

TOWN OF ULYSSES

LOCAL LAW NO. 1 of the year 2003

A LOCAL LAW TOWN OF ULYSSES PUBLIC WATER

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ULYSSES AS
FOLLOWS;

**TOWN OF ULYSSES
10 ELM STREET
TRUMANSBURG, NY 14886**

LOCAL LAW NO. 1 OF 2003

**TOWN OF ULYSSES
PUBLIC WATER**

SEPTEMBER 15, 2003

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1.0 DEFINITIONS

Unless the context specifically indicates otherwise, the meanings of the words, terms and phrases used herein shall be as follows:

1.1 Town Water System

All property, plant, pipes, tanks, pump stations and other facilities and appurtenances existing for the purpose of supplying and distributing water, which are owned by the Town of Ulysses.

1.2 Customer/User

Property owner with water service installed from a public water system in the Town of Ulysses to premises on said property.

1.3 Developer

Any person who subdivides or improves land for the purpose of constructing, or causing to be constructed, buildings for which potable water are required.

1.4 District

A water district of the Town of Ulysses duly formed in accordance with the laws of New York State.

1.5 Easement

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

1.6 Engineer

A person or firm possessing licenses to practice engineering and conduct business in New York State appointed by the Town Board to advise the Town Board on matters related to the public water system.

1.7 Extension

Attachment of a waterline, to an existing waterline.

1.8 Intercommunity Agreement

An Agreement lawfully entered into By and Between the Town of Ulysses, Tompkins County, New York, acting on its own behalf or on the behalf of one of its Districts, and any other Person or group of Persons, and defined herein, for the purpose of providing or receiving services for water supply, treatment, transmission, distribution and related services.

1.9 Person

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

1.10 Premises

Shall mean any parcel of real property including land, improvements or appurtenances, such as buildings, grounds, etc.

1.11 Public Water System

All property, plant, pipes, tanks, pump stations and other facilities and appurtenances which are used to supply potable water to customers within the Town of Ulysses.

1.12 Registered Contractor

One who has submitted to the Town proof of required insurance, received a copy of Local Law # 1, 2003, the official Town of Ulysses Standard Specifications and Details for Water Facilities, paid the required fee, and agreed to abide by Town Specifications and Local Law.

1.13 Service Area

The legally defined bounds of real property within the Town of Ulysses in which water may be distributed from the Public Water System. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated only by action of the Town of Ulysses Town Board.

1.14 Superintendent

The person(s) appointed by the Town Board to oversee operation and maintenance of the public water system(s), and otherwise carry out duties and functions defined herein and as may be prescribed by the Town Board.

1.15 Temporary Use

A temporary use shall be defined by, but not limited to, the following examples: the supplying of water to an adjacent property in an emergency situation, the supplying of water to a construction trailer or site until permanent connections can be to the site, or supplying water to a festival or short-lived event (for no more than one week).

1.16 Town

Shall mean the Town of Ulysses, Tompkins County, State of New York, and may as appropriate mean the Town of Ulysses acting on behalf of a district.

1.17 Town Board

Shall mean Town Board of the Town of Ulysses, Tompkins County, New York acting on behalf of the Town or on behalf of the Water District as Board of Water Commissioners.

1.18 Town Engineer

Shall mean the engineer appointed by the Town Board for the purposes of this Law or his authorized agent or representative.

2.0 GENERAL

2.1 Water Superintendent

There shall be appointed for the various Town water districts in the same manner and for such term and on such basis as the Town Board may determine, a Superintendent of Water Supply, who, on behalf of the Town Board, shall have

general supervision of the operation and maintenance of the water systems in each district, issue all permits required hereby, read meters, inspect service installations, and perform other such duties as required for operation and maintenance of the water systems as the Town Board may direct.

2.2 Authority of Superintendent

Wherever it is referred to herein that permission be granted by or that an application be made to, or that an act be done by or that the District approves an act, it shall mean the Superintendent of Water Supply of the District.

By authorization of the Town Board through a resolution, the Superintendent may shut off the water supply and remove the meter whenever any of the provisions of these rules, regulations and ordinances are violated.

The Superintendent of the District or his authorized agents shall have full power to enter the premises of any consumer, during normal business hours, to read the meters or to examine fixtures, plumbing and manner of water use.

