

## **SEWER USE ORDINANCE**

### **NO. 98-1**

**(As amended 4 August 1998, 15 August 2000, 17 June 2003, 18 July 2017)**

#### **AN ORDINANCE ESTABLISHING SEWER USE REGULATIONS FOR THE TOWN OF FAYAL, MINNESOTA**

An Ordinance regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system and providing penalties for violation thereof.

#### **PREAMBLE**

In 1998, the Town of Fayal began the physical development of a public sewer system. This system involves the installation of sewer lines in various portions of the Town. These lines will flow into an interceptor system which will feed to the City of Gilbert. The Town of Fayal and City of Gilbert have entered into a sewer agreement whereby the sewage from Fayal will be treated at the Gilbert municipal sewage plant. The installation of sewer lines will be determined by the Fayal Public Utilities Commission and the Town Board based on engineering studies which consider the environmental need, the cost and the funding therefore. The system also will depend on sewer capacity in the City of Gilbert. The right to develop this system and to expand it are dependent on contractual arrangements with the City of Gilbert. Consequently, the Town is adopting this ordinance to insure, among other things, strict compliance with the contractual obligations it has with Gilbert.

The Town Board has been actively pursuing a public sewer system since 1994. Protection of the public waters in the Town is declared to be a high priority and is essential to long-term growth and protection of the health, safety and welfare of the community.

#### **ARTICLE I**

#### **DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of the terms used in this ordinance shall be as hereafter designated:

Sec. 1. "Biochemical Oxygen Demand or BOD5" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days and 20 degrees Centigrade, expressed in milligrams per liter. It represents the breakdown of carbonaceous materials as distinct from nitrogenous materials.

Sec. 2. "Building Drain" - That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

- Sec. 3. "Building Sewer" - The extension from the building drain to the public sewer or other place of disposal.
- Sec. 4. "Combined Sewer" - A sewer receiving both surface runoff and sewage.
- Sec. 5. "Garbage"- Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- Sec. 6. "Industrial Wastes" - The liquid, gaseous and solid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- Sec. 9. "pH"- The logarithm of the reciprocal of the weigh of hydrogen ions in grams per liter of solution.
- Sec. 10. "Properly Shredded Garbage" - The wastes from the preparation, cooking, and dispensing of food that may have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") (1.27 centimeters) in any dimension.
- Sec. 11. "Public Sewer" - A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- Sec. 12. "Sanitary Sewer" - A sewer which carries sewage and to which storm, surface, and ground waters are not admitted.
- Sec. 13. "Sewage" - Waste produced by toilets, bathing, laundry, or culinary operations, or the floor drains associated with these sources, water carried from residences, saunas, business buildings, institutions, and industrial establishments together with incidental ground, storm, and surface waters as may be present.
- Sec. 14. "Sewage Treatment Plant" - Any arrangement of devices and structures used for treating sewage.
- Sec. 15. "Sewage Works" - All facilities for collecting, pumping, treating, and disposing of sewage.
- Sec. 16. "Shall" is mandatory, "May" is permissive.
- Sec. 17. "Slug" - Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds from any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration flows during normal operation.
- Sec. 18. "Storm Sewer" - A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- Sec. 19. "Superintendent" - The Superintendent of Sewage Works and/or of Water Pollution Control of the Town of Fayal or his/her authorized deputy, agent, or representative.
- Sec. 20. "Total Suspended Solids (TSS)" - Solids that either float on the surface of, or are suspended in water, sewage or other liquids, and which are removable by laboratory filtering.

