

§ 94-109. All notices to be in writing; mailing procedures.

The notices, orders, petitions or other notification which the user or Superintendent shall desire or be required to give pursuant to any sections of this chapter shall be in writing and shall be served personally or sent by certified mail or registered mail, return receipt requested, postage prepaid, and the notice, order, petition or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order or communication mailed to the user pursuant to the sections of this chapter shall be mailed to the user where the user's effluent is discharged into transmission lines to the Village of Champlain's POTW. Any notice, petition or other communication mailed to the Superintendent shall be addressed and mailed to the Village Office of the Village of Champlain.

§ 94-110. Right to choose multiple remedies.

The Superintendent shall have the right, within the Superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article. The Superintendent may utilize more than one administrative remedy established pursuant to this Article, and the Superintendent may hold one show cause hearing combining more than one enforcement action.

§ 94-111. Civil penalties.

- A. Any person who violates any of the provisions of or who fails to perform any duty imposed by this chapter or any administrative order or determination of the Superintendent promulgated under this chapter or the terms of any permit issued hereunder shall be liable to the Village of Champlain for a civil penalty not to exceed \$1,000 for each such violation, to be assessed after a hearing (unless the user waives the right to a hearing) held in conformance with the procedures set forth in this Article. Each violation shall be a separate and distinct violation, and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Village Attorney or his designated attorney, at the request of the Superintendent, in the name of the Village of Champlain, in any court of competent jurisdiction, giving preference to courts local to the Village of Champlain. In addition to the above-described penalty, the Superintendent may recover all damages incurred by the Village of Champlain from any persons or users who violate any provisions of this chapter or who fail to perform any duties imposed by this chapter or any administrative order or determination of the Superintendent promulgated under this chapter or the terms of any permit issued hereunder. In addition to the above-described damages, the Superintendent may recover all reasonable attorney's fees incurred by the Village of Champlain in enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Superintendent may also recover court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- B. In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation,

corrective actions by the user, the compliance history of the user and any other relative factors as justice may require.

- C. Such civil penalty may be released or compromised by the Superintendent before the matter has been referred to the Village Attorney, and where such matter has been referred to the Village Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Village Attorney, with the consent of the Superintendent.

§ 94-112. Court orders.

- A. In addition to the power to assess penalties as set forth in this Article, the Superintendent shall have the power, following the hearing held in conformance with the procedures set forth in this Article, to seek an order:
 - (1) Suspending, revoking or modifying the violator's wastewater discharge permit; or
 - (2) Enjoining the violator from continuing the violation.
- B. Any such court order shall be sought in an action brought by the Village Attorney, at the request of the Superintendent, in the name of the Village of Champlain, in any court of competent jurisdiction, giving precedence to courts local to the Village of Champlain.
- C. The Village Attorney, at the request of the Superintendent, shall petition the court to impose, assess and recover such sums imposed according to this Article. In determining amount of liability, the court shall into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

§ 94-113. Criminal penalties.

- A. Any person who willfully violates any provision of this chapter or any final determination or administrative order of the Superintendent made in accordance with this Article shall be guilty of a Class A misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$500 nor more than \$1,000 or imprisonment not to exceed one year, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- B. Any user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or wastewater permit or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall be guilty of a Class A misdemeanor and, upon conviction, shall be punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year, or both.

- C. No prosecution, under this section, shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

§ 94-114. Additional injunctive relief.

Whenever a user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the Superintendent, through counsel, may petition the court, in the name of the Village of Champlain, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of or compels the compliance with any order or determination thereunder by the Superintendent.

§ 94-115. Summary abatement.

- A. Notwithstanding any inconsistent provisions of this chapter, whenever the Superintendent finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in the judgment of the Superintendent, presents an imminent danger to the public health, safety or welfare or to the environment or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Superintendent may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity; or where the giving of notice is impracticable or in the event of a user's failure to comply voluntarily with an emergency order, the Superintendent may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 calendar days, the Superintendent shall provide the user an opportunity to be heard, in accordance with the provisions of this Article.
- B. If the user is not within the geographic boundaries of the Village of Champlain, the right of summary abatement to discontinue, abate or alleviate conditions or activities shall be those prescribed in the intermunicipal agreement.
- C. The Superintendent, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety or welfare or to preserve the POTW or the environment.

§ 94-116. Delinquent payments.

