

MONROE COUNTY PURE WATERS SEWER USE LAW

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Article I

Short Title and Statement of Purpose

- Section 1 Short Title
- Section 2 Purposes

Section 1 Short Title: This Law shall be known as the Sewer Use Law of the County of Monroe.

Section 2 Purposes: The purposes of this Law are as follows:

- 1.21 To control and provide for the regulation of discharges into the sanitary, storm, and/or combined sewers of the County Sewer System and collection sewer systems tributary thereto.
- 1.22 To prohibit discharges of:
 - a) excessive volumes and/or inordinate rates of flow into the County Sewer System;
 - b) sewage or other wastes (including industrial) which in any way may create a poisonous, hazardous explosive, flammable or toxic condition injurious to sewer maintenance or operational personnel, or create operating or maintenance difficulties in the County Sewer System as it now exists or may be constructed, modified or improved in the future.
 - c) unpolluted water not requiring treatment

- 1.23 To prohibit and/or to regulate by permit discharges of sewage, industrial wastes or other wastes which require greater expenditures for treatment than those required for equal volumes of normal sewage; to surcharge users for permitted discharges requiring higher treatment levels costing more than “normal sewage”.
- 1.24 To require pretreatment of sewage, industrial waste or other waste before discharge into the County Sewer System and collection system's tributary thereto, if such wastes may impair the strength and/or durability of the structures appurtenant to the system by direct or indirect chemical, biological, or physical action, or interfere with the normal treatment processes, or pass through the sewage treatment plant into the receiving waters untreated, or only partially treated, or of such concentration as may exceed established discharge limits or interfere with the proper disposal of sludge at the sewage treatment plants.
- 1.25 To provide the authority and procedure for the Pure Waters Districts to promulgate rules and regulations, to investigate and prepare findings of facts, to issue permits, to hold hearings, to issue decisions, orders and opinions, and to give notice and make public all rules and decisions affecting substantial rights of persons or property.
- 1.26 To provide cooperation with the Monroe County Department of Health, City of Rochester, New York State Department of Environmental Conservation, New York State Department of Health, United States Environmental Protection Agency and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and bacteriological quality of water courses within or bounding the County.
- 1.27 To protect the public health and to prevent nuisances.
- 1.28 To enforce applicable promulgated final standards and/or procedures set by the New York State Department of Environmental Conservation (DEC) or United States Environmental Protection Agency (EPA).

Article II

Definitions

Section 2.1 Definitions: Unless the context specifically indicates otherwise, the meaning of the terms used in this Law and in any rules and regulations adopted pursuant to this Law shall be as follows:

- 2.11 “Act” shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 USC 1251 et seq as may be amended.
- 2.12 “Administrative Board” shall mean the governing body of each County Sewer District established by the Monroe County Legislature.
- 2.13 “Approved Laboratory Procedure” shall mean the procedures contained in the book “Standard Methods for the Examination of Water and Waste Water” published by the American Public Health Association or other procedures approved by the Director for the determination of flow measurement or pollution concentration of discharges to the public sewers.

- 2.14 “B.O.D.” (Biochemical Oxygen Demand) shall mean the results obtained using an approved laboratory procedure to measure the quantity of oxygen utilized in the biochemical oxidation of organic matter or in satisfying the oxygen demand of other materials present expressed in milligrams per liter.
- 2.15 “C.B.O.D.” (Carbonaceous Biochemical Oxygen Demand) shall mean the results obtained using an approved laboratory procedure to measure CBOD by adding a nitrification inhibitor in the analytical procedure described above for “B.O.D.” expressed in milligrams per liter.
- 2.16 “C.O.D.” (Chemical Oxygen Demand) shall mean the results obtained using an approved laboratory procedure to measure the oxygen requirement of that portion of the organic matter in a sample that is susceptible to oxidation by a specific chemical oxidant expressed in milligrams per liter.
- 2.17 “Contested Case” means a proceeding in which the legal rights, duties or privileges of a party are determined by the Monroe County Pure Waters Districts after the party has an opportunity for a hearing.
- 2.18 “Chlorine Demand” shall mean the results obtained using an approved laboratory procedure to measure the difference between the amount of chlorine added to water, sewage or industrial wastes and the amount of residual chlorine remaining at the end of a specified time expressed in milligrams per liter.
- 2.19 “Combined Sewer” shall mean a sewer receiving a mixture of storm water and sanitary sewage with or without industrial wastes.
- 2.20 “Control Manhole” shall mean an accessible manhole in the connection between a private sewer and the public sewer.
- 2.21 “Cooling Water” shall mean the water discharged from any system of heat transfer, condensation, air conditioning, non-contact cooling, refrigeration, or other sources.
- 2.22 “County” shall mean the County of Monroe.
- 2.23 “County Sewer” shall mean any sewer owned by the designated County Sewer Districts or County Pure Waters Districts and/or operated by the Pure Waters Districts of the County of Monroe.
- 2.24 “County Sewer Districts” shall mean all County Sewer Districts created, altered, or modified by action of the Monroe County Legislature including, but not limited to, the following:
- A. Northwest Quadrant Pure Waters District No. 1,
 - B. Irondequoit Bay South Central Pure Waters District,
 - C. Gates-Chili-Ogden Sewer District,
 - D. Rochester Pure Waters District,
- 2.25 “County Sewer System” shall mean the trunk sewers, collection sewers, force mains, pumping stations, sewage regulators, water pollution control plants (sewage treatment plants) and other appurtenant structures either owned or leased by the County Pure Waters or Sewer Districts and/or operated by the Pure Waters Districts of the County of Monroe.

- 2.26 “D.E.C.” shall mean the New York State Department of Environmental Conservation.
- 2.27 “Department of Health” shall mean the Monroe County Department of Health.
- 2.28 “Director” shall mean the Director of Pure Waters of the County of Monroe, employees acting under his supervision, or his duly authorized agent or representative.
- 2.29 “E.P.A.” shall mean the United States Environmental Protection Agency.
- 2.30 “Ex parte consultation” shall mean any consultation, conference or communication for the benefit of one party in a contested case without notice to, and in the absence of, the other party.
- 2.31 “Garbage” shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, the handling, storage and sale of produce, and from the packaging and canning of food.
- 2.32 “Grease, Oil, or Fats” shall mean any material which is extractable from an acidified sample of a waste by Hexane or other specified solvent in an approved laboratory procedure.
- 2.33. “Industrial Wastes” shall mean any liquid, gaseous or solid substance or a combination thereof which is an undesired by-product waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.
- 2.34 “Normal Sewage” shall mean sewage, industrial wastes or other wastes, which, when analyzed, show pollutant concentrations which do not exceed limits established by the Rules and Regulations of the Pure Waters Administrative Boards.
- The number and values of pollutant concentrations and/or characteristics are subject to revision by the Pure Waters Administrative Boards in accordance with Article XI.
- 2.35 “Nuisance” shall mean the use or lack of use of the County Sewer System in such manner so as to endanger life or health or give offense to the senses or obstruct or otherwise interfere with the reasonable use or maintenance of the County Sewer System.
- 2.36 “Other Wastes” shall mean discarded matter not normally present in sewage or industrial waste.
- 2.37 “p” - Phosphate shall mean the concentration of Phosphate as total Phosphorus expressed in milligrams per liter.
- 2.38 “Parcel Charge” shall mean the charge applied to all assessed properties in the County Pure Waters Districts which may be subject to a normal parcel charge on a benefits derived basis, except where a direct charge based on assessed valuation is in part or wholly the basis of sewer use charges.
- 2.39 A “Party” means each person properly seeking and entitled as of right to be admitted to any administrative or enforcement procedure.
- 2.40 “Petroleum Hydrocarbons” shall mean that portion of the total extractable grease, oils or fats as defined in Section 2.31 which is not retained on an activated alumina adsorption column after elutriating with Hexane.