- Sec. 21. "Watercourse" - A channel in which a flow of water occurs, either continuously or intermittently.
- Sec. 22. "Engineer" - The Town Engineer or his/her authorized deputy, agent, or representative.
- Sec. 23. "Natural Pollutant Discharge Elimination System (NPDES) Permit" - A permit issued by the United States Environmental Protection Agency/Minnesota Pollution Control Agency setting limits on pollutant strength that a permittee may legally discharge into the waters of the U.S. pursuant to the Federal and State Water Pollution Control regulations.
- Sec. 24. "Normal Domestic Strength Waste" - Wastewater characterized by wastes created in the preparation of foods, bathing, laundry facilities, and water carried human waste whose characteristics do not exceed 389 mg/l BOD<sub>5</sub>, and 467 mg/l TSS, and is identified for the purpose of determining surcharge rates.
- Sec. 25. "Privy" - An aboveground structure with an underground cavity that is used for the storage or treatment and disposal of toilet wastes, excluding water for flushing and greywater.
- Sec. 26. "Holding Tank" - An underground tank for storage of sewage until it can be transported to a point of treatment and disposal.
- Sec. 27. "Sewage Tank" - A receptacle used in the treatment of sewage, and includes septic tanks and aerobic tanks.
- Sec. 28. "Cesspool" - An underground pit, receptacle, or seepage tank that receives sewage directly from the building sewer and leaches sewage into the surrounding soil, bedrock, or other soil materials.
- Sec. 29. "Toilet Waste" - Waste commonly disposed of in toilets, including fecal matter, urine, toilet paper, and water used for flushing. Toilet waste does not include sanitary napkins, tampons, and disposable diapers.
- Sec. 30. "Toilet Waste Treatment Devices" - Other toilet waste apparatuses including incinerating, composting, biological, chemical, recirculating, or holding toilets or portable restrooms.
- Sec. 31. "Pressurized Water System" - A system designed and installed to supply and distribute water to and through a structure under pressure. Included would be municipal water supply, on-site individual well and pump (hand or power operated), mechanized lake water supply systems, and gravity systems designed to provide water under pressure from a supply tank greater than 10 gallons in capacity.

## **ARTICLE II**

### **USE OF PUBLIC SEWERS REQUIRED**

- Sec. 1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town or in any area under jurisdiction of the Town, any human or animal excrement, garbage, or other objectionable waste. This section shall not apply to domestic livestock which are being raised or maintained in accordance with all county, state and federal laws and which do not

constitute a nuisance as defined by state law.

Sec. 2. It shall be unlawful to discharge to any natural outlet or watercourse within the Town or in any area within the jurisdiction of the Town, any sewage or other polluted waters except where suitable treatment as defined by State and Federal Regulation has been provided in accordance with the provisions of this ordinance.

Sec. 3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, holding tank, sewage tank, cesspool, or other structure intended for the private, onsite disposal of sewage within the limits of the Town. Use of toilet waste treatment devices may be allowed provided the associated structure(s) do not contain a pressurized water system and does not, by other means, generate appreciable quantities of sewage or other water carried waste. Use of toilet waste devices should be considered as temporary or intermittent installations and shall not be used in place of connection to public sewer as described in Article II Section 4.

Sec. 4. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, and which by nature of its use generates sanitary sewage or other water carried waste which is amenable to conventional treatment processes, situated within the Town and butting on any street, alley, or right-of-way in which there is located or may in the future be located a public sanitary sewer, is hereby required at his/her expense to install suitable toilet facilities therein, and to connect such facilities, either new or existing, directly to the proper public sewer in accordance with the provisions of this ordinance, within one hundred eighty (180) days after date of official notice by the Town Board to do so, provided that said public sewer is within three hundred (300) feet of the owners primary structure and the sewer within or immediately adjacent to the owner's property limits.

Sec. 5. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Article VIII, Section 1 of the Ordinance, the Town shall undertake to have said connection made and shall assess the cost thereof against the benefitted property. Such assessment, when levied, shall bear interest to the rate determined by the Town Board and shall be certified to the Auditor of the County of St. Louis, Minnesota and shall be collected and remitted to the Town in the same manner as assessments for local improvements. The rights of the Town shall be in addition to any penalties or remedial or enforcement provisions of this Ordinance.

### **ARTICLE III**

#### **PRIVATE SEWAGE DISPOSAL**

Sec. 1. Where a public sanitary sewer is not available under the provisions of Article II, Section 4 above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Sec. 2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by St. Louis County. The application for such permit shall be made on a form furnished by St. Louis County, which the applicant shall supplement with any plans, specifications, and other information as are deemed necessary by the St. Louis County Health Department. A notification fee of \$5.00 shall be paid to the Town of Fayal at the time the application is filed with St. Louis County.

Sec. 3. A permit for a private sewage disposal system shall not become effective until the installation is

completed to the satisfaction of the County Health Department. They shall be allowed to inspect the work at any stage of construction and the applicant for the permit shall notify the County when the work is ready for final inspection before any underground portions are covered.