2.3 Billing Clerk and Collection Clerk

There shall be appointed by the Town Board both a Billing Clerk and a Collection Clerk whom shall serve at the direction of the Board. The Billing Clerk shall render bills for water furnished or other service given. The Collection Clerk shall collect all accounts due and owing, file a monthly report of accounts with the Town Board, and make such other reports as the Board may require.

All money received by the Collection Clerk on behalf of the various districts shall forthwith be deposited in such banks or trust companies as the Town Board may from time to time direct.

Claims and charges against the District shall be audited and paid in the same manner as Town charges.

The Collection Clerk shall give bond for the faithful performance of his or her duties and for rendering a just and true account of all moneys received by him or her on behalf of the various districts in said sum as the Town Board may, from time to time direct. The premium of such bond shall be a District charge.

3.0 PERMITS

3.1 Permit Required

No person shall make connection to the water supplied by the District for any purpose whatsoever without having first obtained a permit upon written application therefore, and after having first paid the charges pertaining to the introduction of water to the premises. The District and/or Town Board shall have the right to reject any application or to stipulate such conditions as may be necessary to maintain acceptable operating conditions in the system.

3.2 Application for Permit

All applications for introduction of water to any premises or for the use of water shall be made upon the Application For Plumbing Permit form furnished by the District for such purpose, and shall be signed by the owner or his, her or its duly authorized agent. Such application shall contain a statement of all uses for which water is desired. The use of water for any purpose other than that mentioned in the application shall be sufficient cause to justify discontinuance of water service. Application for additional uses may be made at any time, and a

permit may be granted therefore. Upon acceptance by the Water Superintendent acting for and on behalf of the District, the application shall constitute a binding contract between the Water District and the Customer obligating the Customer to pay the Water District the established rates and to comply with rules and regulations herein. Where such application shall require construction within public right-of-way or District easement, such application shall require approval of the Town Board. Separate and distinct applications and approvals of the agency having jurisdiction over a public highway or public right-of-way are required.

4.0 WATER SERVICE INSTALLATIONS AND MAINTENANCE

4.1 Authority to Connect to Water Mains

No person shall make any attachment to or connection with any of the pipes or mains or meters of the Districts nor make any repairs, additions or alterations to the service pipes, except on the customer's side of the meter, unless he or she be an employee of the District acting within the scope of his or her employment or a person authorized to do so by the Town Board. Except as provided for herein, said persons shall be registered contractors with the Town of Ulysses.

A list of register contractors authorized as provided above shall be on file in the Office of the Water Department.

4.2 Registered Contractors

Each and every contractor will be required to be registered by the Clerk of the Town before he/she will be permitted to do any work in the Town insofar as this Local Law is concerned. There shall be a registration fee charged to each

and every contractor who will perform work under this Local Law. The registration fee shall be in the amount established and/or modified from time to time, by resolution of the Town Board.

If, in the opinion of the Town Board of the Town, the work performed by the contractor within the Town violates the provisions of this Local Law or any other Ordinance or Local Law of the Town, or if the contractor's work is in the opinion of the Town Board substandard then, in that event, the Town Board may remove the Contractor from the registration list to do work associated with any Town Water District in the Town. Actions toward registration revocation shall be administered in accordance with Section 14.1.8 of this Law.

4.3 Insurance Requirements

Before application for the purposes set forth in Sections 4.1 and 4.2 is approved, and before commencing work, the contractor shall file insurance certificates with the Town Clerk. Insurance coverage shall be provided for the types and in the amounts as established and/or modified from time to time by resolution of the Town Board.

All insurance policies must provide for fifteen (15) business days' notice to the Town of Ulysses before cancellation and must cover all liabilities of the Town of Ulysses and be in a form approved by the Town of Ulysses Town Board.

4.4 Inspection by Superintendent

No person shall tap any main or distribution pipe or make or interfere with any connection with the water system unless under the direction of and in the presence of the Superintendent, or unless he be an employee of the District or

unless specific permission in each case be given by the District. Nor shall any person make any alterations or additions in and about water pipes, other than on the customer's side of the meter, unless the District upon written application shall have given a written permit therefore.

Where a new connection is made with street mains and where new extensions or attachments are made in unoccupied premises, the Superintendent upon notification by the customer shall close the curb stop. The customer shall give the District notice of the completion of the work, and the curb stop shall not again be opened until the work has been inspected and approved by the Superintendent and the meter read. Pipes and connections between the main and meter shall not be covered until so inspected and approved by the Superintendent.