- 2.41 “Permit” means a temporary, revokable written document allowing the use of the County Sewer System for specific wastes over a limited period of time.
- 2.42 “Person” shall mean any individual, firm, company, agency, association, society, corporation, institution or group.
- 2.43 “pH” shall mean the logarithm of the reciprocal of the concentration of Hydrogen ions in solution.
- 2.44 “Properly Shredded Garbage” shall mean the wastes from the preparation, cooking and dispensation of food that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having a dimension greater than one quarter inch (1/4”) in any direction.
- 2.45 “Public Sewer” shall mean the sewers, manholes, intercepting sewers, sewage pumping, treatment and disposal works, and any other plant, works or equipment and accessories operated by any municipality that discharges its sewage and liquid into the County Sewer System.
- 2.46 “Pure Waters Districts” shall mean any County Sewer District created by the Monroe County Legislature, and any Department or Division of County government duly authorized or designated to administer or operate the County's Sewer Districts.
- 2.47 “Receiving Waters” shall mean a natural water course or body of water into which treated sewage is discharged.
- 2.48 “Rule or Regulation” means each statement of general or specific applicability that implements, interprets or describes the organization, procedures, or requirements of Pure Waters Districts. The term includes the amendment or repeal of a prior Rule or Regulation but does not include: (A) statements concerning only the internal management of the Pure Waters Districts which do not affect private rights or procedures available to the public, or (B) Declaratory Rulings issued by the Pure Waters Administrative Board pursuant to Article XI, Section 11.6, or (C) intra-agency memoranda.
- 2.49 “Sanitary Sewage” shall mean sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels, industrial buildings, institutions, and filter backwash from swimming pools).
- 2.50 “Sanitary Sewer” shall mean a sewer which transports sewage and to which storm, surface and ground waters are not intentionally admitted.
- 2.51 “Scavenger Wastes” shall mean the matter collected from privies, septic tanks, cesspools, chemical toilets, camper and marine holding tanks, sludge from treatment of industrial wastes, and other domestic, commercial and industrial waste.
- 2.52 “Sewage” shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm water as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes or other wastes also shall be considered “Sewage” within the meaning of this definition.

- 2.53 “Sewage Treatment Plant” (Water Pollution Control Plant) shall mean an installation of devices and structures used for treating sewage and industrial wastes; the handling of sludge resulting from such treatment, and the discharge of treated liquid effluent into designated receiving waters.
- 2.54 “Sewerage System” shall mean all facilities for collecting, regulating, pumping and transporting sewage to the sewage treatment plant.
- 2.55 “Sewerage Surcharge” shall mean the demand payment for the use of a public sewer and/or sewage treatment plant for handling any sewage, industrial wastes or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage as specified in the Rules and Regulations.
- 2.56 “Slug” shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in volume of flow exceeds for any period of duration longer than five (5) minutes more than five (5) times the average twenty-four (24) hour concentration of flow during normal operation.
- 2.57 “Standard” shall mean a criterion established by a regulatory authority.
- 2.58 “State Pollutant Discharge Elimination System (SPDES) permit” is the permit issued by D.E.C. to Pure Waters Districts operating treatment facilities discharging effluent into receiving waters.
- 2.59 “Storm Sewer” (Storm Drain) shall mean a sewer which carries storm waters and drainage, but excludes sewage and industrial wastes other than cooling waters and unpolluted waters.
- 2.60 “Storm Water” shall mean any flow occurring during or following any form of natural precipitation and resulting therefrom.
- 2.61 “Suspended Solids” shall mean the results obtained using an approved laboratory procedure to determine the dry weight expressed in milligrams per liter of solids that either float on the surface, are in suspension in sewage, or are settleable and can be removed from sewage by filtration.
- 2.62 “Toxic Substances” shall mean any substance whether gaseous, liquid or solid which, when discharged to public sewer in sufficient quantities, may be detrimental to the sewer system, interfere with any biological sewage treatment process, or constitute a hazard to human beings or animals, or inhibit aquatic life, or create a hazard in the receiving waters. This includes but is not limited to the EPA list of designated Priority Pollutants promulgated pursuant to the Act.
- 2.63 “Unit Charge” - In Pure Waters Districts, the sewer use charge may be based on a standard volume of sewage flow from an average household; this volume, as determined by methods described herein, may vary for different Pure Waters Districts and is subject to revision by the Administrative Board and the County Legislature if data accumulated under actual conditions indicate a need for such a revision.
- 2.64 “Unpolluted Waters” shall include storm water, surface water, ground water, roof runoff, subsurface drainage and uncontaminated cooling water.

2.65 “Volume Charge” - In Pure Waters Districts, the sewer use charge may be based in part or wholly on the volume of discharge into the sewer system. A volume charge shall be based on a specific cost per 100 cubic feet or per 1,000 gallons; the specific cost is determined separately for each Pure Waters District based on the overall cost of treating sewage and is subject to the approval of the Administrative Board and the County Legislature.

NOTE: “Shall” is mandatory.
“May” is permissive.

Article III

Use of Public Sewers

Section 3.1 Limitation of Use

Section 3.2 Health Regulations

Section 3.1 Limitation of Use:

- A. Use of County Sewer System: The use of the County Sewer System and public sewers tributary thereto shall be strictly limited and restricted, except as provided in Subdivision 3.1B hereof, to receive and accept the discharge of sewage and other wastes, including industrial wastes, generated on, or discharged from, real property lying within the bounds of the Monroe County Pure Waters Sewer Districts as established, altered, changed, modified, reduced, enlarged, combined and/or consolidated by action of the Legislature of the County of Monroe.
- B. Exception to Limitations: The discharge of sewage, including industrial wastes and other wastes generated on or discharged from real property lying outside the bounds of Monroe County Pure Waters Sewer Districts, into the County Sewer System and public sewers tributary thereto shall be made only with express consent of the Director, the respective District Administrative Boards and/or the Monroe County Legislature and upon the issuance of a permit setting forth the terms and conditions for such discharge.

Section 3.2 Health Regulations: All requirements, directives and orders calling for the mandatory use of the County Sewer System or public sewers tributary thereto for the proper discharge of sewage, including industrial wastes and other wastes, shall be established and given by the local municipality, the Monroe County Department of Health, DEC, EPA or such other State or Federal Agencies which have enforcement powers.

