

Sewer Use Agreement



2019

Town of Lewiston

Water Pollution Control Center

The Town of Lewiston

Village of Lewiston

Town of Porter

Village of Youngstown

2019 SEWER USER ANNUAL AGREEMENT

THIS AGREEMENT, made the 1st day of January 2019, by and among the TOWN OF LEWISTON (herein after called “Lewiston”), the TOWN OF PORTER (hereinafter called “Porter”), and the VILLAGE OF LEWISTON (hereinafter called the “Village of Lewiston”) and the VILLAGE OF YOUNGSTOWN (hereinafter called “Youngstown”), for the purposes of ascertaining and equitably sharing the cost of Lewiston Water Pollution and Control Center (hereinafter called the “Center”) and the waste water treatment service provided by said Center. This AGREEMENT will be effective as of January 1, 2019.

WITNESSETH:

WHEREAS, Lewiston, Porter, Youngstown and the Village of Lewiston share in the cost of the Water Pollution Control Center; and

WHEREAS, all parties seek to equitably share in the costs of the Center; and

WHEREAS, Lewiston, Porter, Youngstown and the Village of Lewiston have entered into negotiations seeking an equitable manner to share the budgeted costs of the Water Pollution Control Center; and

WHEREAS, Lewiston, Porter, Youngstown and the Village of Lewiston have all respectively deemed the following to be an equitable manner to share such budgeted costs;

NOW THEREFORE, in consideration of the agreements contained herein, it is mutually agreed as follows:

1. A “Water Consumption Method” will be used to equitably share the budgeted

costs of the Center. Rates will be based on billed water consumption, and all end users connected to the sewer shall pay the same rate. The Lewiston Water Pollution Control Center budget of **\$2,322,055** for the year **2019** is approved. During the base year, January 1, 2018 to December 31, 2018, approximately four hundred-ninety (490) million gallons of water were consumed system wide. The unit rate to be charged to all customers system-wide with revenues derived accruing directly to the Water Pollution Control Center fund is **Three Dollars and Fifty Five cents (\$3.55)** per one thousand (1,000) gallons of water consumed. The rate charged for trucked waste to the Water Pollution Control Center for 2019 is **Forty-Two Dollars (\$ 42.00)** per one thousand (1,000) gallons, unless other arrangements are made with the Chief Operator. A late fee of ten percent (10%) will be charged on any balance of payment past due after thirty (30) days.

Each municipality may offer to forgive sewer charges for filling a newly constructed/ erected swimming pool, or for pool liner replacement. Provided, however, a copy of a valid building permit for this work is submitted by the user as proof or a representative of the municipality verifies that this work was completed. Each Municipality may also offer to forgive sewer charges for metered water consumption on water service connections that are determined an agricultural designation provided that such water service is used directly for agricultural purposes. In no event shall there be any forgiveness of sewer charges for sanitary flows in an agricultural designation. Any and all sanitary flows from agricultural designations will still continue to be subject to sewer charges based on the rate and methods as established pursuant to this Agreement.

“Agricultural Designation”, as such term is used herein, shall include all landowners who derive ten thousand dollars (\$10,000.00) or more annual gross income from agricultural pursuits on the subject property regardless of whether or not such subject property is located in an agricultural district. “Agricultural Pursuits” are further defined as the production of crops and/or livestock products. Any application to forgive sewer charges for metered water consumption for such agricultural designations shall be limited to one (1) agricultural applicant per property.

In order to recover the costs of infrastructure improvements, commencing January 1, 2006, each new unit of sanitary sewer service connection within the service area of the Center shall be charged a non-refundable fee at the time an application for a Building Permit is submitted, and/or other permitting mechanism that may be used for a new sanitary service connection tributary to the Town of Lewiston WPCC. This fee will be collected by each municipality serviced by the Center and remitted to the Center for deposit in a designated account for use by the Center. This fee will be based on Table 3, Expected Hydraulic Loading Rates from the “Design Standards For Wastewater Treatment Works Intermediate Sized Sewerage Facilities 2014” by the New York State Department of Environmental Conservation, Division of Water. A fee of two dollars (\$2.00) per gallon per day will be calculated from this table based on flow rate per person or flow rate per unit, whichever is applicable.

Example:

<u>Type of Facility</u>	<u>Flow Rate</u>	<u>Fee Charged</u>
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Homes	1 bedroom	150 gpd/unit	\$300
	2 bedroom	300 gpd/unit	\$600
	3 bedroom	400 gpd/unit	\$800

Notwithstanding the aforesaid, this agreement may be altered, changed, modified or amended upon agreement of all signatories herein pursuant to the method established in this agreement for the conduct of business by the signatories to this agreement.

Porter, Youngstown and the Village will remit to the Water Pollution Control Center account, and Lewiston will transfer to such account, an amount equal to three dollars and fifty cents (\$3.55) per thousand gallons of water used by all customers in their respective jurisdictions who are connected to the waste water system. This is the rate to be charged for 2019, and is subject to an annual review, as this amount may increase or decrease depending on such review.