4.5 Highway Work Permits May Be Required

No street, highway, or any part of the right-of-way thereof shall be altered, excavated or utilized by any person for the purpose of making a connection with the mains or for the laying of water pipes or fixtures, unless the authority having jurisdiction therein shall have granted permission, in the form of an authorizing permit or other written document.

4.6 Installation Requirements

Service taps, pipes, valves and other appurtenances shall be installed in accordance with Town of Ulysses Standard Specifications and Details for Water Facilities, as adopted and/or modified from time to time by resolution of the Town Board.

4.7 Modifications in Event of Ground Surface Changes

In the event that a change in ground elevation leaves a service pipe insufficiently buried, or results in the curb box projecting above the ground or being covered with earth, the customer shall promptly lower or raise his service pipe and curb box to conform to the new ground elevation. In case the customer fails or neglects to make such alterations promptly, the supply of water will be shut off until the alterations are completed. Service will not be turned on again until the customer has received written approval of the Superintendent that the service has been properly modified, and has paid the fee set by the Town Board for reactivation of a service.

4.8 Customer's Maintenance Responsibility

Pipes and meters and the appurtenances thereto on the customer's property shall be kept in good repair and protected from the frost by the customer at their own expense.

4.9 Notice Required For Service Shutoff

In case a house or other building is to be closed or become vacant, notice shall be given the District in order that the meter may be read and curb stop closed. Where such notice is not given and pipes burst from freezing or other cause, the value of water lost by reason thereof, as estimated by the District Superintendent, together with the fee established by the Town Board to cover labor and expense to the District, shall be added to the next bill and be paid in like manner as regular water charges.

4.10 Building Plumbing Drain Required

A drain valve shall be provided within the building so located that all piping on the customer's side of the meter can be drained whenever necessary.

4.11 Reactivation of Discontinued Service

Where water has been turned off by direction of the District or at the request of the customer, it shall not be again turned on without the permission of the District. No person other than the Superintendent or an employee of the District shall turn on any water service. Prior to reactivation, a fee, as may be established and modified from time to time by resolution of the Town Board, shall be paid to the District.

4.12 Resale of Water Prohibited

No water shall be resold or distributed by the recipient thereof from the District supply to any premises other than that for which application has been made and the meter installed, except in case of emergency where approved by the Superintendent.

4.13 Separate Meters Required

Separate and independent meters shall be installed for each and every parcel and for each and every living unit for which water is to be provided. When multiple living units exist on a single parcel, each shall be separately metered.

4.14 Temporary Water Service or Usage

Application shall be made to the Superintendent, to permit the temporary usage of water. The Town Board shall establish the requirements for such usage including provisions for monitoring water usage. An application fee equivalent to the fee established for reactivation of a service shall be paid to the District, and water rent shall be charged as though said temporary usage was a residential service. Where connection to a district line is required, the appropriate fee shall be assessed and paid by the applicant.

5.0 WATER METERS

5.1 Meters Required

Permanent water service shall be rendered by meter only. In order that there may be uniformity of make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type as specified in Town of Ulysses Standard Specifications and Details for Water Facilities as adopted by the Town Board. Meters shall be owned by the District and shall be obtained from the District at cost as may be established and modified from time to time by the Town Board.

5.2 Maintenance and Replacement of Meters

Where a water meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out of order or in need of repair, the Customer thereof shall give the District notice. Where repairs are found necessary due to negligence of the user, the District and the cost thereof

borne by the Customer shall make the same. When in the opinion of the Superintendent of the District, a meter becomes unsuitable for further use, except when due to negligence or lack of care of the user; the District shall replace it. The District shall have the right to test meters suspected of improper function at the written discretion of the Superintendent.

The Superintendent, or any persons delegated by him, must at all reasonable hours have access to all meters and to all parts of the premises to which water is delivered, for the purpose of inspection, examination of fixtures, reading meters, etc. All persons using water must at all time, frankly, and without concealment, answer all questions put to them relating to water usage. All meters will be sealed, and no person shall tamper with or remove a seal on a meter without the written consent of the Superintendent.

