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NOTICE OF PUBLIC HEARING
VILLAGE OF PENN YAN

Proposed Local Law Regarding Enhanced Civil Penalties and Shared Sewer Lateral Regulations

Notice is hereby given that a Public Hearing by the Board of Trustees of the Village of Penn Yan, County of Yates, State of New York, will be held at the Village Hall, 111 Elm Street, Penn Yan, New York, on the 20th day of May, 2025, at 6:10 p.m. upon the proposed Local Law.

The effect of this Local Law will be to increase civil penalties and adopt regulations pertaining to shared sewer laterals.

All persons interested in this proposed Local Law will be heard by the Board of Trustees at the Public Hearing to be held as stated above. Written comments may be submitted to the Village Clerk's Office in person or by US mail at 111 Elm Street, Penn Yan, NY 14527. Such comments must be received no later than 12:00 p.m. (noon) on Tuesday, May 20, 2025. Copies of the proposed Local Law are available at the Office of the Clerk of the Village of Penn Yan, 111 Elm Street, Penn Yan, NY 14527 during regular business hours.

A copy of the proposed Local Law may also be examined on the Village website www.villageofpennyan.com.

The Village Hall is in compliance with accessibility standards of the Americans With Disabilities Act. Any person with a handicap wishing to attend and/or be heard at the public hearing should contact the Village Clerk's Office at least three (3) business days prior to the date of the public hearing to request any special needs.

Holly Easling, Village Clerk/Treasurer
Village of Penn Yan

Draft 5-01-25

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Proposed Local Law F of 2025 Amending Chapter 158 “Sewers”, of the Code of the Village of Penn Yan.

Be it enacted by the Board of Trustees of the Village of Penn Yan, in the County of Yates, as follows:

SECTION 1. SHORT TITLE

This Local Law shall be known as the “2025 Amendment To Chapter 158 “Sewers” with respect to penalties and regulation of shared sewer laterals.

SECTION 2. LEGISLATIVE FINDINGS AND INTENT

The Board of Trustees determines that the current provisions of Chapter 158 “Sewer” require amendment to provide enhanced penalties and regulation of shared sewer laterals. This local Law is intended to address those issues.

SECTION 3. LEGISLATIVE AUTHORITY

This Local Law is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

SECTION 4. PROVISIONS

Chapter 158. “Sewers” of the Village Code is amended as hereinafter indicated:

I. The title of sub-section A. “New Building Laterals” and paragraph(1) of sub-section A. of Section 158-36. “Laterals; Dry Sewer” are amended provide as follows:

§ 158-36. Laterals; dry sewers.

A. Building laterals.

(1)(a) A separate and independent sewer lateral shall be provided for every building on a parcel requiring sanitary sewer service. When, however, there is a building to the rear of another building, the building to the rear may use the front building's sewer lateral, if there is no other reasonable method to provide sanitary sewer service and the existing sewer lateral is of sufficient size.

(b) In the case of existing shared sewer laterals the property owners may, in the discretion of the Director of the Department of Public Works, be required to enter into an agreement between the respective property owners specifying the requisite responsibilities of the parties as to care, maintenance and replacement of the shared sewer lateral, should such replacement become a necessity. The form and content of the agreement shall be subject to the approval of the Village Attorney, Village Engineer and the Director of Public Works. The agreement shall provide that it is binding upon both property owners, their heirs, successors and assigns, as well as being recorded in the Yates County Clerk's Office at the expense of the sanitary sewer customers.

(c) Maintenance or replacement of a shared sewer lateral may be required by the Village's Department of Public Works, in its sole reasonable discretion. The Director of Public Works may also require discontinuance of a shared sewer lateral and installation of separate sewer laterals in the reasonable discretion of the Director of Public Works.

II. Subsection A. of Section 158-83. "Administrative remedies: administrative fines." is amended to provide as follows:

§ 158-83. Administrative remedies: administrative fines.

- A. Notwithstanding any other section of this Chapter, any user who is found to have violated any provision of this chapter or a wastewater discharge permit or administrative order issued hereunder shall be fined in an amount not to exceed \$5,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation subject to a separate fine.

III. Subsection A. of Section 158-91. "Judicial remedies: civil actions for penalties." is amended to provide as follows:

§ 158-91. Judicial remedies: civil actions for penalties.

- A. Any person who violates any of the provisions of or who fails to perform any duty imposed by this Chapter, or any administrative order or determination of the Director of Public Works promulgated under this chapter, or the terms of any permit issued hereunder, shall be liable to the Village for a civil penalty not to exceed \$5,000 for each such violation, to be assessed after a hearing (unless the user waives the right to a hearing) held in conformance with the procedures set forth in this Article. Each violation shall be subject to a separate fine, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation subject to a separate fine. Such penalty may be recovered in an action brought by the Village Attorney, or other attorney designated by the Village Mayor in the name of the Village. In addition to the above described penalty, the Director of Public Works may recover all damages incurred by the Village from any persons or users who violate any provisions of this Chapter, or who fail to perform any duties imposed by this Chapter or any administrative order or determination of the Director of Public Works promulgated under this Chapter, or the terms of any permit issued hereunder. In addition to the above described damages, the Director of Public Works may recover all reasonable attorney's fees incurred by the Village in

enforcing the provisions of this Article.

IV. The following section is added numerically to Article XI “Enforcement and Penalties” of Chapter 158 “Sewers”.

Section 158-91.1 Reimbursement To Village of Fines and Penalties Imposed on Village Due to Customer Fault

In the event that the Village is subject to any fine, penalty or other charge by any governmental agency as the result of the acts, omissions, commissions, negligence and/or failure of a sanitary sewer customer to abide by the regulations prescribed by the “Sewers” Chapter of the Code of the Village of Penn Yan, the laws, regulations and/or directives of the New York State Department of Environmental Conservation and/or the laws, regulations and/or directives of the United States Environmental Protection Agency, such fine, penalty or other charge shall be reimbursed to the Village by such sanitary sewer customer within ninety (90) days of the Village demanding such reimbursement. The demand by the Village shall include such information and documentation as is reasonably available to the Village in order for the sanitary sewer customer to be informed as to the amount of the fine, penalty or other charge as well as the specific grounds for such fine, penalty or other charge being levied upon the Village. Failure to pay such fine, penalty or other charge may result in litigation to enforce such payment.

SECTION 5. SEVERABILITY.

In the event that a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 6. EFFECTIVE DATE

This Local Law shall take effect subsequent to filing in the Office of the Secretary of State of the State of New York, subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan and upon inclusion in and adoption of the amendment process of the entire Code of the Village of Penn Yan.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. of the year 2024. was duly passed by the Board of Trustees of the Village of Penn Yan on , in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Holly Easling, Clerk/Treasurer

(SEAL)

Date:

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Edward J. Brockman, Village Attorney

Village of Penn Yan

Date: