community Type – applicable to:	Suburban; Rural
Title:	Town of Batavia Sewer Use Ordinance
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Abstract

This law regulates the use of public and private sewers and drains, the installation and connection of building sewers, the discharge of waters and wastes into the public sewer system, the quantity and quality of discharged wastes, the degree of pretreatment required, the control of industrial wastewater discharge and of other miscellaneous permits and provide penalties for violations thereof in the Town of Batavia, Genesee County, New York. These regulations prohibit the disposal into the public sewer system of any pollutant or waste by any person that is in violations of the federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendment of 1972, and any amendments thereto, and any more stringent New York State, Genesee County, Town of Batavia, or City of Batavia local standards.

Resource

Town of Batavia NY Sewer Use
Code of the town of Batavia NY
Chapter 191: Sewer Use
General Code
Chapter 191: SEWER USE
[HISTORY: Adopted by the Town Board of the Town of Batavia 3-19-1997 by L.L. No. 1-1997. Amendments noted where applicable.]

ARTICLE I General Provisions

§ 191-1. Legislative intent.

The purpose of this chapter is to regulate the use of public and private sewers and drains, the installation and connection of building sewers, the discharge of waters and wastes into the public sewer system, the quantity and quality of discharged wastes, the degree of pretreatment required, the control of industrial wastewater discharge and of other miscellaneous permits and provide penalties for violations thereof in the Town of Batavia,

Genesee County, New York. These regulations prohibit the disposal into the public sewer system of any pollutant or waste by any person that is in violations of the federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendment of 1972, and any amendments thereto, and any more stringent New York State, Genesee County, Town of Batavia, or City of Batavia local standards.

§ 191-2. Word usage and definitions.

- A. Words used in the present tense include the future, words in the masculine gender include the feminine and neuter, the singular number includes the plural, and the plural the singular. "Shall" is mandatory; "may" is permissive.
- B. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

ACT or THE ACT — The Federal Water Pollution Control Act and amendments thereto, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251 et seq.

APPROVAL AUTHORITY — EPA and/or DEC.

ASTM — The American Society for Testing and Materials.

AUTHORIZED REPRESENTATIVE — The owner in the case of a sole proprietorship, a partner in the case of a partnership or the president or other officer so designated by resolution in the case of a corporation.

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

BPDES — Town of Batavia Pollution Discharge Elimination System.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

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

CHLORINE DEMAND — The difference between the amount of chlorine added to water, wastewater or industrial wastes and the amount of residual chlorine remaining at the

end of a fifteen-minute contact period.

CITY — City of Batavia, Genesee County, New York.

CITY COUNCIL — The City Council of the City of Batavia, Genesee County, New York.

COMMERCIAL USER — Any nonresidential user not within the definition of an industrial user.

COMPATIBLE POLLUTANT — Biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform bacteria, chlorine demand, phosphorus and phosphorus compounds, fats, oils and greases of animal or vegetable origin, nitrogen and nitrogen compounds, if the wastewater treatment system was designed to treat such pollutants and removes such pollutants to a substantial degree, except as prohibited herein or identified in the city's SPDES permit.

COMPOSITE SAMPLE — A sample consisting of several effluent portions collected during a specified time period and combined to make a representative sample.

CONNECTION — The physical tie-in of the building sewer or sewer extension to the public sanitary sewer.

COOLING WATER — The water discharged from any use such as air conditioning, cooling, or refrigeration during which the only pollutant added to the water is heat.

DEC — The New York State Department of Environmental Conservation.

DEPARTMENT OF WATER AND SEWAGE — The Town of Batavia Water/Wastewater Maintenance Supervisor.

DIRECTOR — The Water/Wastewater Maintenance Supervisor as designated by the Town Board or his duly authorized agent or representative.

DISTRICT or SEWER DISTRICT — Any Town of Batavia sewer district.

DOMESTIC WASTES — The wastewater from the noncommercial preparation, cooking and handling of food or containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial dwellings, commercial buildings, industrial facilities, and institutions.

EASEMENT — An acquired legal right for the specific use of land owned by others.

EPA — The United States Environmental Protection Agency.

FLOW RATE — The quantity of waste or liquid that flows in a certain period of time.

FLOW VOLUME — The quantity of wastes or liquid.

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

INCOMPATIBLE POLLUTANT — Any pollutant which is not a compatible pollutant.

INDUSTRIAL USER — Any user of the publicly owned wastewater treatment system that:

- (1) Is identified in Division A, B, D, E or I of the Federal Standard Industrial Classification Manual;
- (2) Discharges toxic or poisonous substances or any substance(s) which either singularly or in combination with other contributory users causes interference in the wastewater treatment system;
- (3) Has in its wastewater any of the prohibited substances or characteristics described in Article IV, § 191-16, Prohibited wastewater discharges; or
- (4) Has in its wastewater any concentrations or characteristics in excess of those stipulated in Article IV, § 191-17, Limitations on wastewater discharges.

INDUSTRIAL WASTES — The wastewater resulting from the processes employed in industrial, manufacturing, trade or business establishments as distinct from domestic wastes.

INTERFERENCE — Inhibition or disruption of the performance or operation of the wastewater treatment system which contributes to a violation of the SPDES or the applicable discharge permits or conditions.

MASS EMISSION RATE — The weight of material discharged to the wastewater treatment system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

mg/l — Milligrams per liter.

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

OWNER — A person having legal title to real property.

PERSON — Any and all persons, individual, firm, company, association, society, municipal or private corporation, group, institution, enterprise, governmental agency or other entity.

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

POLLUTANT — Any waste, impurity, or other additive, such as heat or radioactivity, that changes the quality and character of water delivered to the user by the public water supply system or the user's private well supply. Private well supplies may also contain pollutants inherent in the groundwater supply.

PRETREATMENT — The application of physical, chemical and/or biological processes to reduce the amount of pollutants in or alter the nature of the pollutant properties in a wastewater prior to discharging such wastewater into the wastewater treatment system.

PRETREATMENT STANDARDS — All applicable federal rules and regulations implementing the Act, including any amendments thereto, as well as any nonconflicting state or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied. The Department of Water and Sewage recognizes that in some cases these pretreatment standards may not be sufficient to protect the operation of the wastewater treatment system, or make it unable to comply with the terms of the SPDES permit. In such cases, the Department of Water and Sewage reserves the right to impose more stringent pretreatment standards than those specified in the EPA regulations.

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

PUBLICLY OWNED TREATMENT WORKS or POTW — A treatment works as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned in this instance by a Town sewer district or the city. This definition includes any sewers that convey wastewater to the POTW treatment plant but does not include pipes, sewers or other conveyances not connected to a facility providing treatment.

PUBLICLY OWNED TREATMENT WORKS TREATMENT PLANT or POTW TREATMENT PLANT — That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

PUBLIC SEWER — A common sewer controlled by a governmental agency or public utility. It may be a sanitary or storm sewer.

RESIDENTIAL USER — A user who introduces wastewater into the wastewater treatment system from premises used only for human residence.

SANITARY SEWER — A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions.

SERVICE CHARGE — The basic assessment levied on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal sewage.

SEWER — A pipe or conduit that carries wastewater, stormwater or drainage water.

SIGNIFICANT INDUSTRIAL USER or SIU

- (1) All industrial users subject to categorical pretreatment standards; and
- (2) Any other industrial user that:
 - (a) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown water);
 - (b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the Department of Water and Sewage on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that an industrial user meeting the above criteria has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Department of Water and Sewage may at any time, on its own initiative or in response to a petition received from an

industrial user, and in accordance with current regulations, determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE — An industry is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% 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;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all 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 equals 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except pH);
- (3) Any other violations of a pretreatment effluent limit (daily maximum or longer term average) that the control authority 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);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under § 191-28 and the legislative intent of this chapter to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, and periodic self-monitoring reports; and
- (7) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG — Any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or

flows during normal operation.

SPDES — The New York State Pollutant Discharge Elimination System as set forth in the Environmental Conservation Law, Article 17, Titles 7 and 8.

STANDARD METHODS — The examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

STORM DRAIN or STORM SEWER — A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

STORMWATER — Any flow originating from or resulting from any form of natural precipitation. This flow can occur during, immediately following or substantially after (such as snow melt) the precipitation event.

SURCHARGE — The assessment in addition to the service charge which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal sewage.