5.3 Tile Set Meters Required

Whenever the distance from the water main to the point of entry of the water service line into the building exceeds 150 feet, a tile set meter installation shall be required. Such connection shall be in accordance with Town of Ulysses Standard Specifications and Details for Water Facilities.

6.0 CROSS CONNECTION CONTROL

6.1 Cross Connection Defined

The term "cross connection" as used here means any unprotected connection between any part of the Water system and any service or system containing water or substance that is not approved equally as safe for human consumption.

6.2 Requirements For Cross Connection Control

Cross connection control shall be provided by the Customer to protect the public water system, by containment of any existing or potential contamination within the premises of the Customer in the following manner:

1. By installing an acceptable air gap, reduced pressure zone device or equivalent backflow prevention device acceptable to the New York State Department of Health and approved by the Superintendent, consistent with the degree of hazard posed by the premises.
2. By submitting plans for the installation of backflow prevention devices to the Water Superintendent and the New York State Department of Health for approval; and
3. By inspecting and testing all such devices annually at the expense of the customer. These devices shall be repaired, overhauled or replaced at the expense of the customer whenever they are found to be defective. A person qualified in the testing of backflow prevention devices shall perform inspection. Records of such inspections shall be provided to the Water Superintendent within one week after the test is performed.

Cross connection control devices shall be provided for all commercial and industrial connections unless it is determined by the Superintendent that no significant hazard is posed without backflow prevention devices. Backflow prevention devices shall only be required for residential connections when the Superintendent determines that a significant hazard may be posed.

6.3 Customer Responsibility

It shall be the responsibility of each customer at his own expense to furnish, install, and keep in good working order and safe condition any and all protective devices required. The District shall not be responsible for any loss or damage directly or indirectly resulting from or caused by the improper or negligent installation, operation, use, repair or maintenance of, or interfering with, any protective device by any customer or other person.

6.4 Separate Sources of Water Restricted

The owner(s) of all non-vacant premises used for human occupancy, employment, recreation or other purposes, situated within the Town of Ulysses and abutting on any street, alley or right-of-way in which there is located a public waterline, shall not establish or maintain a separate source of water without the approval of the District. All existing private wells shall be plumbed such that there is no physical connection between the private well and the Town Water System.

In order to receive approval of a separate source installed subsequent to the effective date of this Law, the customer must justify the need. If approved, separate sources of water shall not be physically connected to the public water system in any way, either directly or through building plumbing systems. Any and all separate sources must have separate and independent plumbing and distribution systems.

All users of the public Water System shall prevent cross connections, within their premises, between the potable water piping system and any other piping system. Failure to comply with any cross connection regulations shall

result in termination of water services to the affected property.

7.0 OPERATIONS AND USE OF HYDRANTS AND VALVES

7.1 Use Restricted

No person shall open, interfere with or draw water from any fire hydrant, or open or close any valves in the District without permit from the District therefore, except that hydrants may be opened by or on the order of any member of a Fire Department or any fire commissioner within the District in case of fire for the purpose of attaching thereto fire hose and equipment, where contract for the purpose has been entered into with the District.

7.2 Notification of Use Required

Whenever a hydrant has been opened and used, notification of such fact shall be promptly given to the Superintendent.

7.3 Tools for Hydrant and Valve Operation

No tools or implements shall be used to open hydrants and valves except such as are furnished by the District or by a Fire Department operating with the District's permission.

8.0 EXTENSIONS OF WATER SYSTEM

8.1 Engineering Plans and Approval Required

Engineered plans and specifications prepared and stamped by a professional engineer licensed to practice in New York State shall be required for any new water system extensions. Plans shall be subject to review and approval of the Town's engineer. Where extension is proposed by someone other than the Town Board on behalf of the District; all cost associated with the extension, including the cost of such review shall be borne by the person proposing the extension. Funds to cover review expenses shall be deposited in escrow with the Town prior to review work being performed.

8.2 Standard Specifications and Details

Extensions to the water system shall be made in accordance with Town of Ulysses Standard Specifications and Details for Water Facilities, as adopted by resolution of the Town Board.

8.3 Construction Inspection Required

Construction of water system extensions shall be inspected by the Town Engineer, or, at the discretion of the Town Board, the Superintendent. Where someone other than the Town Board on behalf of the District proposes extension, the cost of inspections shall be borne by the person proposing the extension. Funds to cover inspection expenses shall be deposited in escrow with the Town prior to construction work being performed. No work shall advance unless inspected to the satisfaction of the Superintendent and the Town Board.

8.4 Testing and Certification

All water system extensions must be successfully leak tested in

accordance with American Water Works Association specifications, and disinfected and tested for bacteriological contamination in accordance with New York State Department of Health regulations prior to acceptance by the District. Written certification by a New York State licensed professional engineer attesting as such shall be provided to the Superintendent by the person making the extension prior to the Town Board's acceptance of the extension.

8.5 Record Drawings

Record Drawings shall be prepared for all water system extensions by the design engineer, which reflect any substantive modifications to the original plans and specifications made during construction.

8.6 Dedication of Facilities

Upon written acceptance by the Town Board, completed facilities for water system extensions, which have been privately constructed, shall be dedicated to the District, at which time they will become the property of the District. At the time of dedication, the person dedicating the facilities to the Town shall provide a guarantee against defects in materials and workmanship for a period of one (1) year. The guarantee shall be in such form and contain such provisions as deemed necessary by the Town Board, secured by a surety bond or such other security as the Town Board may approve.

8.7 Easements

Any extension of the water system constructed on or adjacent to private property which property must be entered upon for the purposes of maintaining or reconstructing said water system extension would require easements. Any such

easements will be written such that the Town and the District have the right to access for maintenance and reconstruction of the waterlines. Easements shall extend along the length of the waterline a minimum width of twenty (20) feet; ten (10) feet on each side of the centerline of the waterline. For extensions made by someone other than the Town Board on behalf of a District, all costs associated with obtaining any such easements shall be borne by the person making the extension.

8.8 Restoration

All surface features and landscaping shall be fully restored to a condition as existed prior to construction by the person making the water system extension. Restoration shall be included in the warrantee and covered by the bond or other security required in Article 8.6.

9.0 RIGHT TO RESTRICT WATER USE

9.1 Circumstances Warranting Restriction

The District reserves the right to limit the amount of water furnished to any customer, should circumstances warrant such action, even though no limit be stated in the application or permit for use; or the District may entirely shut off the water supply used for any manufacturing purposes, or for furnishing power, or for lawn sprinkling, at any time, by giving reasonable notice of such intended action. Or, in case of making or constructing new work, or in making repairs, the right is reserved to shut off the water from any customer without prior notice for as long a period as may be necessary.

The Superintendent has the right to invoke the following restrictions in time of drought or emergency:

1. No water is to be used for sprinkling of lawns or golf courses.
2. No washing of automobiles, trucks, or any motor vehicle of any kind.
3. No water for air conditioning or air conditioning units.
4. Other restrictions as deemed necessary and appropriate.

9.2 Water Conservation

All new construction and renovations of building plumbing systems shall be made with water saving plumbing fixtures. The District upon approval may implement other water conservation measures by resolution of the Town Board.

9.3 Moratorium

At the recommendation of the Superintendent who determines that:

1. One or more segments of the public water system are at or beyond its hydraulic capacity to serve portions of the Service Area tributary to it;
2. Any specific purpose of this law is being violated;
3. Provisions of an Intercommunity Agreement are being violated; or

4. Limits of water supply or provisions set forth in an Intercommunity Agreement are in danger of being violated if additional demands are placed on the system.

The Town Board shall have the authority to limit or deny new connection to the public water system until the conditions leading to the moratorium are corrected. Such correction may be by:

1. Construction of new facilities;
2. Enlarging existing facilities;
3. Repair of existing facilities;
4. Amendment of intermunicipal agreements;
5. Entering into new intermunicipal agreements.

10.0 CHARGES AND BILLS

10.1 User Fees

User fees shall be assessed to each property within the Service Area for the purposes of retiring debt. User fees and formulas for determining user fees shall be established in accordance with New York State Town Law, and may be modified from time to time by resolution of the Town Board. User fees will be included on the tax bills for each property within the Service Area, and payment for same shall be made at the same time and at the same place as specified for

other Town charges.

10.2 Water Rates and Billing Schedule

All persons utilizing water from the public water system shall pay a water service charge based on the quantity of water so utilized, which charge shall be collected as water rent. Water rents shall be fixed from time to time by resolution of the Town Board. Nothing herein contained shall prevent the Town Board of the Town of Ulysses from establishing separate schedules of rates for separate water Districts. Water bills shall be rendered quarterly for residential customers, and monthly for commercial, industrial, agricultural customers and other customers with usage significantly greater than that of a typical single family home, at the discretion of the Superintendent. Bills shall be payable at such times and places as designated by the Town Board. The Town Board may provide appropriate penalties for non-payment of bills, including a shutoff of the water supply.

10.3 Delinquent Payments

If there shall be any payments which are due to the Town of Ulysses, or any Department or District thereof, pursuant to any Article or Section of this Law, which shall remain due and unpaid, in whole or in part, for a period of twenty (20) calendar days from the date of payment due by the Town of Ulysses, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to twenty percent (20%) of the original bill, and interest shall accrue on the unpaid balance, at the rate of six percent (6%) per month, retroactive to the date of the original billing.

In the event that there are any water bills, taxes, assessments, fees, rents, or other service charges which shall have been delinquent for a period of at least sixty (60) calendar days as of October 1 of any year, the Collection Clerk shall report the names of the defaulting persons to the Town of Ulysses Town Board, the Town of Ulysses Clerk, the Tompkins County Tax Assessor, and the Town of Ulysses Supervisor on or before October 1 of the same year. The Tompkins County Tax Assessor is hereby directed to add the entire amount of the water tax, assessment, or other service charge which shall be in default, plus penalty and interest, as provided for in this Law, to the real property taxes due and owing to Town of Ulysses in the next succeeding year, and the Tompkins County Tax Assessor is directed to collect the same in the same manner as real property taxes due and owing to the Town of Ulysses are collected.

All delinquent payments, inclusive of user fees, water services charges, penalties, interest and other outstanding permit or other water charges due under this law are hereby declared liens on the real property serviced or connected to the public water system, and as such shall be added to the real property tax levy of the Town and collected in like manner as other tax levies pursuant to Town Law and the New York State Real Property Tax Law.

Where charges are delinquent and the violator is not a resident of the Town of Ulysses, or is located outside the geographical boundaries of the Town of Ulysses or in such instance where no real property taxes are due and owing to the Town of Ulysses, then the Town of Ulysses attorney is authorized to seek recovery of charges, including punitive damages, in a court of competent jurisdiction or make arrangements with the appropriate county where the customer is located to add the amount of the water assessment and/or other charges which shall be in default, plus penalty and interest, as provided for in the Law, to the real property taxes due to the County in the next ensuing year.

10.4 Charges When Meter Malfunctions

Water bills shall be computed in accordance with water meter readings. No deduction will be made for leakage. If the meter fails to accurately record the quantity used, it shall be determined and the charge made based upon the quantity used in the preceding billing period, or the corresponding period of the preceding year, or upon a corrected water bill as shown by meter test, as the Superintendent may at his discretion determine.

11.0 STEAM BOILERS AND HOT WATER TANKS

In all places where steam boilers or hot water tanks are supplied with water from the water system, the owner or customer must see that the plumber places a suitable safety valve, vacuum valve, or other proper device, to prevent damage from collapse or explosion when the water is shut off. There will be no cross connections allowed. Neither the District, the Town of Ulysses, nor the Superintendent shall be liable for any damage resulting from sudden shut off of the supply of water to any steam boiler or other fixture deriving its supply from the District water system.

12.0 WATER FLOW AND PRESSURE

Neither the District, nor the Town of Ulysses, nor the Superintendent shall be liable for any damage or loss of any name or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure or water flow from any cause whatever.

13.0 PROVISIONS RELATED TO INTERCOMMUNITY AGREEMENTS

13.1 Applicability of the Town of Ulysses/Town of Ithaca Agreement

The Town of Ulysses, on behalf of the Town Water System, has entered into an agreement with the Town of Ithaca for supply of water and operation and maintenance of the District's water system. All persons and properties provided water service within the Service Area as defined in the Town of Ulysses/Town of Ithaca Agreement shall be subject to the terms and conditions of said Agreement, and any amendments thereto. Article 13.1 through and including Article 13.6 are applicable to all such parts of the Public Water System, and the requirements in those articles supersede any contradictory requirements in other Articles of this Law.

13.2 Town of Ithaca Rules Applicable

The Town of Ithaca will sell water to customers of the Service Area (as defined in the Town of Ulysses/Town of Ithaca Agreement) in accordance with the requirements of Local Law # 1, 2003 and the Ulysses Standard Specifications and Details for Water Facilities, as they from time to time be amended.

13.3 Town of Ithaca's Approval of Improvements Required

Any plans and specifications for replacements, additions, betterments and improvements to the water system shall be subject to the prior written approval of the Town of Ithaca, which approval shall not be unreasonably withheld.

13.4 Service within Areas of Extension

Any extension of said Service Area shall service the entire area of such

extension and shall be made for the benefit of all who are able to be served within the area of any such extension.

13.5 Improvements Subject to the Town of Ulysses/Town of Ithaca Agreement

Upon completion of any improvement to the water system, the improvement shall become subject to the terms of the Town of Ulysses/Town of Ithaca Agreement.

13.6 Service Connections Made By the Town of Ulysses

The Town of Ulysses in accordance with the requirements of Local Law # 1, 2003, shall make all service connections and the Ulysses Standard Specifications and Details for Water Facilities as they from time to time may be amended.

14.0 ENFORCEMENT AND PENALTY

14.1 Administrative Remedies

14.1.1 Notification of Violation

Whenever the Superintendent finds that any User has violated or is violating this Law, or any Permit, order, prohibition, limitation, or requirement permitted by this Law, the Superintendent may serve upon such person a written notice stating the nature of the violation. Within ten (10) calendar days of the date the Superintendent mails the notice, an explanation of the violation and the User thereof shall submit a plan for

the satisfactory correction and prevention to the Superintendent. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the User of liability for any violations caused by the User before or after receipt of the Notice of Violation.

14.1.2 Consent Orders

The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the User responsible for the noncompliance. Such orders shall include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order.

14.1.3 Administrative or Compliance Orders

When the Superintendent finds that a User has violated or continues to violate this Law or a Permit or administrative order issued there under, he/she may issue an administrative order to the User responsible at the direction of the Town Board, directing that, following a specified time period, water service shall be discontinued, severed and abated unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance.

The User may, within fifteen (15) calendar days of receipt of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the

Superintendent by registered mail. The Superintendent shall then:

1. Reject any frivolous petitions;
2. Modify or suspend the order; or
3. Order the petitioner to show cause in accordance with Section 14.1.8 and may as part of the show-cause notice request the User to supply additional information.
4. Accept the petition in full or in part.

14.1.4 Administrative Fines

Notwithstanding any other section of this Law, any User who is found to have violated any provision of this Law, or permit or administrative order issued hereunder, shall, at the discretion of the Town Board, be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.

The User may, within fifteen (15) calendar days of notification of the Superintendent's notice of such fine, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by registered mail. The Town Board shall then:

1. Reject any frivolous petitions;

2. Modify or suspend the fine; or
3. Order the petitioner to show cause in accordance with Section 14.1.8 and may as part of the show-cause notice request the User to supply additional information.
4. Accept the petition in full or in part.

14.1.5 Cease and Desist Orders

When the Superintendent finds that a User has violated or continues to violate this Law or any permit or administrative order issued hereunder, the Town Board may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

1. Comply forthwith;
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the service.

The User may, within fifteen (15) calendar days of the date the Town Board issues notification of such order, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by registered mail. The Town Board shall then:

1. Reject any frivolous petitions;

2. Modify or suspend the order;
3. Order the petitioner to show cause in accordance with Section 14.1.8 and may as part of the show cause notice request the User to supply additional information.
4. Accept the petition in full or in part.

14.1.6 Termination of Permit

Any User who violates the following conditions of this Law or a permit or administrative order, or any applicable State or Federal law, is subject to permit termination:

1. Violation of permit conditions or conditions of an administrative order;
2. Failure to terminate, relieve or remove a cross-connection;
3. Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or
4. Failure to pay administrative fines, fees or user charges.

The User may, within fifteen (15) calendar days of the date the Town Board issues such notification, petition the Town Board to permit continued use of the service by the user. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail.

The Town Board shall then:

1. Reject any frivolous petitions,
2. Order the petitioner to show cause in accordance with Section 14.1.8 and may as part of the show-cause notice request the User to supply additional information.

14.1.7 Water Supply Severance

Whenever a User has violated or continues to violate the provisions of this Law or an order or permit issued hereunder, water service to the User may be severed and service will only recommence, at the User's expense, after satisfactorily demonstrating compliance or ability to comply.

The User may, within fifteen (15) calendar days of severance, petition the Superintendent to reconnect water supply service. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

1. Reject any frivolous petitions;
2. Reconnect the water supply; or
3. Order the petitioner to show cause in accordance with Section 14.1.8 and may as part of the show-cause notice request the User to supply additional information.
4. Accept the petition in full or in part.

14.1.8 Show-Cause Hearing

The Town Board may order any User appealing administrative remedies for violations of this Law to show cause, before the Town of Ulysses Town Board, why an enforcement action, initiated by the Superintendent, should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Town of Ulysses Town Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Town of Ulysses Town Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) calendar days before the hearing in accordance with Section 14.1.10 of this Article. Service shall be made on any principal or executive officer of a User's establishment or to any partner in a User's establishment or to Owner or Owner's occupant in the case of a residential service.

The Town of Ulysses Town Board may itself conduct the hearing, or may designate any of its members or any officer or employee of the Town of Ulysses to conduct the hearing and may:

1. Issue, in the name of the Town of Ulysses Town Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to any matter involved in such hearings.

2. Take the evidence.

3. Take sworn testimony.
4. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town of Ulysses Town Board for action thereon.

After the Town of Ulysses Town Board has reviewed the evidence and testimony, it may order the user to comply with the Superintendent's order or fine, modify the Superintendent's order or fine, or vacate the Superintendent's order or fine.

14.1.9 Failure of User to Petition the Superintendent

In the event the Superintendent issues any administrative order, terminates the User's permit, or makes any fine as set forth in this article, and the User fails, within the designated period of time set forth, to petition the Superintendent, as provided in appropriate sections of this article, the User shall be deemed in default and rights to contest the administrative order or fine shall be deemed waived.

14.1.10 Notice

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 Law 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 Law shall be mailed to the User where the User's service is connected into District lines. Any notice, petition, or other communication mailed to the Superintendent shall be addressed and mailed to Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886.

14.1.11 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 Town Board may hold one show-cause hearing combining more than one enforcement action.

14.2 Judicial Remedies

14.2.1 Civil Actions for Penalties

Any person who violates any of the provisions of or who fails to perform any duty imposed by this Law, or any administrative order or determination of the Superintendent promulgated under this Law, or the terms of any permit issued hereunder, shall be liable to the Town of Ulysses for a civil penalty not to exceed one thousand dollars (\$1000) 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 separate and distinct violation, and in the case of 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 Town of Ulysses Attorney, or his

designated attorney, at the request of the Superintendent in the name of the Town of Ulysses, in any court of competent jurisdiction giving preference to courts local to the Town of Ulysses. In addition to the above described penalty, the Superintendent may recover all damages incurred by the Town of Ulysses from any persons or Users who violate any provisions of this Law, or who fail to perform any duties imposed by this Law or any administrative order or determination of the Superintendent promulgated under this Law, 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 Town of Ulysses 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 water sampling and monitoring expenses.

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.

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

Superintendent.

14.2.2 Court Orders

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 Permit; or
2. Enjoining the violator from continuing the violation.

Any such court order shall be sought in an action brought by the Town of Ulysses Attorney, at the request of the Superintendent, in the name of the Town of Ulysses, in any court of competent jurisdiction giving precedence to courts local to the Town of Ulysses.

The Town of Ulysses 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 take 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.

14.2.3 Criminal Penalties

Any person who willfully violates any provision of this Law 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 Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000), or imprisonment not to exceed one (1) 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.

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 Law, or permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

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

14.2.4 Additional Injunctive Relief

Whenever a User has violated or continues to violate the provisions of this Law or permit or order issued hereunder, the

Superintendent, through counsel may petition the Court, in the name of the Town of Ulysses, 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 there under by the Superintendent.

14.2.5 Summary Abatement

Notwithstanding any inconsistent provisions of this Law, 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 water system 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 is necessary in his or her opinion to stop practices, and proscribe, 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 fifteen (15) calendar days, the Superintendent shall provide the User an opportunity to be heard, in accordance with the provisions of this Article.

15.0 CONFLICTS

The provisions of any local law in conflict with any provision of this Law are hereby repealed.

16.0 SEVERABILITY

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law, which shall nonetheless remain in full force and effect.

17.0 EFFECTIVE DATE

This Law shall take effect immediately upon filing in the New York State Office of Secretary of State.