Sec. 4. The type, capacities, locations, and layout of a private sewage disposal system shall comply with Minnesota Pollution Control Agency Rule Chapter 7080.

Sec. 5. At such time as a public sewer becomes available to a property served by a private system, as provided in Article II, Section 4, a direct connection shall be made to the public sewer. When the public sewer becomes available, all properties with access to the public sewer will be charged a sewer access charge. On properties with an on-site wastewater treatment facility which is in compliance with St. Louis County on-site septic ordinances, connection between the primary structure and the wastewater collection system may be deferred to a date to be determined by the Town Board. This deferral will require the owner to obtain from St. Louis County an inspection letter stating the system has been approved as conforming to the ordinance. Any property with an on-site wastewater treatment facility and access to the municipal wastewater collection system will connect to the system prior to any change in property ownership. Connection to the municipal system will be made within one-hundred eighty (180) days of notification by the Town Board and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and removed, or cleaned and filled with clean bank-run gravel.

Sec. 6. The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times, at no expense to the Town.

Sec. 7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any officially recognized Health Office or the Minnesota Pollution Control Agency.

#### **ARTICLE IV**

#### **BUILDING SEWERS AND CONNECTIONS**

Sec. 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.

Sec. 2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make an application on a form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Town. A permit application fee of \$50.00 for residential connection and a minimum of \$50.00 for an industrial or commercial connection shall be paid at the time the application is filed. If additional costs are incurred in the review of an application, they will be borne by the applicant.

Sec. 3. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 4. A separate and independent building sewer shall be provided for every building; except where

one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, provided all buildings so accesses are in one ownership. Additional sewer service availability, tap fee, and hold harmless clause is necessary for separate ownership.

Sec. 5. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Town Inspector, to meet all the requirements of this Ordinance.

Sec. 6. The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, testing, and backfilling the trench, shall all conform to the requirements of the Plumbing Code or other applicable rules and regulations of the Town.

Sec. 7. Whenever economically possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. All costs related to a private lift station shall be borne by the owner.

Sec. 8. No person shall make or have any connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater, either directly or indirectly, to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the Town. All such connections shall be made gastight and watertight. Any deviation from these prescribed procedures and materials must be approved by the Town before installation.

Sec. 10. The applicant for the building sewer permit shall notify the Town Plumbing Inspector when the building sewer is ready for final inspection and connection to the public sewer. The connection shall be made under the general supervisor of the Town Engineer and his/her representative, or the Town Plumbing Inspector.

Sec. 11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to as good or better condition than before work commenced.

Sec. 12. Future connections to the sewer system shall be limited in accordance to the availability of sufficient treatment capacity.

## ARTICLE V

### **USE OF THE PUBLIC SEWERS**

Sec. 1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

Sec. 2. Storm water and all other unpolluted waters shall be discharged to such sewers as are

specifically designated as storm sewers, or to a natural outlet approved by the Engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Engineer, to a storm sewer, or natural outlet, subject to approval and the issuance of the discharge permit by the Minnesota Pollution Control Agency.

Sec. 3. No person shall discharge or cause to be discharged any of the following described waters or wastes in any public sewers.

- A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, benzene, naphtha, fuel oil, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- B. Any waters or wastes containing toxic or poisonous solids, liquids, or gases as defined by Section 307 (a) of the Clean Water Act in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals in spite of treatment, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of Federal and State requirements in the wastes are discharged to the public sewer.
- C. Any waters or wastes having a pH lower than 5.0 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structure, equipment, or personnel or the sewage works.
- D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, sanitary napkins, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fletching, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

Sec. 4. No person shall discharge or cause to be discharged the following described substance, materials, waters or wastes if it appears likely in the opinion of the Engineer and/or Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving waters, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Engineer and/or Superintendent will give consideration to such factors as the City of Gilbert's NPDES Permit, the quantities of subject wastes in relation to the flows and velocities in the sewers, materials and construction of the sewers, nature of the treatment process, capacity of the treatment plant, degree of treatability of the wastes in the sewage treatment plant, and other factors deemed pertinent. The substances prohibited are:

- A. Any wastewater that would directly or indirectly result in a violation of the City of Gilbert's NPDES Permit.
- B. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65

degrees C).