SUSPENDED SOLIDS — Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as "nonfilterable residue."

TOWN — The Town of Batavia, Genesee County, New York.

TOWN BOARD — The Town Board of the Town of Batavia, Genesee County, New York.

TOXIC SUBSTANCE — Any substance, whether gaseous, liquid or solid, which constitutes a hazard to human beings or animal or plant life or inhibits aquatic life or creates a hazard to recreation in the receiving waters of the effluent from a wastewater treatment plant. See § 191-16B, Toxic substances.

UNPOLLUTED WATER — Water not containing any pollutants limited or prohibited by this chapter and/or the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

USER — Any person that discharges, causes or permits the discharge of wastewater into the Town's wastewater treatment system.

WASTE — Includes wastewater and any and all other impurities or waste substances, liquid, solid, gaseous, heat or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

WASTEWATER (sometimes referred to as "sewage") — The liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the Town wastewater treatment system.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS — The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity, and strength of wastewater.

WASTEWATER TREATMENT SYSTEM (used interchangeably with "potw") — Any devices, facilities, structures, equipment or works owned by the Town or City of Batavia for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, wastewater collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

WASTEWATER TREATMENT WORKS — An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant" or "POTW treatment plant."

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

WATERS OF THE STATE — All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

WPCF — The Water Pollution Control Federation.

- C. Terms not otherwise defined herein shall be as adopted in the latest edition of "Glossary - Water and Wastewater Control Engineering," published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

ARTICLE II Use of Public Sewers Required

§ 191-3. Unsanitary deposit of waste prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Batavia, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage or other objectionable waste, except as provided by Chapter 4, Subchapter B, Part 364 of the Codes, Rules and Regulations of the New York State Department of Environmental Conservation and/or Chapter 2, Regulation, of the Genesee County Sanitary Code.

§ 191-4. Discharge of untreated wastes prohibited.

It shall be unlawful to discharge to any natural outlet within the Town of Batavia, or in any area under the jurisdiction of said Town, any wastes except where suitable treatment has been provided in accordance with provisions and requirements of applicable federal, state, county and local laws.

§ 191-5. Construction of privies, septic tanks and cesspools restricted.

Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater within an operating sewer district in the Town.

§ 191-6. Connection to public sewer required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within an operating sewer district in the Town is hereby required at his expense to install wastewater facilities therein and to connect such facilities directly to the proper public sanitary sewer, provided that said public sewer is within 100 feet of the property line. Said connection shall be in accordance with the provisions of this chapter as contained herein. Owners shall connect within 90 days after the date of official notice to do so. Exceptions to the ninety-day limitation will be granted on a case-by-case basis upon approval of the Genesee County Health Department, but in no instance shall such connection be postponed beyond five years from the date of official notice. Requests for exceptions shall be made in writing to the Department of Water and Sewage.

§ 191-7. Continuation of privies and septic tanks when connection permit is refused.

The provisions of § 191-5 of this chapter shall be inapplicable to any person refused a permit based on lack of available sanitary sewer capacity, provided that all such persons shall be governed by § 191-6 of this chapter when it is determined by the Batavia Town Board that adequate capacity is available.

ARTICLE III Building Sewers and Connections

§ 191-8. 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 Department of Water and Sewage.

A. Connection permit.

(1) There shall be two classes of permits for connection to the Town wastewater treatment system:

(a) For residential and commercial users; and

(b) For industrial users.

(2) In either case, the owner or his agent shall make application on a special form furnished by the Town's Water and Sewage Department.

B. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director to enforce this chapter.

§ 191-9. Fees; application for permit; insurance.

A. The connection fee for new connections shall be set from time to time by a Town Board resolution, payable at the time of application for a permit; however, this fee may be increased at the discretion of the Department of Water and Sewage for nontypical or unusual connections to cover the additional nontypical permit work items as required for the particular connection. This permit fee shall not be required for all structures in existence within a Town of Batavia sewer district that are served by the initially constructed sanitary sewers in accordance with § 191-6 of this chapter. Any subsequent in-district or out-of-district sewer extension shall pay the connection fee.

- B. The permit fee includes permit processing, the physical tap into the public sewer, including saddle materials by the Town, field location of connection and consultation on building sewer locations, inspection of building sewer construction and supervision of building sewer tests. The owner and his contractor, if any, shall make application on a form furnished by the Town. The permit application shall be supplemented by any construction plans, construction specifications, insurance certificates, or other information considered pertinent in the judgment of the Department of Water and Sewage.
- C. Insurance requirement. The contractor or owner installing said private sewer line and connecting the same to the Town's public sewer shall, prior to undertaking any work, procure and file certificates of insurance with the Batavia Town Clerk insuring the Town of Batavia as follows:
- (1) General liability covering bodily injury, wrongful death and property damage as follows: comprehensive form; premises-operations; explosion and collapse hazard; underground hazard; products/completed operations hazard; contractual insurance; broad form property damage; independent contractors; and personal injury: \$500,000 single limit on account of each accident.
 - (2) Owner's and contractor's protective: \$500,000 single limit on account of each occurrence.

§ 191-10. Cost to be borne by owner.

All costs and expenses incident to the installation, connection, testing and operation and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage (including claims of others against the Town) it sustains that may directly or indirectly be occasioned by the installation of the building sewer.

§ 191-11. Separate sewer required for each building; exception.

A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private building sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

§ 191-12. Use of existing building sewers.

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Department of Water and Sewage, to meet all the requirements of this chapter.

§ 191-13. Rules and regulations governing construction.

A. Building sewer.

(1) The building sewer shall be:

- (a) Four-inch extra-heavy cast or ductile iron soil pipe meeting the requirements of ASTM A74, latest revision, or Town-approved equals. Town-approved couplings to be used.
- (b) Four-inch plastic pipe utilizing virgin resin and meeting the requirements of ASTM D3034 or F789, latest revision, with minimum SDR of 35 or minimum pipe stiffness of 46 psi, or nonpressure PVC pipe labeled "Schedule 40," ASTM D-2665 and D-1785, latest revision. Joints for plastic pipe shall meet the "Specification for Joints for Drain and Sewer Plastic Pipes Using Flexible Elastomeric Seals," ASTM 3212, latest revision. Chemically welded joints shall not be allowed.

(2) Six-inch-diameter pipe shall be used for any structure having more than four units or an estimated average daily wastewater flow greater than 1,000 gallons per day.

(3) For buildings requiring wastewater pumping, the discharge pipe shall be PVC or HDPE pressure pipe, AWWA Specification C-900 (latest revision), with minimum SDR of 18 or such material as is approved by the Department of Water and Sewage in writing. All pressure pipe shall have a minimum working pressure of 150 pounds per square inch.

(4) ASTM tests on all sewer pipes must be performed in the United States. Any variance from the sewer described above must be approved by the Department of Water and Sewage.

B. The slope of the sewers described shall be 1/4 inch per foot unless special permission is obtained from the Department of Water and Sewage.

C. The building sewers shall have a minimum horizontal separation of 10 feet from the water service. If this is not possible, any potable water line shall be above the sewer and shall have a minimum vertical separation from the top of the sewer to the bottom of the waterline of 1 1/2 feet from the water distribution main or service connection and shall be in a separate trench or, if it must be located in the same trench, on an undisturbed

earth shelf located on one side of the sewer and at an elevation so that the bottom of the water main is at least 18 inches above the top of the sewer. In a case where neither of these criteria can be accomplished or where a crossover is required, construction plans shall be submitted to the Department of Water and Sewage for approval.

- D. The building sewer shall be brought to the building at a depth sufficient to afford protection from frost. It shall be laid at a uniform grade in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.
- E. A minimum six-inch pipe is to be used in all road crossings. Road crossings shall have a minimum cover of six feet and be carefully tamped and backfilled with select material in accordance with requirements of the appropriate highway authorities and as approved by the Department of Water and Sewage. If such cover cannot be obtained, pipe shall be encased with six inches of concrete. A six-inch cleanout with a cast or ductile iron or PVC riser and cap is to be installed in the vicinity of the right-of-way line when a road crossing is installed.
- F. All approved building sewer pipe shall be bedded with four-inch minimum compacted cushion of No. 1 or No. 1A broken stone under the pipe and up the spring line (vertical midpoint of pipe). Backfill material from pipe bed to 18 inches above pipe must pass a one-inch screen test and be installed in at least two lifts, with each lift to be compacted to optimum density. The remainder of the trench from 18 inches to grade must be made in multiple lifts with suitable materials containing stones no greater than six inches in their greatest dimension and with each lift to be compacted to optimum density. Pipe shall be bedded carefully on the compacted material so that it does not ride on bells or joints. No slag material is to be allowed for house connections.
- G. No footing drains, roof drains, or other drains carrying surface or ground water shall be connected to the building or sanitary sewer. A sump pump will be provided by the property owner wherever required to carry ground and surface water to a natural outlet or storm sewer. Where any work is performed in a street or highway right-of-way, the owner or his agent shall first obtain a permit from the proper state, county or Town highway authorities. Notice or request for inspection or final approval by highway authorities will be the responsibility of the owner or his agent. Utility companies are to be notified if work may affect their facilities.
- H. All building sewers, at the discretion of the Department of Water and Sewage, shall be air tested and/or smoke tested for leakage after installation. The test shall be conducted on all joints that would be exposed to the infiltration of groundwater, surface water or other extraneous sources of unpolluted waters. The test shall be conducted from the point as close to the connection to the public sewer as possible, to the building plumbing system, and shall be carried out prior to backfilling the building sewer. Testing may also be carried out after backfilling if in the discretion of the Department of

Water and Sewage it is deemed necessary. All tests shall be witnessed by the Department of Water and Sewage or an authorized representative.

- I. No backfill shall be placed until the work has been inspected to the satisfaction of the Department of Water and Sewage. In the event of unstable soil conditions, special construction methods may be required but shall be approved in writing by the Department of Water and Sewage.
- J. Each building sewer or drain must be provided with a cleanout at the interior face of the house wall, at bends greater than 45°, at road crossings and at least for every 100 feet of length, the openings to be a minimum of three inches above the cellar floor or the ground surface outside buildings. Double hand traps are required when the trap is in the wall or inside the building. No trap or vent shall be placed less than five feet from any window, door or ventilation intake.
- K. Connection of the building sewer into the public sanitary sewer shall be:
 - (1) For new public sanitary sewer construction: plastic, cast or ductile iron, wye branch and/or riser installed at the time of construction of the sanitary sewer. All wye branches or risers shall comply with appropriate pipe specifications referenced elsewhere in this chapter. Joints shall be compatible with the above-referenced specifications for the type of pipe used and shall be approved by the Department of Water and Sewage. All damaged branches shall be replaced. All connections shall be watertight. Concrete encasement of branches, or mortar joints, shall not be deemed watertight. Risers shall be braced against the trench wall or supported otherwise.
 - (2) For existing public sanitary sewers: saddle-type connections to the public sanitary sewers (called main sewer) carried out by the Department of Water and Sewage shall be made in a smooth, machine-drilled, round hole. The fitting used shall be made to ensure that it will not protrude into the main sewer. The fitting shall fit the contour of the inside of the main sewer and be designed for the size of pipe into which construction is being made. One-eighth-inch clearance shall be provided between and fitting and the hole and between the shoulder of the fitting and face of the main pipe. These spaces shall be completely filled with waterproof joint material capable of withstanding any stress or strain likely to be encountered in normal sanitary sewer construction or maintenance. The fitting shall be manufactured of an aluminum alloy, stainless steel or other approved material and shall be capable of receiving all types of pipe approved for house service connections. It shall be held in place until the adhesive is set.
- L. All excavations for building or sanitary sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks,

parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Department of Water and Sewage and to the highway agencies having jurisdiction. Ditches and culvert pipes for storm and surface water or other utilities disturbed during installation of sewers shall be replaced to their original condition. All driveways and parking areas shall be backfilled with select fill.

- M. Within 30 days of connection to the public sewer, any septic tank, cesspool and similar private wastewater disposal facility shall be abandoned, emptied and filled with a suitable material approved by the Department of Water and Sewage.
- N. Variations in the requirements set forth in Subsections A through F, inclusive, J and K may be made in special circumstances if approved by the Department of Water and Sewage in writing.

ARTICLE IV Use of Public Sewers

§ 191-14. Prohibited discharges to sanitary sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 191-15. Discharge of stormwater and unpolluted drainage.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet. Industrial cooling water or unpolluted industrial process waters may be discharged to a storm sewer or natural outlet if in compliance with applicable state and federal regulations on approval of the Department of Water and Sewage and upon obtaining a SPDES permit from DEC.

§ 191-16. Prohibited wastewater discharges.

No person shall discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system any wastewater which contains the following:

- A. Flammable or explosive mixtures. Liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. At no time shall there be discharged any waste stream with a closed-cup flashpoint of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oil, crank case oil, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates,

bromates, carbides, hydrides, and sulfides.

- B. Toxic substances. Any toxic substances in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to Section 307(a) of the Act, and chemical elements or compounds, phenols or other taste- or odor-producing substances, or any other substances which singly or by interaction with other wastes are not susceptible to treatment or which may interfere with the biological processes or efficiency of the wastewater treatment system or that will pass through the system without being treated to the required degree.
- C. Corrosive wastes. Any waste which will cause corrosion or deterioration of the wastewater treatment system. All wastes discharged to the public sewer system must have a pH value in the range of six to ten standard units. Prohibited materials include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products. [Amended 7-20-2005 by L.L. No. 2-2005]
- D. Solid or viscous wastes. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater treatment system, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, hair and fleshings or hides, animal guts or tissues, entrails, bones, spent lime, stone or marble dust, grass clippings, spent grains, spent hops, wastepaper, asphalt residues, residues from refining or processing of fuel or lubricating oil and similar substances. This prohibition includes any wastewater which, by interaction with other waters or wastes in the public wastewater treatment system, forms suspended solids which obstruct the flow in the sewer or create a condition that interferes with the proper operation of the wastewater treatment system.
- E. Oil and grease. Any wastewater containing fats, wax, grease or oils, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65° C.), and determined by the Director to be potentially harmful to the operation and efficiency of the POTW.
- F. Excessive temperature. Any wastewater which exceeds a temperature of 150° F. (65° C.) or which causes the temperature of the influent to the wastewater treatment works to exceed 104° F. (40° C.).
- G. Improperly shredded garbage. Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers.

- H. Noxious materials. Noxious or malodorous solids, liquids or gases which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to any form of life or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.
- I. Radioactive wastes. Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and/or which will or may cause damage or hazard to the wastewater treatment system or personnel operating the system.
- J. Excessive discharge rate. Quantities of wastewater flow, concentrations, or both, which constitute a slug as defined herein.
- K. Discolored material. Wastes with color, such as but not limited to dye water or vegetable tanning solution, that is not removable by the treatment process.
- L. Wastes with unusually high biochemical oxygen demand, chlorine demand, total suspended solids, phosphorus, or ammonia nitrogen levels, except when a surcharge agreement has been affected.
- M. Any other wastes which, in the opinion of the Director, may be detrimental to the maintenance and operation of the wastewater treatment system or may affect the sewage treatment process to the extent that the effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters. In forming his opinion as to the acceptability of wastes, the Director will give consideration to such factors as the quantities of such wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment works, degree of treatability of wastes in the wastewater treatment works and other pertinent factors.

§ 191-17. Limitations on wastewater discharges.

- A. General limitations on incompatible pollutants. No person shall discharge or convey, or permit or allow to be discharged or conveyed, to a public sanitary sewer any wastewater containing incompatible pollutants of such character or quantity that will:
 - (1) Violate pretreatment standards.
 - (2) Cause the wastewater treatments works to violate its SPDES permit requirements.
 - (3) Violate the provisions of this chapter or other applicable laws, rules or regulations.

- (4) Not be susceptible to treatment or interfere with the process or efficiency of the wastewater treatment system.

B. Specific limitations on certain incompatible pollutants.

- (1) The following are the maximum concentrations of pollutants allowable in wastewater discharges to the wastewater treatment system. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered a violation of this chapter.

Parameter (mg/l)	Limit	30-Day Concentration (mg/l)	Average	Effluent Limits	1-Day	Maximum	Effluent
					Concentration		
Arsenic (total)		0.1			0.2		
Cadmium		0.3			0.7		
Chromium (total)		1.7			2.8		
Copper (total)		2.1			3.4		
Cyanide (amenable)	(C12	0.3			0.9		
Cyanide (total)		0.7			1.2		
Fluorides		4.0					
Lead (total)		0.4			0.7		
Mercury		0.1			0.2		
Nickel (total)		2.4			4.0		
Selenium (total)		0.1			0.2		
Silver (total)		0.3			0.5		
Sulfide		6.0					

Zinc (total)	1.5	2.6
Total toxic organics		2.1

- (2) For the purpose of enforcement of discharge limits, consecutive samples taken and analyzed shall be considered as being taken on consecutive days even though one or more nonsampling days intervene. In applying the pretreatment standards where more than one but fewer than 30 samples have been taken and analyzed during any reporting period, the following formula shall be used to establish the standard for each pollutant which the average of the samples shall not exceed:

$$L_x = L_{30} + F / (L_1 - L_{30})$$

Where:

L_x = Standard not to be exceeded by the average of x consecutive samples.

L_1 = Maximum for any one day.

L_{30} = Standard not to be exceeded by the average of 30 consecutive days.

F = Multiplier for number of samples analyzed (from table below).

Number of Samples Values of F

1	1.00
2	0.597
3	0.430
4	0.35
5	0.266
6	0.223

7	0.186
8	0.167
9	0.141
10	0.127
11	0.114
12	0.109
13	0.089
14	0.077
15	0.064
16	0.058
17	0.052
18	0.045
19	0.039
20	0.033
21	0.030
22	0.026
23	0.023
24	0.020
25	0.016
26	0.013

27	0.010
28	0.007
29	0.003
30	0.000

C. In cases where effluent characteristics of an industrial or commercial discharge exceed the permissible limits for the compatible pollutants listed below, the acceptability of such waste shall be left to the engineering judgment of the Town or any other federal, state or local agencies having jurisdiction. The primary judgment criteria for the determination of acceptability by the Town and responsible authorities shall be whether the admission of such waste will, when added to the existing wastewater flows, cause the wastewater treatment system to violate its SPDES permit or violate other provisions of this chapter or cause the Town to exceed its capacity in the jointly owned Town and city wastewater treatment system. If it is determined it will not overload the system, permission to discharge said compatible pollutants may be granted. However, the Town will require the payment of an additional industrial operation and maintenance surcharge for the additional cost of operation and maintenance to be applied to the cost of treating the excessive strength wastewater. These charges are in addition to any sewer charges for the nonexcessive waste discharge. The basis for these additional charges is in Article X. "Excessive strength wastewater" is defined as:

- (1) Concentrations of inert suspended solids, which are defined as concentrations exceeding 300 mg/l (such as but not limited to fullers earth, lime slurries, and lime residues) or dissolved solids such as but not limited to sodium chloride in concentrations greater than 10,000 mg/l and sodium sulfate in concentrations greater than 500 mg/l.
- (2) Concentrations of BOD which are defined as concentrations exceeding 300 mg/l.
- (3) Chlorine demand requirements exceeding nine mg/l.
- (4) Concentrations of ammonia nitrogen which exceed 25 mg/l.
- (5) Concentrations of total phosphorus which exceed five mg/l.

§ 191-18. Waste to be discharged only from premises within sewer district.

No person shall discharge waste other than waste emanating from premises properly connected to the public sanitary sewer within the Town sewer districts.

ARTICLE V Federal Categorical Pretreatment Standards

§ 191-19. Compliance with standards required.

- A. No person shall discharge or cause to be discharged to the wastewater treatment system wastewaters containing substances subject to an applicable Federal Categorical Pretreatment Standard promulgated by the EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section.
- B. The Department of Water and Sewage shall notify the affected industrial users of the required schedule for obtaining compliance with the applicable pretreatment standards; however, new sources shall initially comply with the existing pretreatment standards. The allowance of a time period in order to achieve compliance with the pretreatment standards will in no case be interpreted to allow any industry to discharge wastes in the interim that interfere with the wastewater treatment works complying with its existing SPDES permit or violate any provision of this chapter. Town review, control and monitoring of the industrial discharges will be in accordance with Article VI.
- C. Upon application by an industrial user, the Department of Water and Sewage may, at its discretion, revise any limitations on substances specified in the applicable pretreatment standards to reflect removal of the substances by the wastewater treatment facility. The revised discharge limit for specified substances shall be derived in accordance with the Act.
- D. Upon application by an industrial user, the Director may, at his discretion, adjust any limitation on substances specified in the applicable pretreatment standards to consider factors relating to such user which are fundamentally different from the factors considered by the EPA during the development of the pretreatment standard. Requests for and determinations of a fundamentally different adjustment shall be in accordance with the Act.
- E. At the Town's discretion, the cost to the Town for all or a portion of the services necessary to implement this section shall be paid for by the industrial user. The Town's work in planning for new sewer services or revisions to an existing sewer service will not be carried out without prior agreement by the industrial user for payment of the costs, including but not limited to administrative, engineering, laboratory and legal costs incurred by the Town in connection with such work.

§ 191-20. Revisions to federal regulations.

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards, revises existing pretreatment standards or establishes that such a user is exempt from pretreatment standards, such federal regulations shall immediately supersede the existing regulations unless the Department of Water and Sewage determines that the revised standards, if implemented, would be deleterious to the operation of the wastewater treatment system.

ARTICLE VI Industrial Discharge Permits and Monitoring

§ 191-21. Industrial discharge permits.

- A. General permits. All industrial users proposing to connect to or to contribute to the POTW shall obtain an industrial discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall obtain an industrial discharge permit within 180 days after the effective date of this chapter. The permit required under this section is in addition to that required under Article III, § 191-8 of this chapter. The Department of Water and Sewage shall notify industrial users existing on the effective date of this chapter of the requirement to obtain a permit. Hereafter, the permit shall be referred to as a Town of Batavia Pollution Discharge Elimination System (BPDES) permit. The BPDES permit shall be valid for a period of up to five years from the date of issue. Users shall be responsible for permit renewal.
- B. Users required to obtain BPDES permit. The users required to obtain a BPDES permit shall include all significant industrial users and any other users so designated by the Department of Water and Sewage who by the nature of their discharge or by their past discharge practices may or have caused the wastewater treatment works to violate its SPDES permit or may or have discharged substances set forth in Article IV, § 191-16 and/or 191-17 of this chapter. The Department of Water and Sewage will, at least 30 days prior to issuance of a permit, notify the Director of receipt of the BPDES application and at the time of issuance of any permit send a copy to the Director.
- C. Permit application. Users required to obtain a BPDES permit shall complete and file with the Town an application in the form prescribed by the Town, which shall be accompanied by a fee set by Town Board resolution upon submission. The same fee shall apply for permit renewal. Existing users shall apply for a wastewater contribution permit within 30 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to the date requested for connection to or contributing to the POTW.
 - (1) In support of the application, the user shall submit, in units and terms appropriate for evaluation and determined by the Department of Water and Sewage, the following information:

- (a) Name, address, and location (if different from the address).
- (b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (c) Wastewater constituents and characteristics, including but not limited to those mentioned in Article IV of this chapter, as determined by a laboratory approved and certified by the New York State Health Department. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.
- (d) Time and duration of contribution.
- (e) Average daily and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation.
- (g) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
- (h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Town, city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (i) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - [1] The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an

engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, etc.).

[2] No increments referred to in Subsection C(1)(i)[1] shall exceed nine months.

[3] Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Department of Water and Sewage including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than six months elapse between such progress reports to the Department of Water and Sewage.

(j) Each product produced by type, amount, process or processes and rate of production.

(k) Type and amount of raw materials processed (average and maximum per day).

(l) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(m) Any other information as may be deemed by the Town to be necessary to evaluate the permit application.

(2) The Town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a BPDES permit subject to terms and conditions provided herein.

D. Permit modifications. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the BPDES permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user subject to a National Categorical Pretreatment Standard has not previously submitted an application for a BPDES permit as required under this article, the user shall apply for a BPDES permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard and submit the information required by Subsection C(1)(h) and (i) of this section.

E. Permit conditions. BPDES permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the Town. Permits may contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW.
- (2) Limits on the average and maximum wastewater constituents and characteristics.
- (3) Limits on average and maximum range and time of discharge or requirement for flow regulations and equalization.
- (4) Requirements for installation and maintenance of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
- (6) Compliance schedule.
- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town and affording Town access thereto.
- (9) Requirements for notification of the Town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (10) Requirements for notification of slug discharges.
- (11) Other conditions as deemed appropriate by the Town to ensure compliance with this chapter.

F. Permit duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as

limitations or requirements as identified in Article IV or V are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- G. Permit transfer. BPDES permits are issued to a specific user for a specific operation. A BPDES permit as herein described prior to discharging or allowing discharge from the premises.

§ 191-22. Reporting requirements for permittee.

- A. Compliance data report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Department of Water and Sewage a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

- B. Periodic compliance reports.

- (1) Any user subject to pretreatment regulations or a standard, after the compliance date of such pretreatment regulations or standard or, in the case of a new user, after commencement of the discharge into the POTW, shall submit to the Department of Water and Sewage during the months of June and December, unless required more frequently in the pretreatment regulations or standard or by the BPDES permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment regulations or standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow stated in the BPDES permit. At the discretion of the Department of Water and Sewage and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Department of Water and Sewage may agree to alter the months during which the above reports are to be submitted.
 - (2) The Department of Water and Sewage may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or

in other cases where the imposition of mass limitations is appropriate. In such cases, the report required by Subsection A of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the Department of Water and Sewage, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard and the BPDES permit. All analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the EPA.

- (3) Where process effluent is mixed prior to pretreatment with wastewaters other than those generated by the regulated process, fixed alternative limits may be derived by the control authority or by the industrial user (with permission of the control authority). Such alternatives will be derived by following the instructions for combined waste stream formula as found in 40 CFR 403.6(e). This may be employed at any time as deemed appropriate and necessary by the control authority.

§ 191-23. Monitoring facilities.

- A. The Town may require to be provided and operated, at the user's own expense, monitoring manhole facilities acceptable to the Department of Water and Sewage to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The user of any premises or facility discharging industrial wastes or who may discharge wastes indicated in Article IV into the public sewer system shall, when required by the Department of Water and Sewage, install at his own cost and expense suitable monitoring equipment to facilitate the accurate observation, sampling, and measurement of the wastewater. Such equipment shall be maintained in proper working order and kept safe and accessible at all times. The sampling, analysis and flow measurement procedures, equipment and results shall be subject at any time to inspection by the Town. The monitoring facility should normally be situated on the user's premises, but the Town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked

vehicles.

- B. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment, when required, shall be maintained at all times in a safe and proper operating condition at the expense of the owner.
- C. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town.

§ 191-24. Inspection and sampling.

The Town shall have the right to inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of its duties. The Town and approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into his premises, the user shall make necessary arrangements with his security personnel, and the Town and approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

§ 191-25. Pretreatment.

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable by the Town shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review and shall be acceptable to the Town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Town prior to the user's initiation of the changes.

§ 191-26. Records.

All records relating to compliance with pretreatment standards and all other aspects of this chapter shall be made available to officials of the Town and/or approval authority upon request. The Town and/or approval authority shall have the right to obtain copies of the records pertinent to this chapter.

§ 191-27. Confidentiality.

- A. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- B. When requested in writing by the authorized representative of the user furnishing a report, 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 upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, SPDES permit and/or the pretreatment program; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

ARTICLE VII Control of Prohibited and Limited Wastes

§ 191-28. Regulatory actions.

The Department of Water and Sewage shall initially rely upon the requirements of Article IV and Article V to protect the Town wastewater treatment system; however, if any wastewater which contains substances or particular characteristics shown to have a deleterious effect upon the wastewater treatment system, or which contains any prohibited substances or any concentration in excess of those described in Article IV, § 191-17 of this chapter or which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, or causes an interference to the POTW or causes the Town to violate any condition of its SPDES permit, is discharged or proposed to be discharged into the Town of Batavia wastewater treatment system or to any system tributary thereto, the Department of Water and Sewage will, if applicable, take enforcement action in accordance with Article XI and has the right to take any action necessary to:

- A. Suspend the wastewater treatment service and/or a BPDES permit when such suspension is necessary, in the opinion of the Department of Water and Sewage, in order to stop an actual or threatened discharge.

- (1) Any person notified of a suspension of the wastewater treatment service and/or the BPDES permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Department of Water and Sewage shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any person. The Department of Water and Sewage shall reinstate the BPDES permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Department of Water and Sewage within five days of the date of occurrence.
 - (2) The provisions of § 191-62 shall not apply to actions under Subsection A(1) of this section.
- B. Revoke, in accordance with the procedures of this article, the BPDES permit of any user who violates the following conditions of this chapter, or applicable state and federal regulations:
- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
 - (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
 - (4) Violation of conditions of the permit.
- C. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this chapter.
- D. Require pretreatment, including storage facilities or flow equalization, to reduce or eliminate the objectionable characteristics or substances so that the discharge will conform to the pretreatment standards and will not violate this chapter.
- E. Require the person making, causing or allowing the discharge to pay any additional cost, expenses, or damages incurred by the Town due to the prohibited or limited discharge.

- F. Require control over the quantities and rates of discharge.
- G. Require the development of compliance schedules to meet any applicable pretreatment requirements.
- H. Require the submission of reports necessary to assure compliance with applicable pretreatment requirements.
- I. Carry out all inspections, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements.
- J. Obtain other remedies for noncompliance by any user. Such remedies may include injunctive relief and appropriate civil and criminal penalties specified in this chapter, or appropriate criminal penalties.
- K. Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this chapter.

§ 191-29. Submission of plans.

Where pretreatment, equalization or holding (storage for scheduled discharge) of wastewater flows prior to discharge into any part of the wastewater treatment system is required, detailed construction plans, construction specifications, operating procedures and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the Department of Water and Sewage for review and approval. Such submission shall be part of the BPDES permit application. Such approval shall not exempt the discharge of such facilities from compliance with the Act (in particular Section 307) and any other applicable code, ordinance, rule, regulation or order of any governmental authority or relieve the user from the responsibility of modifying the facilities as necessary to achieve compliance with this chapter. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the Department of Water and Sewage. In cases where treatment is provided to remove pollutants, plans shall be signed and sealed by a professional engineer, licensed in the State of New York, unless waived by the Department of Water and Sewage.

§ 191-30. Pretreatment facility maintenance and monitoring.

If pretreatment or control of wastewater flow is required, such facilities shall be maintained continuously in good working order and operated as efficiently as possible by the owner and/or operator at his own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws. Monitoring of the pretreatment facility discharge shall be in compliance with Article VI.

§ 191-31. Grease, oil, solids and total petroleum hydrocarbons.

- A. Interceptors (commonly called traps) for the treatment of grease, oil and solids shall be provided and maintained by the user when the existing or proposed discharge exceeds the limits specified in § 191-16A (flammable), D (solids) and E (grease or oil) or when deemed necessary by the Department of Water and Sewage to protect the operation and efficiency of the wastewater treatment system. Establishments for which such interceptors shall be required include, but are not limited to, commercial kitchens, such as for restaurants and banquet facilities or taverns, gas stations and motor vehicle maintenance garages. Interceptors shall not be required where the discharge is only from private living quarters or dwellings units. All interceptors shall be of a type and capacity approved by the Department of Water and Sewage, and the burden of proof of adequacy shall be the responsibility of the owner. All interceptors shall be located so as to be readily and easily accessible for cleaning and inspection. All users required to install and operate interceptors shall apply for and obtain a BPDES permit in accordance with this chapter.
- B. Emulsifiers and dissolving agents are specifically prohibited as interceptor aids, and biological digestive products must be preapproved according to Town policy prior to their use.
- C. Waste streams that are not required to pass through an approved interceptor, and those that have just passed through such interceptors, shall not contain total petroleum hydrocarbons (TPH) in excess of 100 mg/l.

§ 191-32. Slugs and equalized discharge.

- A. No person shall cause the discharge of slugs of water or wastes. Each person producing slug discharges which may be detrimental or cause overloading to the capacity of sewers or treatment process or that cause the treatment facility to violate its SPDES permit requirements shall construct and maintain, at his or her expense, an approved storage and flow-control facility to ensure equalization of discharge over a twenty-four-hour period. This facility shall have a capacity of at least 75% of the total normal volume of a twenty-four-hour production period, and the outlet to the sewer shall be equipped with a rate discharge controller or other approved device, the regulation of which shall be approved by the Department of Water and Sewage.
- B. The control authority will evaluate, at least once every two years, whether each SIU needs a plan to control slug discharges. If a plan is found to be necessary, the plan will contain at least the following elements:
 - (1) Description of discharge practices, including nonroutine batch discharges.

- (2) Description of stored chemicals.
- (3) Procedures for immediate notification of the POTW of any accidental or slug discharge, including any discharge that would violate any specific prohibitions as contained in this chapter, with procedures for follow-up written notification within five days.
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

§ 191-33. Protection from accidental discharge.

Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and related operating procedures to provide this protection shall be submitted to the Department of Water and Sewage for review and shall be approved before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify this facility as necessary to meet the requirements of this chapter. SIU's that are required to provide and maintain such facilities shall also fall under any applicable regulations herein found in § 191-32 of this article.

§ 191-34. Reporting of accidental discharge.

If, for any reason, a facility does not comply with or will be unable to comply with any prohibition or limitations in this chapter, the user responsible for such discharge shall immediately notify the Department of Water and Sewage and Director of the City of Batavia Department of Public Works so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the Department of Water and Sewage detailing the date, time and cause of accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges shall be filed by the responsible industrial user within five days of the occurrence of the noncomplying discharge.

§ 191-35. Inspections; improper use of sewers.

The Director shall have the right to inspect and/or test any building sewer and building drain and appurtenances or private sewers that discharge wastewater directly or indirectly

to the wastewater treatment system. This includes the authority to inspect basements for illegal connections such as sump pumps. In the case of basement inspection, the Director shall give prior notice of no less than 12 hours nor more than 48 hours if requested by the owner. If it is found that such sewers or drains are used or maintained in such a way as to cause any discharge that violates this chapter, the Department of Water and Sewage will initiate enforcement actions in accordance with Articles XI and XII.

§ 191-36. Costs to be borne by owner.

- A. All costs incurred by the Town or city in reviewing and implementing the control actions specified in this article shall be the responsibility of the actual or proposed user. These costs shall include but not be limited to such items as planning, engineering, laboratory tests and consultant services. The Town will invoice the owner for its costs.
- B. The Town shall obtain agreement from the user or proposed user prior to any control action, except for actions under § 191-28A, or for monitoring action required by the Act, or where required for enforcement of this chapter.

§ 191-37. Special agreements.

- A. Special agreements and arrangements between the Department of Water and Sewage and any persons or agencies may be established, provided that:
 - (1) It is the opinion of the Department of Water and Sewage that unusual or extraordinary circumstances compel special terms and conditions;
 - (2) The Batavia Town Board gives its prior approval to said special agreement and/or arrangements;
 - (3) The user pays any applicable charges; and
 - (4) No special agreements shall circumvent Federal Categorical Pretreatment Standards.
- B. This approval shall be in accordance with Article IV of this chapter.

§ 191-38. Potentially hazardous waste.

The industrial user shall notify the Town, and the NYSDEC local region authorities, verbally and with a written follow-up, immediately upon the discovery of any discharge into the POTW and/or the storm drainage system of any substance which, if otherwise disposed of, would be a hazardous waste under federal regulations.

§ 191-39. (Reserved)

§ 191-40. (Reserved)

ARTICLE VIII Powers and Authority of Inspectors

§ 191-41. Entering private property. [Amended 10-16-2002 by L.L. No. 2-2002]

- A. The Department of Water and Sewage, all duly authorized representatives or employees of the Town, city, EPA, or DEC bearing proper credentials and identification shall be entitled to enter the property of all users (which includes the internal premises such as basements, etc.) for the purpose of inspection, observation, measurement, sampling (including setting up sampling devices), testing, and records examination in accordance with the provisions of this chapter, and for the further purpose of ascertaining whether the provisions of this chapter are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Town and representatives of the approval authority ready access at all reasonable times to all parts of the premises to carry out the actions specified in this section. Where a user has security measures in force which would require proper identification and clearance before entry into his/her premises, the user shall make necessary arrangements with his/her security guards so that upon presentation of suitable identification, personnel from the Town and approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. These representatives shall have no authority to inquire into any processes except those having a direct bearing on the application of and enforcement of this chapter.
- B. Authorized Town representatives shall have the right to enter and inspect at any reasonable time any part of the Town public sewer system, including public streets, easements and property within which the public system is located. Additionally, authorized Town representatives shall be permitted, as appropriate, to enter into the private property of industrial waste discharges to carry out the activities specified in this chapter.
- C. Any inspector or representative seeking to enter private property pursuant to the provisions of this section may enter such property on the consent of such user, owner or occupant. For all purposes of this chapter each owner, occupant and user shall be deemed to have consented to the entry onto any property, private or otherwise, serviced by the Town's sewer system, or upon which is located records or other information relevant to the implementation and enforcement of this chapter as a result of the use of the Town's sewer service benefiting that property. Any failure to provide access pursuant to a reasonable and otherwise valid request for entry shall be deemed a violation of this chapter subject to all penalties and other remedies provided herein.
- D. In the event such entry is denied or if said inspector or representative determines that it

is preferable to obtain a search warrant without first seeking such consent, said inspector or representative shall be entitled (in addition to all other available remedies) to obtain a search warrant pursuant to the applicable provisions of law from a court of competent jurisdiction to compel the owner or occupant to permit immediate entry and inspection.

- E. Notwithstanding the provisions contained in this section, in the event an emergency situation exists, the inspector or representative shall be entitled to immediately enter upon any private property for the purposes set forth in this section either with or without a search warrant or with or without the cooperation of the owner, occupant or user.

§ 191-42. Observance of safety rules; liability.

While performing the necessary work on the properties referred to in § 191-41, the Department of Water and Sewage, representatives or employees of the Town, authorized city representatives, representatives of the EPA, and representatives of the DEC shall observe all safety rules applicable to the premises established by the owner and/or operators, and the owner shall be held harmless for injury or death to those representatives unless such injury is due to the negligence and/or fault of the owner or operator. The Town, city, EPA, or DEC shall indemnify the owner against liability claims and demands for personal injuries or property damage asserted against the owner and growing out of gauging and sampling operations, except as such may be caused by the negligence, fault or failure of the owner to maintain safe conditions.

§ 191-43. Authority to enter easements.

The Department of Water and Sewage and duly authorized representatives of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater treatment system lying within said easement above and below ground. All entry and subsequent work, if any, on said easement shall be done in accordance with the terms of the easement pertaining to the private property involved.

ARTICLE IX Sanitary Sewer Extensions

§ 191-44. Application to construct extensions or additions.

Application to construct extensions or additions to any sewer district sanitary sewers shall be made to the Department of Water and Sewage on forms prescribed by the Town and shall be approved by the Town before submission to the Genesee County Health Department. Two sets of detailed construction plans showing the proposed construction shall be submitted to the Town for preliminary review. Following preliminary review and

approval, the applicant shall submit three sets of applications to construct a sanitary sewer along with eight sets of detailed construction plans and specifications showing the proposed construction. Five sets of the application and approved plans and specifications shall be forwarded with a letter of approval to the Genesee County Health Department for acceptance. Evidence of Health Department approval as well as other required local, state and/or federal approvals is required prior to final acceptance.

§ 191-45. Inspection during construction.

- A. Inspection during construction will be made by the Department of Water and Sewage or its representatives. No sanitary sewers are to be covered until such inspection has been made. The Department of Water and Sewage shall send a letter to the applicant certifying that inspection, testing and acceptance have been completed. Inspection and acceptance by the Department of Water and Sewage does not relieve the owner of the responsibility to keep the sewer operating in accordance with these regulations.
- B. A complete set of as-built construction plans showing the final construction, wye or tee locations and other information requested by the Department of Water and Sewage shall be submitted prior to final acceptance. The cost of the Town inspection and review will be the responsibility of the extension applicant.

§ 191-46. Construction standards.

Extensions or additions to the sanitary sewer system shall be designed and constructed in accordance with the latest revisions of the New York State Standards for Waste Treatment Works, the Water Pollution Control Federation Manual of Practice No. 9, Design and Construction of Sanitary and Storm Sewers, Genesee County Health Department regulations and the American Society of Testing and Materials Specifications for Sanitary Sewer Construction.

§ 191-47. Connection to public sanitary sewer.

- A. No connection of sanitary sewer extensions shall be permitted to the public sanitary sewer until completion of procedures outlined in this article.
- B. Existing private sanitary sewers may be connected to the public sanitary sewer only when they are found upon examination and test by the Department of Water and Sewage to meet all standards set by this chapter. Any testing costs shall be the responsibility of the sewer extension applicant.

§ 191-48. Posting of bond.

Any person installing a sanitary sewer extension to the public sanitary sewer shall post a maintenance bond to be approved by the Department of Water and Sewage for 25% of the full value of the sewer construction cost with the Town of Batavia, guaranteeing the sewer for a period of two years from the time of acceptance by the Department of Water and Sewage. During this period, any defects in the sewer or appurtenances shall be corrected at the applicant's expense.

§ 191-49. Sewer excavations.

- A. Whenever pipe laying is not in progress, the end of the pipe shall be securely closed with a tight-fitting cover or plug. Any earth or other material entering the main sewer due to operations of the plumber, contractor or building owner shall be removed at his expense. All trenches must be protected by sufficient sheeting and bracing.
- B. Within a highway right-of-way, backfilling and restoration of surface shall be in accordance with requirements of the highway agency having supervision.

§ 191-50. Extensions outside existing sewer districts.

Out-of-district sewer extensions and establishment of new districts shall comply with the appropriate Town, state and federal laws, ordinances, rules, and regulations and other rules and regulations the Town Board may adopt.

ARTICLE X Sewer Rents

§ 191-51. Use of rents.

There is hereby established in any and all Town of Batavia sanitary sewer districts a system of sewer rents which shall be used:

- A. For the payment of the costs of operation, maintenance and repairs of the wastewater treatment system; and
- B. For the payment of the interest on and payment of indebtedness which has been or shall be incurred for the construction of the wastewater treatment system.

§ 191-52. Components of sewer rents.

The sewer rents shall consist of the following components:

- A. An operation and maintenance charge that shall be levied on all users of the wastewater treatment system. The operation and maintenance charge will result in the distribution

of the costs of operation and maintenance, including equipment replacement, of the wastewater treatment system to each user in proportion to such user's contribution to the total wastewater loading of the treatment works as required by the Act. Each user's contribution shall be based on sewer use. The operation and maintenance charge shall be computed based upon sewer use as determined pursuant to §§ 191-55, 191-56 and 191-57; provided, however, that for the first year a property is tied into the wastewater treatment system, operation and maintenance charges shall be computed based on the most recent average yearly water consumption data. The operation and maintenance charge shall become due and payable quarterly and shall be paid pursuant to the provisions of this chapter. The rate of the operation and maintenance charge shall be determined and reviewed by the Town Board pursuant to § 191-53 hereof.

B. An industrial operation and maintenance surcharge that shall be levied on all industrial users discharging excessive compatible pollutants as defined in Article IV. This charge shall be levied to cover the additional operation and maintenance costs necessary to transport and treat these wastes. This charge shall be based upon the industrial user's proportionate share of the district's operation and maintenance costs (including equipment replacement costs) based on wastewater flow and mass emission rates required by the Act. The industrial surcharge shall become due and payable quarterly and shall be paid pursuant to the provisions of this chapter. The industrial operation and maintenance surcharge shall be computed by the Department of Water and Sewage and shall be determined by said Department as follows:

- (1) The excess pounds of biochemical oxygen demand (BOD), suspended solids, ammonia nitrogen, chlorine and phosphorus requirements will be computed by multiplying the person's wastewater volume in million gallons per day by the constant 8.345 and then multiplying this product by the difference between the person's concentrations of biochemical oxygen demand (BOD), suspended solids, ammonia nitrogen, chlorine and phosphorus requirements and the aforementioned nonexcessive concentration in mg/l by weight. The surcharge for each constituent will then be determined by multiplying the excess pounds of each constituent by the appropriate rate of surcharge discussed below. This product will then be multiplied by the number of days in the billing period to determine the surcharge. Concentration figures in the above calculations shall be daily averages determined in accordance with the provisions of Article VI, Industrial Discharge Permits and Monitoring.
- (2) Rates of surcharge. The rates of surcharge for each of the excessive compatible constituents listed below shall be the City of Batavia rate of surcharge for each constituent in effect at the time, plus the Town's actual administrative cost, which shall be determined by the Town. The surcharge shall be in addition to the charge for the nonexcessive waste discharge.

(a) Biochemical oxygen demand (BOD).

(b) Suspended solids.

(c) Chlorine demand.

(d) Ammonia nitrogen.

(e) Phosphorus.

(3) The amount of surcharge shall reflect the cost incurred by the Town and city in removing the excess biochemical oxygen demand (BOD), suspended solids, ammonia nitrogen and phosphorus. This surcharge may include a proportionate share of the following:

(a) Fixed charges and amortization costs for the wastewater treatment works related to the appropriate surcharge parameter, as determined by the Department of Water and Sewage. Such basis of fixed charges shall be recalculated each year, or at the end of major construction periods, whichever is shorter; and

(b) The actual annual cost of operation of the portions of the wastewater treatment works, including repairs and maintenance, related to the appropriate surcharge parameter, as determined by the Department of Water and Sewage.

C. User charges shall be levied on all owners of any parcel of real property situated within a sanitary sewer district or any user outside of the district boundaries. The user charge shall represent the proportionate share of the district's capital costs as determined by the Town Board and will be based on sewer use and/or, at the discretion of the Town Board, excessive compatible pollutants if applicable.

(1) It is the determination of the Batavia Town Board that this charge shall constitute the sewer use portion of the Town's benefit formula assessed for the purpose of amortizing capital construction costs and that the balance of said costs be amortized through assessment charges based on property valuations to be levied on owners of all parcels of real property situated within a sanitary sewer district, which assessment charges shall be due and payable yearly and shall be included in the property owner's tax bill.

(2) User charges for other than excessive compatible pollutants shall be computed

based upon the user's sewer use as determined pursuant to §§ 191-55, 191-56 and 191-57. User charges shall be due and payable quarterly and shall be paid pursuant to the provisions of this chapter. The rate of user charges shall be determined and reviewed by the Town Board pursuant to § 191-53.

- (3) If the user charge for an industry is based on excessive compatible pollutants, this proportionate share will be based on the cost incurred by the Town in constructing collection and treatment facilities for the wastewater discharged to the public sewer by the industrial user. This incurred construction cost estimate will be based upon the design requirement for collecting and treating the hydraulic flow; BOD5, suspended solids, chlorine demand, ammonia nitrogen and phosphorus requirements; and any other applicable waste characteristics that must be taken into account in the design. The specific design requirements of each industry will be arrived at through application to the Town and/or city as per the requirements of Articles V and VI and a special agreement entered into between the sewer district and industrial user. User charges to industries based upon excessive compatible pollutants shall be determined and computed by the Department of Water and Sewage, shall become due and payable quarterly, and shall be paid pursuant to the provisions of this chapter.

§ 191-53. Determination of sewer rents.

- A. Pursuant to § 452 of the New York State Town Law, all sewer rents and charges shall be determined hereinafter by the Town Board by resolution and shall be reviewed at least yearly by said Town Board, provided that any resolution establishing and/or amending sewer rents and charges shall be adopted only after a public hearing upon at least five days' public notice. [Amended 8-20-2003 by L.L. No. 1-2003]
- B. Operation and maintenance charges levied pursuant to the provisions of § 191-52A of this chapter shall be according to the following rates: [Amended 12-17-1997 by L.L. No. 2-1997]
 - (1) For Sewer District No. 1 of the Town of Batavia, New York, the rate of \$3.02 for each 1,000 gallons of sewer use per quarter as determined pursuant to the provisions of §§ 191-55, 191-56 and 191-57 of this chapter.
 - (2) For Sewer District No. 2 of the Town of Batavia, New York, the rate of \$2.94 for each 1,000 gallons of sewer use per quarter as determined pursuant to the provisions of §§ 191-55, 191-56 and 191-57 of this chapter.
- C. User charges levied pursuant to the provisions of § 191-52B of this chapter shall be according to the following rates: [Amended 12-17-1997 by L.L. No. 2-1997]

- (1) For Sewer District No. 1 of the Town of Batavia, New York, exclusive of the Genesee Community College, the rate of \$0.81 for each 1,000 gallons of sewer use per quarter, and for the Genesee Community College the rate of \$1.33 for each 1,000 gallons of sewer use per quarter, both as determined pursuant to the provisions of §§ 191-55, 191-56 and 191-57 of this chapter.
- (2) For Sewer District No. 2 of the Town of Batavia, New York, the rate of \$0.59 for each 1,000 gallons of sewer use per quarter as determined pursuant to the provisions of §§ 191-55, 191-56 and 191-57 of this chapter.

§ 191-54. Levy and collection of sewer charges.

- A. The amount due each quarter for operation and maintenance charges, industrial operation and maintenance surcharges and user charges shall be stated on the regular water bill and shall be itemized as separate and distinct charges.
- B. All sewer charges in § 191-53 shall be due and payable at the same time water bills are due and payable.
- C. Responsibility for payment of sewer charges is with the property owner and/or operator of an industrial or commercial facility.
- D. A ten-percent penalty shall be added to any bill or portion thereof in arrears for 30 days. Any rent, charge or fee not paid shall become a lien upon the premises served and shall be collectible as provided by New York State Law.

§ 191-55. Sewer use.

Except as herein provided in this article, the sewer use shall be the total metered water use.

§ 191-56. Water not entering the sewer.

- A. In the event the owner of a lot, parcel of land, building or other premises discharging wastewater into a sanitary sewer, either directly or indirectly, uses metered Town water in excess of 25,000 gallons per quarter and claims a significant portion of the metered water does not return to the sanitary sewer, such owner may file a written statement to that effect with the Department of Water and Sewage.
- B. Upon receipt of such statement, the Department of Water and Sewage may authorize the installation, at the owner's expense, of a separate meter or meters to measure the metered water returning to the sanitary sewer. If the installation of such a meter or

meters is not practical, the Department of Water and Sewage shall determine a method of measuring the wastewater entering the sanitary sewer. In such cases, the sewer charges shall be based on this determination. However, only the owner's operation and maintenance charges shall be waived. The user charges on the owner's quarterly billing and sewer charge to cover capital construction costs on the owner's annual tax statement shall not be waived.

- C. The significant undischarged portion of the metered water use must be in excess of that quantity of water use that a typical water user does not discharge into the sewer, and the agreed-upon water use reduction will only reflect that amount of undischarged water use that is in excess of what is typical.

§ 191-57. Nonmetered water entering the sewer.

In the event that a property owner or occupant, either directly or indirectly, discharges nonmetered water into the Town sanitary sewer system, the property owner must provide either a water meter and appropriate filtration devices or a sewer meter as determined and directed by the Department of Water and Sewage to measure and/or estimate the nonmetered water entering the Town sanitary sewer system. In such cases the property owner shall be assessed operation and maintenance charges, user charges and appropriate surcharges on the nonmetered water which is to be measured pursuant to the provisions of this section.

§ 191-58. Meter costs.

All expenses in connection with metering shall be charged to the owner of the land.

§ 191-59. Charges to industrial users.

If applicable, provisions of this article covering user charges shall not pertain to industrial users if they have a specific agreement with the applicable sewer district in accordance with § 191-52 of this article.

§ 191-60. Inconsistent agreements.

The user charge system contained herein shall take precedence over any terms or conditions of agreements or contracts between the Town and users (including industrial users, special districts, other municipalities, and state and federal agencies or installations) which are inconsistent with the requirements of Section 204(b)(1)(A) of the Clean Water Act (33 U.S.C. § 1251 et seq., as amended) or the 40 CFR Part 35 rules and regulations (February 17, 1984).

ARTICLE XI Liabilities and Penalties

§ 191-61. Liability for damages and expenses.

- A. Any person violating any provision of this chapter shall be liable to the Town for any and all losses, damages, and expenses incurred by the Town or for which the Town may be held liable as a result of said violation. The expenses shall include but not be limited to the determination of the source of the violation and, if necessary, the restoration of the city wastewater treatment system to its original operating condition, which shall include but not be limited to sewer cleaning, and reconnection of sewer service following a determined necessary physical severance of such sewer.
- B. Any person either directly or indirectly discharging nonmetered water into the Town's sanitary sewer system other than through a water or sewer meter as provided for in § 191-57 hereof shall, in addition to all other liabilities and penalties, be responsible for operation and maintenance charges, usage charges and surcharges for the amount of said nonmetered water entering the Town's sanitary sewer system.

§ 191-62. Notice of violation.

- A. Any person violating any provision of this chapter, with the exception of § 191-16, 191-17 or 191-28A, shall be served by the Department of Water and Sewage with a written notice stating the nature of the violation and providing a time limit of seven days for the satisfactory correction thereof.
- B. Service of the notice of violation shall be sufficient if directed to the owner or operator of a residence, commercial or industrial facility, as the case may be, violating this chapter. Service of said notice of violation shall be made personally upon the alleged violator, if possible. Otherwise said notice of violation shall be sufficient if served by delivering the same to a person of suitable age or discretion at the actual residence, commercial or industrial facility at which said violation is occurring and by mailing the notice to the person to be served at his last known residence or business address or, where service cannot otherwise be made with due diligence, by affixing said notice of violation to the door of the residence, commercial or industrial facility at which said violation is occurring and by mailing said notice to such person at his last known residence or place of business.

§ 191-63. Informal hearing. [Amended 10-16-2002 by L.L. No.2-2002]

Where any person who is duly notified of a violation as set forth in this chapter so requests, an informal hearing shall be held between that person, the Department of Water and Sewage and any other person deemed appropriate by the Department of Water and Sewage. The purpose of the informal hearing shall be to promptly remedy violations prior to any injunctive actions by the Town. Said informal hearing shall be

requested and held within three days of notice of violations. The request for or convening of an informal hearing shall not prevent the Town from convening a show cause hearing or pursuing any other relief or remedy as allowed by this chapter or otherwise.

§ 191-64. Show cause hearing. [Added 10-16-2002 by L.L. No. 2-2002.]

- A. Except where the Department of Water and Sewage has acted under § 191-28A of this chapter by severing the sewer connection(s) for the reasons stated in said section, the Town may order any user who causes or allows an unauthorized discharge to enter the POTW; fails to pay sewer rents where the aggregate amount of said unpaid sewer rents exceeds the sum of \$2,500, it being the Town's determination that unpaid sewer rents exceeding \$2,500 will have a significant economic impact on the Town and its sewer districts; refuses access to a premises serviced by the Town's sewer system and/or containing records or other information relevant to the Town's sewer system or the implementation and enforcement of this chapter, including but not limited to all inspection, observation, measurement, sampling, testing and/or records examination to be performed in accordance with the provisions of this chapter; to show cause before the Town Board why the proposed enforcement actions should not be taken. A notice shall be served on the property owner, occupant and/or user specifying the time and place of a hearing to be held by the Town Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement actions, and directing the user to show cause before the Town Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation.
- B. The Town Board may itself conduct the hearing and take the evidence, or may designate any of its members or an officer or employee of the Town to:
 - (1) Issue in the name of the Town Board notices of hearings requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (2) Take the evidence;
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Board for action thereon.
- C. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available

to any member of the public or any party to the hearing upon payment of the usual charge thereof.

- D. After the Town Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed, existing treatment facilities, devices or other related appurtenances are properly operated and/or or other adequate action is taken to remedy said violation. Further orders and directives, including liabilities and penalties, as are necessary and appropriate may be further issued in accordance with this Article XI. Any said order shall be final and conclusive.
- E. Any action taken pursuant to this section shall be in addition to any other right or remedy available to the Town pursuant to this chapter or otherwise.

§ 191-65. Enforcement actions.

- A. Nothing contained herein shall prevent the Town or Department of Water and Sewage, either alone or in conjunction with the foregoing penalties, from maintaining an action or proceeding in the name of the Town or Department of Water and Sewage in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter. In addition, the Town or Department of Water and Sewage reserves the right to obtain reimbursement for any loss, damage or expense incurred by it as a result of any violation of this chapter.
- B. The approval authority shall have the right to seek or commence an action for appropriate legal and/or equitable relief in cases where it deems the actions taken by the Town in seeking injunctive relief insufficient.

ARTICLE XII Coordination with City

§ 191-66. Compliance with city regulations; capacity of system not to be exceeded.

- A. This chapter shall not allow any action or special agreement regarding the discharge of any wastes to the Town public system that would be less stringent than the requirements of the City Sanitary Sewer Ordinance, Chapter 147 of the City of Batavia Municipal Code.

- B. In no case will the Town or city allow waste to be discharged that would cause the Town or city to exceed its capacity in the jointly owned city/Town wastewater treatment system.