

ARTICLE VII*

ENFORCEMENT & PENALTIES

SECTION 7.01 Administrative Sanctions. (a) Any person who violates any of the provisions of, or who fails to perform any duty imposed by these Rules and Regulations, or any order or determination of the Commissioner promulgated under the Rules and Regulations, or the terms of any permit issued thereunder, shall be liable to the County for a civil penalty not to exceed one thousand dollars for each such violation, to be assessed after a hearing held in conformance with the procedures set forth in Article VI of these Rules and Regulations. Each violation shall be a separate and distinct violation and in the case of a continuing violation, each days continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the County Attorney at the request of the Commissioner in the name of the County in any Court of competent jurisdiction. Such civil penalty may be released or compromised by the Commissioner before the matter has been referred to the County Attorney; and where such matter has been referred to the County Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the County Attorney with the consent of the Commissioner.

(b) In addition to the power to assess penalties as set forth in subsection (a) above, the Commissioner shall have the power, following a hearing held in conformance with the procedures set forth in Article VI of these Rules and Regulations, to issue an order (1) suspending, revoking or modifying the violator's permit; (2) enjoining the violator from continuing the violation. Any such order of the Commissioner shall be enforceable in a action brought by the County Attorney at the request of the Commissioner in the name of the Department in any court of competent jurisdiction.

(c) Any civil penalty or order issued by the Commissioner pursuant to this subdivision shall be reviewable in a proceeding pursuant to Article 78 of the CPLR. Application for such review must be made within sixty (60) days after service in person or by mail of a copy of the determination or order upon the attorney of record of the applicant and of each person who has filed a notice of appearance, or the applicant in person if not directly represented by an attorney.

SECTION 7.02 Criminal Sanctions. (a) Any person who willfully violates any provision of these Rules and Regulations or any final determination or order if the Commissioner made in accordance with Article VI shall, in addition, be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five hundred nor more that one thousand dollars. 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) No prosecution under this section shall be instituted until after final disposition of an appeal or review if any, provided by Section 7.01 (c).

SECTION 7.03 Civil Liability. Any person violating any of the provisions of these Rules and Regulations shall, in addition, be civilly liable to the County for any expense, loss or damage occasioned to the County by reason of such violation.

SECTION 7.04 Injunction. The County Attorney, on his own initiative or at the request of the Commissioner, shall have the right to seek equitable relief in the name of the County to restrain the violation of, or to compel compliance with, these Rules and Regulations, or any order or determination issued thereunder by the Commissioner.

SECTION 7.05 Summary Abatement. (a) Notwithstanding any inconsistent provisions of law, whenever the Commissioner finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in his judgement, presents an imminent danger to the public health, safety or welfare, or to the environment, or is likely to result in irreversible or irreparable damage to the public sewer system, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Commissioner may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in the Commissioner's judgement will reasonably notify such person whose 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, the event of a users failure to comply voluntarily with an emergency order, the Commissioner may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) days, the Commissioner shall provide the user an opportunity to be heard in accordance with the provisions of Article VI.

(b) The Commissioner, 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 preserve the public sewer system.

*Local Law No. 3 enacted by the Onondaga County Legislature of the County of Onondaga, New York on the 5th day of July, 1983 and filed with the New York State Department of State, Bureau of State Records on the 11th day of August, 1983.