Article IV

Materials and Substances Excluded from Public Sewers

- Section 4.1 Exclusion of Unpolluted Waters
- Section 4.2 Prohibited Materials, Substances and Wastes
- Section 4.3 Regulation of Certain Materials and Substances
- Section 4.4 Action by the Pure Waters Districts
- Section 4.5 Emergency Action by the Director

Section 4.1 Exclusion of Unpolluted Waters: No person shall discharge or provide a connection for discharging or draining into any County Sewer System or public sanitary sewer tributary thereto any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water, nor drain any catch basin, lake, swamp, pond or swimming pool, except with the permission of the Director pursuant to a properly issued permit or if such connection or drainage is into a designated “combined sewer” or storm sewer.

Section 4.2 Prohibited Materials, Substances and Wastes: Except hereinafter provided, no person shall discharge or cause to be discharged, or allow to run, leak, or escape into any public sewer, or into any private sewer connected with a public sewer any of the following described materials, substances or wastes, except such small quantities as may be present in normal household wastes or specifically permitted by the Director.

- A. Any gasoline, benzene, naptha, fuel oil, alcohols, or other flammable or explosive liquid, solids or gases.
- B. Any water or wastes having a pH lower than (5.5) or having a pH higher than (10.0) or having any other corrosive properties capable of causing damage or hazard to the County Sewer System, or personnel employed in its operation and maintenance.
- C. Any solids or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system. Examples of prohibited substances are, but not limited to, the following: construction materials, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure, coffee grounds, fur, wax, cement, hops, spent grain, whole blood, or filter media.
- D. Any waters or wastes containing toxic, poisonous, or hazardous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, or to constitute a hazard to humans or animals, or to create a public nuisance, or to create hazardous conditions in the receiving waters. Examples of hazardous substances shall include, but not be limited to: metal plating tank wastes, petroleum tank bottoms, redistilled solvent bottoms, metal sludges or cyanide plating wastes.

Section 4.3 Regulation of Certain Materials, Substances, and Water or Waste Discharges: No materials, substances, waters or wastes including any wastes listed within the Rules and Regulations of the Pure Waters Districts shall be discharged which shall be found to harm the County Sewer System, the sewage treatment process, have an adverse effect on the receiving waters or would endanger life, limb, public property or shall constitute a nuisance.

The criteria used in promulgating Rules and Regulations of the Pure Waters Districts regulating such discharges include such factors as: quantities of said wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the capacity of the sewage treatment facilities and the likelihood of harm, injury or nuisance. The characteristics of the effluent subject to review will be determined from the sampled wastewater collected at a control manhole prior to entering the County Sewers System. Substances, materials or wastes prohibited in the first instance, but subject to review are:

- A. Any liquid or vapor having heat in amounts which will inhibit biological activity in the treatment plant resulting in interference or causing damage, but in no case, heat in such quantities that the temperature exceeds 65 degrees C (150 degrees F) at the discharge point or 40 degrees C (140 degrees F) at the treatment plant, unless alternate temperature limits have been approved.
- B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter, or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (0 and 65 degrees Celsius).
- C. Any garbage that has not been properly shredded or triturated.
- D. Any waters or wastes containing substances in amounts determined to be potentially objectionable or toxic.
- E. Any water or wastes containing phenolic compounds or other objectionable tasting and/or odorous substances, in concentrations exceeding limits which are established in the Rules and Regulations necessary to meet the requirements of the State, Federal or other public agencies having jurisdiction for such discharge to the receiving waters.
- F. Any radioactive wastes or isotopes of such half-life or concentration which exceed limits established by the applicable State or Federal Regulations or the Director. See Section 6.2.
- G. Materials which contain or cause:
 - 1. Adverse concentrations of inert suspended solids (such as, but not limited to Fuller's earth, lime slurries and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - 2. Aesthetically unacceptable discoloration at the treatment plant or in the receiving waters such as, but not limited to, dye wastes and vegetable tanning solutions.
 - 3. Except as provided for under Article X, Biochemical Oxygen Demand (BOD), total suspended solids, total phosphorous or chlorine requirements in such quantities as constitute an unacceptable additional load on the sewage treatment works.
 - 4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- H. Waters or wastes containing substances in concentrations not amenable, or only partially amenable, to treatment or reduction by the sewage treatment plant processes resulting in treated sewage effluent not meeting requirements of Federal and State agencies having regulatory authority over the discharge of effluent into the receiving waters.

Section 4.4 Action by the Pure Waters Districts: Pure Waters Districts, after a Hearing, shall either prevent the discharge of unacceptable water and wastes or issue a permit which is properly conditioned upon findings and the standards of safety prescribed by this law or the Rules and Regulations of the Pure Waters Districts. The Rules and Regulations of the Pure Waters Districts shall include surcharges, pretreatment requirements, control over quantities or rates of discharge, time of discharge and holding facilities, and any measure or combination of measures which are necessary to preserve the County Sewer System, and the health, safety and well being of the employees, the community and the receiving waters.

Section 4.5 Emergency Action by the Director: The Director shall take any action necessary to protect the public health, safety or welfare without a prior Hearing or order of the Administrative Board in the event any discharge which, in the opinion of the Director, will cause serious, imminent harm, injury or adversely effect the County Sewer System, any person, or the receiving waters. A timely review of any emergency action by Administrative Board Hearing shall be accomplished to determine what, if any, permanent action shall be deemed necessary. The Director, or employees under his supervision, acting upon the belief that an emergency exists, shall be indemnified and held harmless against any personal liability which may arise in the performance of his duties to protect the public health, safety, welfare, or property of the County.

Article V

Substances Which May be Conditionally Permitted

- Section 5.1 Substances Generally Prohibited
- Section 5.2 Permissible Concentration of Toxic Substances
- Section 5.3 Special Concentration Limits
- Section 5.4 Federal Pretreatment Standards
- Section 5.5 Emergency Action by the Director

Section 5.1 Substances Generally Prohibited: Waters bearing miscellaneous substances in concentrations above the standards set for normal sewage shall not be discharged into the County Sewer System or public sewers tributary thereto, unless the Rules and Regulations of the Pure Waters Districts or upon a finding by the Director and/or the Administrative Board that such concentration will not adversely affect any of the biochemical, chemical or other sewage treatment processes, sewage system or receiving waters. The Director must be contacted immediately to make a determination if any questionable wastes or waste waters are being considered for discharge to the sewer systems. Examples of prohibited substances include, but are not limited to, the following:

- A. Antibiotics
- B. Elemental or ionic Bromine, Iodine, Chlorine, Fluorine
- C. Creosols or Creosotes
- D. Phenol and Phenolic compounds that convert to Phenol in the sewerage system
- E. Sulfonamides, toxic dyes (organic or mineral)
- F. Metal finishing chemicals, electroplating process chemicals or metal sludges
- G. Petroleum tank bottoms or redistilled solvent bottoms
- H. All strong oxidizing agents such as Chromates, Dichromates, Permanganates, etc.
- I. Any reducing agents causing hazardous conditions in the sewerage system
- J. Chemical compounds producing toxic, flammable or explosive gases, either upon acidification
- K. Wastes from industrial processes or hospital procedures containing viable pathogenic organisms

Section 5.2 Permissible Concentrations of Toxic Substances:

The concentration in sewage of any pollutant substances shall not exceed the concentration limits specified by Federal and State Regulatory Agencies or the Rules and Regulations promulgated under this Law when discharged into the sewer. The Pure Waters Districts may revise the established limits in the Rules and Regulations, or insert additional limits on items after a Hearing held by the Administrative Board.

Section 5.3 Special Concentration Limits: When an Administrative Board finds that the volume of a single toxic industrial waste discharge or the combined toxic industrial waste discharge of a group of industries within a single contributory area acts in a manner as to cause an ultimate concentration of toxic substances entering a sewage treatment plant; or in cases where it is known that the toxic substances in the concentrations involved will be effectively removed by the sewage treatment plant without causing deleterious effects of any kind to the treatment process, or the receiving waters, the Administrative Board may rule that separate or special concentration limits shall be used by said contributors.

Section 5.4 Federal Pretreatment Standards: Upon the promulgation of final Federal pretreatment standards for a particular industrial subcategory, the Federal standard, if more restrictive than limitations imposed under this Law or the Rules and Regulations for industries in that subcategory, shall supersede local regulation for the class of industrial user on the date the Federal standard becomes effective until such time a removal credit is given. The Director shall notify all affected users of the applicable reporting requirements, such as submission of baseline monitoring reports, reports on compliance and sampling and laboratory testing results. No industrial user shall be permitted to dilute process discharges with sanitary wastewater or other wastewaters as a partial or total substitute for adequate treatment to achieve compliance with Federal standards.

Section 5.5 Emergency Action: The Director shall take any action necessary to protect the public health, safety or welfare without a prior Hearing or order of the Administrative Board in the event any discharge which, in the opinion of the Director, will cause serious, imminent harm, injury or adversely affect the County Sewer System, any person, or the receiving waters. A timely review of any emergency action by Administrative Board Hearing shall be accomplished to determine what, if any, permanent action shall be deemed necessary. The Director, or employees under his supervision, acting upon the belief that an emergency exists, shall be indemnified and held harmless against any personal liability which may arise in the performance of his duties to protect the public health, safety, welfare, or property of the County.

Article VI

Disposition of Industrial Wastes

Section 6.1 Industrial Wastes Requiring a permit

Section 6.2 Radioactive Wastes

Section 6.3 When a Permit Shall be Required

Section 6.1 Industrial Wastes Requiring a Permit: The following are industries whose wastes shall require pretreatment and/or approval before discharge into public sewers; bleaching and dyeing, bottling, brewing, cotton textile manufacture or processing, dairies, dairy products, distilling, fat rendering, film processing, food processing, galvanizing, glue manufacturing, laundromats, lens grinding operations, manufacture of syrups, jams or jellies, meat packing, metal pickling or plating, munition manufacturing, organic or inorganic chemical manufacturing, oil refining, optical goods manufacturing, photographic processing, public laundering, pulp and paper making, rubber production, salt works, slaughterhouses, soap making, sugar refining, tanning, wool scouring or washing, or any industry producing wastes with strong acid or alkaline properties or which may form deposits in or cause damage to the County Sewer System. In addition to the industries listed here, any industry category for which pretreatment requirements have been

promulgated in final form by EPA in accordance with the Act are included. The process or processes employed in the pretreatment of such wastes shall, in each case, conform to the Rules and Regulations of the Pure Waters Districts and shall be inspected and regulated by permit issued by the Director as set forth under Article VIII.

Section 6.2 Radioactive Wastes: Any institution or industry discharging radioactive material or fission products into the County Sewer System must be registered with the Pure Waters Districts as well as with other regulatory agencies as the Law requires. The registration shall include all copies of State and Federal Permits governing radioactive waste discharge. The active elements and concentrations permitted to be discharged into the public sewers shall be in conformance with the regulation of the Department of Environmental Conservation promulgated pursuant to the Environmental Conservation Law of the State of New York and be at all times within the limits set by this and other County, State or Federal Agencies.

Section 6.3 When a Permit Shall be Required: Whenever any industrial waste is produced in such quantities and discharged into the sewer system so that it may injure the public sewers into which it is discharged, adversely affect the treatment of sewage, not yield readily to treatment processes, or adversely affect the receiving waters, said industrial waste shall not be discharged into the County Sewer System or public sewers tributary thereto without a permit.

Article VII

Disposition of Scavenger Wastes

Section	7.1	Permit Required
Section	7.2	Conditions for Discharge of Scavenger Wastes
Section	7.3	Application for Permit; Revocation
Section	7.4	Charges for Discharge of Scavenger Wastes

Section 7.1 Permit Required: The discharge of scavenger wastes will be permitted at authorized water pollution control plants only with the approval of the Director.

Section 7.2 Conditions for Discharge of Scavenger Wastes: The discharge of scavenger wastes shall be made only at a location as shall be stated on the permit. The time and conditions for permissible discharge shall be as set forth on the permit or as may be ordered by the Director.

Section 7.3 Application for Permit; Revocation of Permit: The applicant for a permit shall be the owner or lessee of the vehicle or vehicles hauling scavenger wastes. All scavenger permits issued by the Director shall be for a maximum of one (1) year.

All acts performed under the terms and conditions of the permit shall be subject to supervision or inspection by the Director. False or deliberately misleading information on an application for a permit invalidates any permit issued subsequent and exposes the applicant to possible enforcement action under Article XII. Failure to adhere to the terms or conditions of the permit, failure to pay District billing for scavenger waste disposal services on a timely basis or violation of the Rules and Regulations or other Laws regulating scavenger waste disposal shall be grounds for suspension or revocation of the permit by the Director. Hearings to reinstate a permit shall be initiated by petition of the party desiring reinstatement. No permit shall be issued unless the scavenger waste hauler is properly licensed and/or permitted by DEC and has a valid waste hauler's permit in accordance with all applicable DEC requirements.

Section 7.4 Charges for Discharge of Scavenger Waste: Discharge of scavenger wastes shall be made under individual tickets for each load to be discharged under the terms of the permit. Rates charged for scavenger waste treatment shall be those rates confirmed by the Monroe County Legislature. The scavenger waste haulers will be billed by the District for disposal services.

Article VIII

Terms and Conditions for the Issuance of Permits

Section	8.01	Power to Inspect
Section	8.02	Permits when Required
Section	8.03	Applications for Permits
Section	8.04	Terms and Conditions
Section	8.05	Sampling and Testing Wastes
Section	8.06	Control Manholes
Section	8.07	Measurement and Analysis of Wastes
Section	8.08	Determination of Pollution Concentrations
Section	8.09	Determination of Volumes
Section	8.10	Pollution Concentration Disputed by a Person
Section	8.11	Revocation of Permit

Section 8.1 Power to Inspect: All users of the County Sewer System or any public tributary sewer are deemed to have consented to inspection necessary for the orderly administration of this Sewer Use Law and the Rules and Regulations of the Pure Waters Districts. Inspections will be accomplished during hours of operation or at periods of sewer use with or without notice to the users. Inspection shall be performed in such a manner as to reasonably observe and quantify, if necessary, the characteristics of the waters and wastes discharged into the sewer system. The power to inspect will be exercised in accordance with Article IX of this Law.

Section 8.2 Permits when Required: It shall be unlawful for any person to discharge directly or indirectly into the County Sewer System or public sewers tributary thereto industrial wastes or other wastes the characteristics of which do not conform to the concentration limits prescribed for “normal sewage” in the Rules and Regulations or to discharge any toxic substances in potentially toxic amounts or any other objectionable material or substances as specified within Articles III, IV, V, and VI herein, except upon such terms and conditions as set forth in a permit issued under the established Rules and Regulations of the Pure Waters Districts. All discharge permits into the County Sewer System shall be for a minimum of one (1) year.

Section 8.3 Applications for Permits: All applicants for a permit to discharge sewage combined with industrial wastes or other wastes into the County Sewer System shall file with the Director an application for issuance of a permit. All information required by the application form shall be furnished by the applicant.

Section 8.4 Terms and Conditions: The Director may impose certain terms and conditions as part of the permit. The terms and conditions may include, but are not limited to, the following:

- D. A limitation upon the volume of sewage, industrial wastes or other wastes; the rate of flow permitted and/or the time of discharge from the premises.

- E. The installation and maintenance by the permittee, at his own expense, of facilities or equipment for intermittent or continuous flow and/or quality measurements of sewage, industrial wastes or other wastes discharged from the premises into a public sewer.
- C. The installation and maintenance by the permittee, at his own expense, of detention tanks or other facilities or equipment for reducing the maximum rates of discharge to a specified percentage of the twenty-four rate as shall be required by the Rules and Regulations of the Pure Waters District.
- D. The installation and maintenance by the permittee, at his own expense, of such pretreatment facilities as required by the Rules and Regulations.
- E. The installation and maintenance by the permittee, at his own expense, of a suitable control sampling manhole or manholes at any private sewer discharging to a public sewer.
- F. The installation and maintenance by the permittee, at his own expense, of grease, oil and solid material interceptors, separators or traps that are necessary for the proper handling of liquid wastes containing substances in excessive quantities or any other harmful ingredients.
- G. Submit plans, amendments or changes to plans of the facilities or equipment required to be installed and maintained by the permittee for approval by the Director.
- H. Subsequent to the commencement of operation of any pretreatment facilities, periodic reports shall be submitted by the permittee to the Director setting forth adequate data in order to determine acceptability of the sewage or other wastes (including industrial wastes). The frequency of these reports will be determined by the Director.
- I. Where pretreatment or flow-equalizing facilities are provided, they shall be continuously maintained in satisfactory and effective operation by the permittee at his expense.
- J. Such other terms and conditions as may be necessary to protect the County Sewer System and to carry out the intent and provisions of this Law and to implement the Rules and Regulations.
- K. Require the permittee to immediately notify the District when a discharge known to be in violation of any permit requirement has occurred.
- L. Require the permittee to immediately contact the Director when considering the discharge of questionable or unknown wastes or wastewaters.

Section 8.5 Sampling and Testing Wastes: Whenever sewage or other wastes (including industrial wastes) are believed to have characteristics other than those prescribed for “normal sewage” as defined in the Rules and Regulations, or are believed to contain toxic substances or other material or substances which are excluded from County Sewer System, the Director shall have the power to take samples and make tests necessary to determine the nature and concentration of such wastes at any time or by periodic rechecks without notice to the person discharging such wastes. An aliquot portion of the sample(s) taken will be made available to the person whose premises are being sampled, if he so requests, at or prior to the time the sample is collected.

Section 8.6 Control Manholes: When required by Rules and Regulations, the owner of any property serviced by a private sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

Section 8.7 Measurement and Analysis of Wastes: All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Law or in the Rules and Regulations shall be determined in accordance with the latest edition of “Standard Methods for Examination of Water and Waste Water” published by the American Public Health Association or any other method certified as accurate by the Director and shall be determined upon samples from said control manhole or other approved access points. Sampling shall be carried out by technically accepted methods. If a permit is to be issued, sampling should be performed in accordance with applicable State and Federal requirements.

Section 8.8 Determination of Pollutant Concentrations:

- A. The pollutant concentration of any sewage, industrial waste or other wastes shall be determined from representative samples of the effluent discharged to public sewers, taken by the Pure Waters Districts at sampling stations as described under Section 8.4, 8.5 or 8.6 of this Law, at any period or time, and of such duration and in such manner as the Director may elect, or at any place or manner mutually agreed upon between the person and the Director.

The analysis of samples taken shall be performed in a laboratory approved by the Director and the surcharge and/or the acceptability of the wastes shall be determined from said analyses.

- B. All charges shall be based on the analysis of the wastes from any plant or premises, as determined above and related to the total volume of wastes discharged. The concentration of pollutants in sewage, industrial waste or other waste once determined as prescribed under Section 8.7 of this Law or the Rules and Regulations shall be used in calculating the sewer surcharge in accordance with the billing procedure of the District for the collection of charges and shall remain in effect until the person shall prove or the District shall determine that a change in the manufacturing process, production waste treatment or some other factor involving said company warrants a reanalysis for the determination of a new pollutant concentration of its wastes discharged from such premises into the County Sewer System. The new pollutant concentration shall then be used in calculating new charges and shall become effective as of the date of the subsequent billing period.
- C. Whenever the discharges from a premise to the public sewer might be expected to show appreciable periodic variations during the year due to manufacturing process or production variation due to seasonal changes, the Director may prorate these variations and thereby determine an average pollutant concentration.

Section 8.9 Determination of Volumes: The Director may use, as the figure representing the number of cubic feet and/or gallons of discharge into the sewer system, (1) the amount of water supplied to the premises by the City of Rochester, the Monroe County Water Authority, or other water suppliers as shown upon the water meter if the premises are metered, or (2) if the premises are supplied wholly or in part by other water sources shall have metering devices installed, at the owner's expense, for measuring the volume of water used for the purposes, or (3) if such premises are used for an industrial or commercial purpose of such nature that the water supplied to the premises is not entirely discharged into the sewer system, the

estimate of the amount of sewage discharged into the sewer system may be made by the Director, or (4) the volume of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the public sewer system, at his own expense, in accordance with the terms and conditions of the permit issued by the Director pursuant to Article VIII of this Law or the Rules and Regulations, or (5) a figure determined by the Director by any combination of the foregoing or by any other equitable method.

Section 8.10 Pollutant Concentration Disputed by a Person: In the event that the pollutant concentration of the waste discharged from a premise to a public sewer as determined above is disputed by a person, a program of resampling and gauging with subsequent analytical determination may be instituted as follows:

- A. The person shall petition the Director to resample and gauge the wastes and shall pay an administration fee to cover all of the expenses incurred by the District in the resampling, gauging and analysis of the wastes; the fee shall be waived if the resampling shows that an error has been made by the County or its agents.
- B. A consultant or agency of recognized professional standing in the employment of the person shall confer with representatives of the Director in order that an agreement may be reached as to the various factors which must be considered in a new sampling program.
- C. The consultant or agency of recognized professional standing employed by the person shall be present or represented during the resampling operation.
- D. Resampling shall be performed when all waste producing processes are contributing wastes of usual concentrations at their usual rate.
- E. The results of the resampling and the reanalysis in a laboratory approved by the Director shall be considered to be the current analysis of the wastes discharged to the County Sewer System and shall be used for determining any surcharge and/or acceptability of the wastes.

Section 8.11 Revocation of Permit: A violation by the permittee of the permit conditions shall be cause for revocation or suspension of the permit after a Hearing by the Administrative Board, or if the violation is found to be within the emergency powers of the Director under Sections 4.5 or 5.5, the revocation is immediate upon receipt of notice; however a Hearing shall be held as soon as possible.

Article IX

General Provisions

Section 9.1 Powers and Authority of Inspectors

Section 9.2 Protection from Damage

Section 9.1 Powers and Authority of Inspectors: As provided under Article VIII, Section 8.1, the Director and his duly authorized representatives shall gain entry on to private lands by permission or duly issued warrant for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Law and its implementing Rules and Regulations. The Director or his representatives shall not have authority to inquire into any processes used in any industrial operation beyond that information having a direct bearing on the kind and source of discharge to the sewers or the on-site facilities for waste treatment. While performing the necessary work on private lands, referred to above, the Director or his duly authorized representatives shall observe all safety rules applicable to the premises as established by the owner and/or occupant.

Section 9.2 Protection from Damage: Any person who, for the purpose of evading requirements under this law by maliciously, willfully or recklessly breaking, damaging, destroying, uncovering, defacing or tampering with any equipment, monitoring device or other facility shall be subject to civil penalties provided herein.

Article X

Imposition and Computation of Sewer Surcharge

- Section 10.1 Imposition of Sewer Surcharge
- Section 10.2 Formulation of Sewer Surcharges
- Section 10.3 Collection of Sewer Surcharges
- Section 10.4 Computation of the Surcharge
- Section 10.5 Credits
- Section 10.6 Special Contracts

Section 10.1 Imposition of Sewer Surcharges: In addition to any other tax, fee, charge or sewer rent imposed or levied for the construction, maintenance, operation, repair, improvement and management of the County Sewer System or any public sewer tributary, thereto, the owner or lessee of any parcel or real property connected with such system or sewer, including, but not limited to, real property connected to such system by means of a private sewer or drain discharging into the County Sewer System or any public sewer tributary thereto, shall pay a sewer surcharge for discharging the following:

- A. Any sewage, industrial wastes or other wastes in which the characteristics resulting from the pollutants contained therein exceed the maximum values as stated in the definition of “normal sewage” in the Rules and Regulations, or
- B. Any waters discharged from storm water connections from any building or yard, any drain from catch basins, lakes, swamps, ponds or swimming pool drains, or any other source of cooling waters as defined in Sections 2.21 or 4.1, except with permission of the Director as evidenced by a properly issued permit or where discharge is to an identified “combined” sewer system, or
- C. Any ground waters which enter the County Sewer System by infiltration of local sewage collection systems.

Section 10.2 Formulation of the Sewer Surcharge: The formula for the sewer surcharge shall be computed by the Director. The amount of the surcharge shall be the product of the surcharge factor and the established District charge for operation and maintenance. The general form for the determination shall be as follows:

$$S.F. = \frac{A(BOD-300)}{300} + \frac{B(SS-300)}{300} + \frac{C(CLD-25)}{25} + \frac{D(P-10)}{10}$$

Where:

- S.F. = Surcharge Factor
- BOD = Milligrams per Liter of Biochemical Oxygen Demand, as defined in Section 2.14
- SS = Milligrams per Liter of Suspended Solids, as defined in Section 2.61

- CLD = Milligrams per Liter of Chlorine Demand, as defined in Section 2.18
- P = Milligrams per Liter of Phosphorus, as defined in Section 2.37
- A = Proportion of operation and maintenance cost to treat a lb. of Biochemical Oxygen Demand (BOD)
- B = Proportion of operation and maintenance cost to treat a lb. of Suspended Solids (SS)
- C = Proportion of operation and maintenance cost to treat a lb. of Chlorine Demand (CLD)
- D = Proportion of operation and maintenance cost to treat a lb. of Phosphorus (P)

Notes:

1. A, B, C, D are decimal portions of the total operation and maintenance costs for each District. The values shall be determined by the Director on a yearly basis from data accumulated during each preceding year from the actual operation and maintenance costs.
2. If any of the values for BOD, SS, CLD, or P as determined by laboratory analysis are less than the respective normal values stated in the Rules and Regulations, the factor for that pollutant shall be eliminated from the formula.

Example - Treatment Charge Based on Volume

Any industry discharges into the public sewer system wastes which have been found to contain the following:

BOD5	-630 mg/l	- normal value	300 mg/l
SS	-280 mg/l	- normal value	300 mg/l
CLD	-50 mg/l	- normal value	25 mg/l
P	-45 mg/l	- normal value	10 mg/l

Monthly volume of discharge = 100,000 gallons
 Normal O&M sewer charge = \$.70/1,000 gallons
 Values for A, B, C, D are, respective -

.53, .35, .08, .04

$$SF = \frac{.53(630-300)}{300} + \frac{.08(50-25)}{25} + \frac{.04(45-10)}{10}$$

$$SF = .53(1.1) + .08(1.0) + .04(.14)$$

$$SF = .67$$

- Note:
1. Factor for SS is dropped because SS is less than 300 mg/l.
 2. Surcharge factors are rounded off to two decimal places.

$$\text{Normal sanitary sewer operation and maintenance charge} = \frac{100,000 \times .70}{1,000}$$

$$= \$70.00 \text{ per month}$$

$$\text{Surcharge} = (.67)(\$70.00)$$

$$= \$46.90$$

$$\text{Total Sewer O\&M Charge} = \$70.00 + \$46.90 = \$116.90$$

This example illustrates sewer use by large commercial or industrial establishments and not average residential users with normal sewage.

Note: When excessive volumes of water (storm water, surface water, ground water, etc.) enter a County Sewer System directly or by inflow or infiltration of the local sewage collection systems, the Pure Waters District shall take the following actions:

1. Notice shall be given to the property owner or local governmental unit responsible for the sewage collection system contributing excessive volumes of water into the County Sewer System.
2. Six (6) months after notification to the property owner or local governmental unit, an informal timetable for the elimination and/or control of the excessive water infiltration shall be filed with the Pure Waters District.
3. A property owner or local governmental unit failing to provide said timetable or not substantially complying with the scheduled abatement of excessive inflow or infiltration pursuant to the timetable filed with the Pure Waters District shall be surcharged for the excessive water.
4. The surcharge shall be based in proportion to the determined excess volume of water entering the County Sewer System.

Section 10.3 Collection of Sewer Surcharges: Surcharges shall be included in the Pure Waters bill along with the Pure Waters charges. Permittees hauling scavenger wastes to discharge point shall be charged and surcharged through the fees charged for scavenger waste treatment. Other users under special contract as provided for in Section 10.6 shall be surcharged in accordance with the contract conditions.

Section 10.4 Computation of the Surcharge: The Director shall compute all surcharges using the formula in Section 10.1 and factors adopted by the Monroe County Legislature. The data used to compute the surcharge will be supplied by inspections, by the application for permit and/or any method determined by the Director which gives, as nearly as possible, an accurate volume determination and/or the average pollutant concentration. All surcharges shall be based on the analysis of wastes from any plant or premises in relation to the total volume of wastes and waters except in the case of special contracts in accordance with Section 10.6. The industrial user shall have the option to sample and test their discharges for the purpose of calculating the surcharge. The testing values shall be averaged with those testing values determined by the District for the purposes of calculating the surcharge. The data, once established as the average pollutant concentration, shall be used until inspection or other reliable proof justifies a change in the surcharge.