- C. Any water or waste containing fats, wax, grease, oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) and one hundred fifty (150) degrees F (0-65 degrees C).
- D. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Superintendent, or his/her authorized representative.
- E. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- F. Any waters or wastes containing iron, chromium, copper, zinc, nickel, lead, cadmium, mercury, cyanide, PCB's, and similar toxic or objectionable substances to such degree that any such material received in the composite sewage at treatment works exceeds the limits established by the Minnesota Pollution Control Agency for such materials.
- G. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- H. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent, in compliance with applicable State and Federal regulations.
- I. Materials which exert or cause:
  - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solution).
  - 3. Unusual BOD<sub>5</sub>, chemical oxygen demand, or disinfection requirements in such quantities as to constitute a significant load on the sewage treatment works, except by special permit or agreement.
  - 4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- J. Waters or wastes containing substances which are not amenable to treatment or reduction by the treatment process employed, or are amenable to treatment only to such degree that the treatment plant effluent cannot meet the requirements of the agencies having jurisdiction over discharge to the receiving waters.



Sec. 5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Sections 3 and 4 of this Article, and which in the judgement of the Superintendent and/or Engineer may have a deleterious effect upon the sewage works, processes equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Engineer and/or Superintendent may:

- A. Reject the wastes;
- B. Require pretreatment to an acceptable condition for discharge to public sewers, and/or;
- C. Require control over the quantities and rates of discharge, and/or;
- D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer service charges under the provisions of Ordinance 98-1.

If the Engineer and/or Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to review and approval by the Town and subject to the requirements of all applicable Federal and State codes, ordinances, and pretreatment standards established pursuant to Section 307 (b) of the Clean Water Act.

Sec. 6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing constituents, as described in Sections 3 and 4 above, in prohibited amounts. All interceptors shall be of a design approved by the Engineer and shall be located as to be readily accessible for cleaning and inspection.

Sec. 7. Where preliminary treatment or flow equalization facilities are provided for any wastes or water, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 8. No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in Sections 3 and 4 of this Article, or contained in the National Categorical Pretreatment Standards or any State requirements.

Sec. 9. When required by the Engineer and/or Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole or manholes together with such necessary meters, samplers, and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole shall be easily accessible and safely located, and shall be constructed in accordance with plans approved by the Engineer. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe for use at all times.

Sec. 10. The owners of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the Town, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this Ordinance and any special condition for discharge established by the Town or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be stipulated in writing by the Town. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with Federal, State, and local standards are being met. The owner shall report the results of the measurements and

laboratory analyses to the Town as such times and in such manner as prescribed by the Town. The owner shall bear the expense of all measurements, analyses, and reporting required by the Town. At such times as deemed necessary, the Town reserves the right to take its own measurements and samples for analysis by an independent laboratory.

Sec. 11. All measurements, tests, and analyses of characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Superintendent and Engineer.

Sec. 12. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the Town's NPDES and/or State Disposal System Permit limitations are not violated, and that payment for the Operation, Maintenance, and Replacement Costs of wastewater treatment is in proportion to said industry's contribution of wastewater loadings to the treatment facilities, in accordance with 40 CFR S 35,2140 and the Town's Ordinance 98-2.

## **ARTICLE VI**

### **PROTECTION FROM DAMAGE**

Sec. 1. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating these provisions shall be subject to immediate arrest under charge of criminal damage to property.

## **ARTICLE VII**

### **POWER AND AUTHORITY OF INSPECTORS**

Sec. 1. The Engineer and/or Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of the Ordinance. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industrial processes considered the property of the industry beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Sec. 2. While performing the necessary work on private properties referred to in Article VII, Section 1 above, the Engineer, Superintendent, or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the owner and the owner shall be held harmless for injury or death to the Town employees and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in Article V, Section 9.

Sec. 3. The Engineer and/or Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said property. All entry and subsequent work, if any, on said property shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

## ARTICLE VIII

### PENALTIES

Sec. 1. Any person found to be violating any provisions of this Ordinance, except Article VI, shall be served by the Board with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Sec. 2. Any person who shall continue any violation beyond the time limit provided for in Article VIII, Section 1 above, shall be guilty of a misdemeanor for each violation. Each day in which any such violation shall continue shall be deemed a separate offense, and where special agreements provide a penalty, the penalty shall be used.

Sec. 3. Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violation.

Sec. 4. Applications for variances from the terms of this Ordinance, or appeals from any order, requirement, decision or determination made by the Town, the Town Engineer, or the Wastewater Superintendent shall be made to the Public Utilities Commission.

- A. Such appeals may be taken by any person aggrieved, or by any officer, department, board of bureau of a town, municipality, county or state.
- B. Such appeals shall be taken to the Public Utilities Commission within 45 days of receipt of notice from the Town of any order, requirement, decision, or determination made.
- C. An appeal stays all proceedings in furtherance of the action appealed from unless the Public Utilities Commission certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property.
- D. The Public Utilities Commission is an advisory board. Recommendations are submitted to the Town Board for final decision regarding variance applications.

Sec. 5. Applications, Hearings, Decisions, and Criteria

A. Applications

- 1. An application for a variance shall be filed with the Town Clerk on a proper form provided for that purpose. Other appeals shall be filed in a manner prescribed by the Public Utilities Commission.

2. Appeals applications shall be filed in a timely manner in advance of a scheduled hearing date as the Public Utilities Commission may provide in its rules of procedure.
3. Application forms shall be complete, and shall clearly specify the grounds of the appeal. Where required by the nature of the appeal, the application shall be accompanied by detailed plans, drawn to scale, showing all details of the land area and the nature of the circumstances surrounding the appeal.

B. Hearings

1. The Public Utilities Commission shall conduct a public hearing on each appeal.
2. The Public Utilities Commission shall set a reasonable time for the hearing of the appeal and shall give due notice thereof as provided for in this Article.
3. Such hearings shall be conducted according to applicable Minnesota Statutes and to the rules of procedure of the Public Utilities Commission.

C. Decisions

1. Decisions by the Public Utilities Commission shall be made within thirty-five (35) days of the date a public hearing is closed.
2. The Public Utilities Commission shall keep a written record of its proceedings showing the vote of each member on each question, or if absent or failing to vote indicating such fact.
3. The Public Utilities Commission shall render its decisions in writing stating its reasons in sufficient detail so that it can be determined that the decision was made in reliance on testimony given at the public hearing, and according to the criteria contained in this Ordinance.

D. Criteria for Decisions

1. The Public Utilities Commission shall always act with due consideration to promoting the public health, safety, and welfare, encouraging the most appropriate use of land and conserving property value, and shall permit no use detrimental to a neighborhood.
2. Variances
  - a. The Public Utilities Commission Board may authorize a variance from the terms of this Ordinance which will not be contrary to public interest, where owing to special conditions a practical difficulty or particular hardship would be created by carrying out the strict letter of the Ordinance, and when the terms of the variance are consistent with the spirit and intent of this Ordinance and with the Township's land use or Comprehensive Plan.

- b. “Hardship” as used in connection with the granting of a variance means that use of the wastewater collection system on the property in question cannot be reasonably accomplished under the conditions allowed by this Ordinance; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship.
- c. When in the opinion of the Public Utilities Commission a variance may result in a material adverse effect on the environment, the appellant may be required to demonstrate the nature and extent of the effect.
- d. It shall be the burden of the applicant to demonstrate sufficient hardship to sustain the need for a variance. Absent a showing of hardship as provided in Minnesota Statutes and this Ordinance, the Public Utilities Commission shall not approve any variance.
- e. The Public Utilities Commission may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.

Sec. 6. Appeals from the Town Board Decisions. All decisions by the Town Board regarding variance applications or in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons, or any department board or commission of the jurisdiction or of the State shall have the right to appeal within 30 days, after the receipt of notice of the decision, to the District Court of the County on questions of law and fact.

## **ARTICLE IX**

### **VALIDITY**

Sec. 1. Ordinances and all parts of ordinances in conflict herewith are hereby repealed.

Sec. 2. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

## **ARTICLE X**

### **ORDINANCE IN FORCE**


Sec. 1. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Sec. 2. Chairman Tammaro moved the adoption of the foregoing Ordinance as revised, seconded by Supervisor Sather and it was declared adopted by the Fayal Town Board of Supervisors on this 18<sup>th</sup> day of July 2017 upon the following vote:

AYES: Ochis, Sather, Tammaro, Ziegler

NAYS:

ABSENT: Branville

  
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Anthony L. Tammaro, Chairman

  
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Heidi M. Coldagelli, Clerk

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