- A. As of the first of the month following the billing, a 5% penalty will be added. An additional 1/2% penalty will be added for each month thereafter. This stated penalty will not be imposed for the late payment of the billing for the period January 31, 1998, to and including February 28, 1998. [Amended 2-9-1998 by L.L. No. 1-1998]
- B. Sewer bills, charges and penalties shall be a lien upon the real property upon which the sewer is used, and on or before the day when, under the Village Law, preliminary

estimates of expenditures are required to be submitted, the Village Treasurer shall prepare and file with the Village Board a statement showing all sewer rents and charges, with penalties thereon, unpaid during the last fiscal year.

- C. Such rents, charges and penalties shall not be collected by the Village Treasurer after the filing of such statement with the Village Board. Sewer rents, charges and penalties thereon shall be a lien upon the real property upon which the sewer is used and may be collected in accordance with § 11-1118 of the Village Law.

§ 94-117. Performance bonds.

The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

§ 94-118. Liability insurance.

The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

§ 94-119. Public notification.

The Superintendent may provide public notification, in the daily officially designated newspaper of the Champlain Village Board, of users which were in significant noncompliance of local or federal pretreatment standards or requirements since the last such notice. The frequency of such notices shall be at least once per year.

§ 94-120. Contractor listings.

- A. Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Village of Champlain.
- B. Existing contracts for the sale of goods or services to the Village of Champlain held by a user found to be in significant violation with pretreatment standards may be terminated at the discretion of the Village Board.

ARTICLE XII

Charges**§ 94-121. Normal sewage service charges.**

All persons discharging or depositing wastes into the public sewers shall pay a sewer service charge proportional to the liquid volume of waste so deposited, which charge shall be collected as a sewer rent.

§ 94-122. Surcharge for abnormal sewage.

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage shall pay a surcharge to be determined by the Superintendent and approved by the Village Board based upon a calculation of the costs to treat said wastes.

§ 94-123. Total sewer service charge. [Amended 6-23-1997 by L.L. No. 3-1997]**A. Residential users; sewer:**

- (1) Service fee of \$37.50 for all users; \$2.85 per 1,000 gallons.

B. Commercial users; sewer:

- (1) In: \$4.95 per 1,000 gallons; minimum \$63 per quarter.
- (2) Out: \$9.90 per 1,000 gallons; minimum \$125 per quarter.

§ 94-124. Segmenting service area of POTW.

The service area of the POTW may be segmented to assist in a fair distribution of user charges, especially if there is a pump station serving a segment.

§ 94-125. Measurement of flow.

The volume of flow to be used in computing sewer service charges and abnormal sewage surcharges shall be based upon metered water consumption as shown on the records of meter readings maintained by the Village of Champlain Water Department. In the event that a person discharging wastes into the POTW produces evidence to the Superintendent demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the Superintendent shall either establish a percentage of the total metered water to be used as a basis for such computations or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from unmetered sources, the Superintendent shall either direct the installation of water meters on the other sources of water supply or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this section shall be of a type and design acceptable to the Superintendent and shall be installed,

maintained and periodically tested as required by the Superintendent, at the owner's expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing and reading by the Superintendent. Any person discharging wastes into the POTW may install a flow measuring device at his option, of the type, design, installation and maintenance standards of the Superintendent, at the owner's expense.

§ 94-126. Billing period, charges and fees.

- A. Sewer bills will be mailed to customers on a quarterly basis on the first of January, April, July and October. Bills will become due and payable to the Village Treasurer at the Village Office 30 days from the date of the bill. Sewer bills must be paid in full. Partial payments will not be accepted.
- B. All bills will be addressed and mailed to the property owner. The bill will show the water user's address and meter reading.
- C. If a customer wishes to contest a bill, a written explanation should be sent to the Village Office within 10 days of receipt of the bill. The customer's request will be reviewed by the Village Board, and the customer will be notified of the Village Board's decision. All bills, including those contested by the customer, must be paid in full by the due date to avoid interest charges and discontinuance of service. If the Village Board decides to reduce the bill and the bill has been paid prior to resolution of the dispute, the bill will be adjusted accordingly.
- D. The sewer service fee will be charged for all developed properties serviced by the village sewer system.
- E. In the event that sewer service is discontinued to a property due to a violation of the provisions of this chapter, the property owner will be billed for sewer services at a flat rate of \$150 per quarter.
- F. The fee for filing an application for sewer service is \$50. This fee will be deducted from the amount charged to the property owner for the cost of the meter installation.
- G. If a leak occurs in a property owner's water pipes in a building, after the meter, the village will deduct the sewer charge on the amount of water lost due to the leak if:
 - (1) It is determined by the Superintendent of Public Works that the water did not enter the village's wastewater treatment system; and
 - (2) The amount of water lost in the leak can be accurately estimated or calculated.
- H. Residents who wish to fill their swimming pools and pay only water charges on the water used must contact the Superintendent of Public Works during normal business hours at least 24 hours before they wish to fill the pool. If the amount of water required is greater than 5,000 gallons, the amount of water used to fill the pool will be calculated by the Superintendent, and the sewer charges on that amount of water will be deducted from the next water/sewer bill.
- I. Should a water leak occur in a property owner's water system which is serviced by the village water system, the village may allow a partial credit against the sewer charge for that property. The amount of the credit will be determined by the Board of Trustees

after investigation by the Superintendent of Public Works. The credit shall be available to a village water user one time only. [Added 3-9-1998 by L.L. No. 6-1998]