Section 10.5 Credits: If a payment has been received that results in an overpayment, said overpayment shall be a credit to the account.

Section 10.6 Special Contract: The Director has the authority to negotiate special contracts for handling sewage, industrial wastes or other wastes. One of the following conditions must exist before a special contract can be negotiated:

- A. An industry or establishment has D.E.C. permit to discharge directly into receiving waters using some portion of the County Sewer System, or
- B. The total volume or contribution of waste to the County Sewer System is greater than one million gallons per day or five percent of the average design capacity of the water pollution control facility receiving the waste, or
- C. The contributor is a local, State or Federal Governmental Agency, or
- D. Scavenger waste or other waste is so unusual that it is not covered by scavenger waste or surcharge provisions of this Law.

Article XI

Administrative Procedures of the Pure Waters District

Section	11.01	Public Information
Section	11.02	Procedure for Adoption of Rules and Regulations
Section	11.03	Filing and Taking Effect of Rules and Regulations
Section	11.04	Publication of Rules and Regulations
Section	11.05	Petition for Adoption of Rules and Regulations
Section	11.06	Declaratory Opinions of the Director; Declaratory Rulings of the County Executive
Section	11.07	Contested Cases; Notice; Hearing; Records
Section	11.08	Rules of Evidence; Official Notices
Section	11.09	Examination of Evidence by County Executive
Section	11.10	Decisions and Orders
Section	11.11	Ex Parte Consultations
Section	11.12	Permits
Section	11.13	Review of Contested Cases

Section 11.1 Public Information: The County Executive shall for each Pure Waters District:

- A. Adopt a procedure to make available for public inspection all Rules and Regulations, orders, statements of policy or interpretations used by the District in the discharge of its functions. No rule, regulation, order or decision is valid against any person or party until it has been made available for public inspection. This provision is not applicable in favor of any person or party who has actual knowledge thereof.
- B. Publish annually, in the largest daily newspaper of the County, a list of industrial users who, during the previous twelve (12) months, were significantly in violation of applicable pretreatment standards or other pretreatment requirements. Significant violation is defined as a violation or violations which remain uncorrected 45 days after notification of noncompliance; which are part of a pattern of noncompliance; or which involve a failure to accurately report noncompliance.
- C. Make available to the public for inspection and/or copying information and data on users of the County Sewer System obtained from reports, questionnaires, permit applications, permit and monitoring programs and from inspections unless the user specifically requests and is able to demonstrate to the satisfaction of the Director that such information, if made public, would divulge processes or methods of production entitled to protection as trade secrets of the user. Wastewater constituents and characteristics will not be recognized as confidential.

Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed upon written request to governmental agencies for uses related to this Law, the National Pollutant Discharge Elimination System (NPDES) permit providing that the governmental agency making the request agrees to hold the information confidential in accordance with State or Federal Laws and Regulations. The Director shall give written notice to the user of any disclosure of confidential information to another governmental agency.

Where a request is made to the Director to treat information as confidential, the Director shall treat it as such unless and until he notifies the user, in writing, of his denial of the request. The decision of the Director shall be effective ten days after the date of the notice. If review of the Director's decision is commenced under the "contested cases" provisions of Article XI before the expiration of the ten days, the Director shall continue to treat the information as confidential unless the County Executive upholds the Director's initial decision denying the request for confidentiality. Any materials considered in a confidentiality proceeding may not be disclosed by the County Executive if the request for confidentiality is upheld. The decision of the County Executive shall be effective five days after service upon the user of the final decision.

Section 11.2 Procedure for Adoption of Rules and Regulations:

- A. The Monroe County Legislature shall adopt rules and regulations relating to the organization of the Pure Waters Districts. Such rules and regulations may be amended or repealed only by subsequent action of the County Legislature.
- B. The Monroe County Legislature hereby delegates to the County Executive the power to adopt, amend and repeal, from time to time, the rules and regulations of the Districts relating to the operation and use of the County Sewer System, including, without limitation: the designation of the place where applications, requests and submissions shall be made; the nature and requirements of all formal and informal procedures for applying for permits and

licenses; any general or special billing procedures to be utilized by the County Sewer Districts; the manner of making connections to the system; the manner of construction and operation of all private facilities and appurtenances connected to the system; the procedure for requesting a hearing pursuant to this Article XI; the procedure for petitioning for the promulgation, amendment or repeal of a rule or regulation. Except as provided for in Subsection C hereof, the County Executive shall take the following steps prior to the adoption, amendment or repeal of any rule or regulation:

1. File a copy of the proposed rule, regulation or amendment thereto with the Pure Waters Administrative Board along with the reasons there for;
 2. Conduct a public hearing with respect to the intended action. A notice of such hearing shall be published at least ten (10) days prior to the date of the hearing. Such notice shall include: a statement of either the terms or substance of the intended action or a description of subjects and issues involved; the time and place of the hearing; the manner in which interested persons may present their views and submit data prior to the County Executive's adoption of the rule, regulation or amendment thereto.
- C. In the event that the Director shall take or recommend emergency action pursuant to section 4.5 or Section 5.5 of this Sewer Use Law, the County Executive shall have the right to adopt an emergency rule or regulation without prior notice or public hearing. Any such emergency rule or regulation shall be effective for a period of no longer than 120 days unless such rule or regulation is subsequently promulgated pursuant to Subsection A or B of this Section.

Section 11.3 Filing and Taking Effect of Rules and Regulations:

- A. The County Executive shall file a certified copy of each Rule and Regulation with the Clerk of the Monroe County Legislature. The Clerk shall keep a permanent file which may be inspected upon request.
- B. The Rule and/or Regulation shall be effective ten (10) days after the filing except that an emergency rule adopted pursuant to Subsection C of Section 11.2 shall be effective upon filing.

Section 11.4 Publication of Rules: The County Executive shall compile, index and publish all effective Rules and Regulations. The compilation shall be supplemented as often as necessary.

Section 11.5 petition for Adoption of Rules: An interested party may petition the County Executive or the Pure Waters Administrative Board requesting the promulgation, amendment, or repeal of a Rule or Regulation. Within thirty (30) days after submission of a petition, the County Executive shall initiate rule making proceedings in accordance with Subsection B of Section 11.2 hereof.

Section 11.6 Declaratory Opinions of the Director; Declaratory Rulings of the County Executive:

- A. The Director will give a declaratory opinion when either of two conditions exists:
 1. A formal request for a declaratory opinion of a petitioner's position in relation to the policy contained in the Monroe County Sewer Use Law or the Rules and Regulations of the Districts. This request must be acknowledged within ten (10) working days.

2. The Director formally informs a party of an existing violation or violations of the Monroe County Sewer Use Law or the Rules and Regulations which, in his opinion, will make the party subject to enforcement and penalties as contained in Article XII.
- B. The County Executive shall be informed of all opinions of the Director, and such opinions are not binding on the County Executive but shall be reviewed, with notice, upon a formal request of any party or the County Executive. After review, the County Executive will issue a Declaratory Ruling to be filed with the Clerk of the Monroe County Legislature.

Section 11.7 Contested Cases; Notice; Hearing; Records:

- A. In a contested case, all parties shall be afforded an opportunity for Hearing after reasonable notice. The Hearing shall be conducted by the County Executive or a Hearing officer appointed by the County Executive. The Notice shall include:
1. A statement of the time, place, and nature of the Hearing;
 2. A statement of the legal authority and jurisdiction under which the Hearing is to be held;
 3. A reference to the particular Sections of the Law and/or Rules and Regulations involved;
 4. A short and plain statement of the matters asserted. If the Notice does not state the matters in detail at the time the Notice is served, the initial Notice may be limited to a statement of the issues involved. Upon application by the party or parties involved, a more definite and detailed statement shall be furnished.
- B. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.
- C. Unless precluded by Law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
- D. The record in a contested case shall include:
1. All pleadings, motions, intermediate rulings;
 2. Evidence received or considered;
 3. A statement of matters officially noticed;
 4. Questions and offers of proof, objections, and rulings thereon;
 5. Proposed findings and exceptions;
 6. Any decision, opinion, or report by the officer presiding at the Hearing;
 7. All staff memoranda or data submitted to the Hearing Officer or County Executive in connection with their consideration of the case.

8. Oral proceedings or any part thereof shall be transcribed on request of any party and made part of the records.
9. Findings of fact shall be based exclusively on the record and on matters officially noticed.
10. The costs associated with the Hearing.

Section 11.8 Rules of Evidence; Official Notice: In Contested Cases:

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof, evidence may be admitted if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. The County Executive or Hearing Office shall be cognizant of the rules of privilege recognized by Law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a Hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;
- B. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;
- C. A party may conduct cross-examinations required for a full and true disclosure of the facts;
- D. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts available to and within the County Executive's or Hearing Officer's specialized knowledge. Parties shall be notified either before or during the Hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The County Executive's or Hearing Officer's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Section 11.9 Examination of Evidence by County Executive: When, in a contested case, the County Executive has not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the District itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the members who are to render the decision. The proposal for decision shall contain a statement of the reasons therefore and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the Hearing or one who has read the record. The parties, by written stipulation, may waive compliance with this action.

Section 11.10 Decisions and Orders: A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If a party has submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order.

Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. A copy of any final decision or order shall be filed with the Pure Waters Administrative Board.

Section 11.11 Ex Parte Consultations: Unless required for the disposition of ex parte matters authorized by Law, the County Executive or Hearing Officer assigned to render a decision or to make findings of fact and conclusions of Law in a contested case shall not communicate until a final decision has been reached, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of Law, with any party or its representative, except upon notice and opportunity for all parties to participate. The County Executive:

- A. may communicate with members of the Administrative Board;
- B. may have the aid and advice of one or more personal assistants.

Section 11.12 Permits:

- A. When the denial of a permit is required to be preceded by notice and opportunity for Hearing, the provisions of this Law concerning contested cases shall apply.
- B. When a permittee has made timely and sufficient application for the renewal of a permit or a new permit with reference to any activity of a continuing nature, the existing permit does not expire until the application has been finally determined by the County Executive and, in case the application is denied or the terms of the new permit are limited, until the last day for seeking review of the order of the County Executive or a later date fixed by order of the reviewing Court.
- C. The County Executive shall not revoke, suspend, annul, or withdraw any permit prior to the institution of proceedings by notice given to the permittee of facts or conduct which warrant the intended action, and in which the permittee has had an opportunity to show compliance with all lawful requirements for the retention of the permit. If the Director finds that public health, safety, or welfare imperatively requires emergency action, summary suspension of a permit may be ordered pending proceedings for permanent revocation or other action. These proceedings shall be promptly instituted and determined.

Section 11.13 Review of contested Cases:

- A. A party who has exhausted all administrative remedies available within this article and who is aggrieved by a final decision in a contested case, is entitled to review.
- B. Appeal and review of a rate-making determination shall be accomplished by petition to the Pure Waters Administrative Board.
- C. Review of other decisions shall be instituted by filing a petition under Article 78 of the Civil Practice Law and Rules in the Monroe County Supreme Court, within thirty (30) days after the final decision of the County Executive, or if a Rehearing is requested, within thirty (30) days after the decision thereon. Copies of petition shall be served upon all affected parties.

- D. The filing of the Article 78 petition does not in itself stay enforcement of the County Executive's decision. A stay may be granted with appropriate terms by the County Executive.
- E. Within thirty (30) days after the service of the petition or within further time allowed by the Court, the County Executive shall transmit to the reviewing Court the original (or certified) copy, of the entire record of the proceeding under review.

Article XII

Enforcement Procedures of the Pure Waters Districts

Section 12.1 Enforcement and Penalties

Section 12.2 Power of Injunction

Section 12.1 Enforcement and penalties:

- A. A violation of the provisions of Articles III to IX of this Law or the Rules and Regulations authorized by Article XI shall be subject to a penalty not to exceed \$10,000 for any one case, and an additional penalty not to exceed \$10,000 for each day of a continuing violation after a final decision and order has been entered with notice to the party adversely affected by the decision to impose the penalty. The exact amount of penalty in each case shall be determined by the County Executive.
- B. The penalty shall become part of the Pure Waters charges and shall be collected as a charge in accordance with the County Law of New York.
- C. The County Executive shall report industrial waste discharges consistently failing to achieve County, State or Federal Pollution standards to appropriate State and Federal Agencies. The Director shall assist appropriate State and Federal Agencies, as necessary, in their review or action upon such reports.
- D. Proceedings under this Law do not preclude enforcement of any Ordinances, Criminal Statutes, or Laws of the State of New York by either the County of Monroe or the State of New York.

Section 12.2 Power of Injunction: Notwithstanding any other provision of this Law, the County Executive or the Administrative Boards may authorize the County Attorney to institute the appropriate legal proceedings including seeking injunctive relief. The power of injunction shall be invoked in the following cases:

- A. To stop an illegal discharge after all administrative procedures have been used and failed.
- B. Administrative procedures do not have to be exhausted if an illegal discharge is causing the County to violate its discharge standards, and the length of time necessary to institute any existing legal remedies would result in a fine or penalty to the County.

File No

AMK

ADOPTION: Date: _____ Vote: _____

ACTION BY COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: _____ Date: _____

EFFECTIVE DATE OF RESOLUTION: _____

Article XIII

Validity

Section 13.1 Repeal of Prior Legislation

Section 13.2 Separability

Section 13.3 Effective Date of Law

Section 13.1 Repeal of Prior Legislation: All Codes, Laws or parts of same in conflict herewith are repealed.

Section 13.2 Separability: The invalidity of any Section, clause, sentence or provision of this Law shall not affect the validity of any other part of this Law which can be given effect without such invalid part or parts.

Section 13.3 Effective Date of Law:

This law shall be effective thirty (30) days after enactment.

Section 2. Local Law No. 7 of 1972 adopted by the County Legislature on September 19, 1972 and filed in the County Clerk's Office September 22, 1972 known as the Pure Waters Sewer Use Law is hereby repealed on the effective date of this Local Law