- (1) Provided that a resident has a broken pipe, the estimated sewer charge for the water lost due to the broken pipe will be deducted from the resident's bill, provided that it can be determined that the water did not enter the village sewer system.
- (2) Provided that it is determined that the water lost due to leak did enter the village sewer system, the estimated sewer charge for the water lost due to the leak will be billed at \$1 per thousand gallons, instead of the current rate.

§ 94-127. Pretreatment program costs.

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the user and include:

- A. Reimbursement of costs of setting up and operating the pretreatment program.
- B. Issuing permits.
- C. Monitoring, inspections and surveillance procedures.
- D. Costs of equipment and supplies.
- E. Reviewing accidental discharge procedures.
- F. Construction inspections.
- G. Filing appeals.
- H. Application for consistent removal status as outlined in 40 CFR 403.
- I. Other reasonable expenses to carry out the program to satisfy the requirements of this chapter, the NYSDEC and the federal government.

§ 94-128. Charges for trucked and hauled wastes.

- A. The charge for dumping septage into the POTW shall be \$20 per 1,000 gallons dumped, with a minimum of \$20. The manner of determining the volume dumped shall be at the discretion of the Superintendent.
- B. The charge for dumping abnormal sewage into the POTW shall be determined by the Superintendent and approved by the Village Board based upon a calculation of the cost to treat said abnormal sewage. The manner of determining the volume dumped shall be at the discretion of the Superintendent.

§ 94-129. Capital recovery.

The Village of Champlain may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

§ 94-130. Collection of charges.

Provisions of Article XI of this chapter relating to the collection of penalties shall apply to the collection of sewer service charges and abnormal sewage service surcharges, unless where otherwise provided by the application of the Sewer Rent Law² by the Village of Champlain.

§ 94-131. Fiscal year of system.

The POTW shall be operated on the basis of a fiscal year commencing on the first day of June and ending on the 31st day of May.

§ 94-132. Impact fees.

The Village of Champlain (Board) shall have the authority to impose impact fees on new development, which development may:

- A. Cause enlargement of the service area of the POTW.
- B. Cause increased hydraulic and/or treatment demands on the POTW.

§ 94-133. Use of revenues.

Revenues derived from user charges and associated penalties and impact fees shall be credited to a special fund. Moneys in this fund shall be used exclusively for the following functions:

- A. For the payment of the operation and maintenance, including repair and replacement costs, of the Village of Champlain POTW.
- B. For the discovery and correction of inflow and infiltration.
- C. For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Village of Champlain POTW.
- D. For the extension, enlargement, replacement of and/or additions to the Village of Champlain POTW, including any necessary appurtenances.

§ 94-134. Records and accounts.

- A. The Village of Champlain shall maintain and keep proper books of records and accounts for the POTW, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the POTW.
- B. There shall be an annual review of the sewer charge system to determine if it is adequate to meet expenditures for all programs for the coming year.
- C. Classification of old and new industrial users should also be reviewed annually.

2. Editor's Note: See Art. 14-F of the General Municipal Law.

- D. The Village of Champlain shall maintain and carry insurance on all physical properties of the POTW of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

ARTICLE XIII

Public Disclosure of POTW Operations

§ 94-135. Policy.

It shall be the policy of the Village of Champlain (Board) to conduct all business with full disclosure to the public.

§ 94-136. Availability of procedural requirements.

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this chapter and for requesting a hearing shall be formulated by the Village of Champlain and be made available to any resident of the Village of Champlain upon request.

§ 94-137. Validity through public inspection.

The Village of Champlain shall formulate procedures to make available to the public for inspection such orders, statements of policy and interpretations used by the Village of Champlain in administration of this chapter. No rule, regulation or civil order shall be valid until it has been available for public inspection.

ARTICLE XIV

Applicability

§ 94-138. Applicability of regulations.

Articles I, II, IV, VIII, XI, XII, XIII and XIV shall apply in all incorporated areas of the Village of Champlain. Articles III, V, VI, VII, IX and X shall apply only in incorporated areas of the Village of Champlain which are also within the service area of the POTW.