- Each municipality shall provide to the Center a complete and accurate reporting of actual water usage for each customer in their respective billing area per that municipality's water billing cycle. This listing will be available to all other municipalities.

The Center will bill each municipality according to water consumption with payments to be sent to the Water Pollution Control Center. The Water Pollution Control Center will deposit these payments into the appropriate accounts to fund the operation and maintenance of the treatment facility. Annually, each municipality shall provide a complete and accurate listing of all water customers serviced by the Water Pollution

Control Center. This list will include the water customers name, service address and actual water usage.

3. The Town of Lewiston shall provide a budget summary on a monthly basis of both revenue and expenses of the facility.

4. The Town of Lewiston shall maintain a separate budget, accounting and time-keeping system for the waste water treatment facility that separates costs from those same rates from the Lewiston Waste Water Treatment plant budget of the Town's sewage collection system.

5. Porter, the Village of Lewiston and Youngstown will make payments to the Water Pollution Control Center and Lewiston will transfer its required payment on a quarterly basis. The payments by Porter shall be made on the first day of March, June, September and December of each year. The payments by the Village of Porter and Youngstown shall be made on the first day of May, August, November and February of each year. The payments by Lewiston will be made on the first day of May, August, November and February.

6. Any surplus funds accumulated in the Water Pollution Control Center account shall be deposited in a fund reserve, to be utilized for:

A. Normal capital improvements in the plant or for the collection systems of the

municipalities that are tributary to the Water Pollution Control Center; or

B. For rate reduction.

The maximum amount to be accumulated in the fund reserve shall be subject to approval of all parties to the agreement. These are dedicated funds. If these funds are to be used in any other manner, they will be used in such manner only through the recommendation of the Lewiston –Porter Sewer Advisory Board and a super-majority vote by the Lewiston Town Board. The parties shall annually review the fund reserve account.

7. Any deficit amounts accumulated in the Water Pollution Control Center account shall be funded promptly in a method as recommended by the Lewiston – Porter Sewer Advisory Board.

8. Any fines or unexpected cost incurred by the facility shall be presented to the Lewiston – Porter Sewer Advisory Board promptly for their review and recommendation.

9. Each signatory to this document also agrees to the need for, and to fund the capitol improvements at the Center, with an estimated cost of three million four hundred ninety-five thousand (\$3,495,000.00) dollars, as described in the Map & Plan Report from CRA Infrastructure & Engineers Inc. titled “Increase and Improvements of Facilities At The Lewiston Water Pollution Control Center for the Lewiston Master District.”

The Town of Lewiston, as owner of the facility will be responsible for the financing and administration of these improvements with each party to share in the total costs of these improvements. The Town of Lewiston shall recover incurred costs from the other municipalities based on the percentage of contracted flow capacity, as outlined in the table below titled “Annual Payment By Municipality.”

Annual Payment by municipality

Contributing Municipality	Contracted Flow (% Total)	Annual Payment (Rounded)
Town of Lewiston	56.36%	\$147,649.11
Village of Lewiston	16.36%	\$42,859.11
Town of Porter	18.62%	\$48,779.75
Youngstown	8.66%	\$22,687.04

Payments to the Town of Lewiston from the other parties are anticipated to commence during calendar year 2019, with a payment schedule to be outlined in the annual agreement for that year. Should there be a need for the payments from the other municipalities to begin sooner, the parties will meet to determine a mutually agreeable payment schedule and to modify this agreement accordingly.

10. Each municipality shall continue efforts to identify and pursue Inflow and Infiltration (I&I) corrections in their systems as required to prevent an overburden of the facility, fines from the New York State Department of Environmental Conservation, or excess infiltration.

Each municipality further agrees to the terms and conditions stated in 6 NYCRR

Part 750 that requires the Town of Lewiston Water Pollution Control Center, as the State Pollutant Discharge Elimination System (SPEDES) Permittee, to enforce or impose conditions on other systems that are tributary to the Water Pollution Control Center.

Some of these requirements may be, but are not limited to:

A. Evidence that up-to-date effective and duly enacted Sewer Use laws are in place and being enforced throughout the Publicly Owned Treatment Works (POTW) service area. Such enactment and enforcement shall include intermunicipal agreements and /or other enforceable legal instruments that allow the Permittee (Lewiston Water Pollution Control Center) to control discharges, either directly or through jurisdictions contributing flow to the POTW, flow and loads to the POTW as well as discharges to the POTW.

B. Authorization from the Administrator/Chief Operator of the Center will be required for any new service connection(s), sewer extensions, or other system expansion(s) to be made in the service area of the POTW.

C. Submittal of standardized sewer inspection form(s) for the POTW service area to the Administrator/Chief Operator, that covers elements of a sewer inspection for the sale of homes, new construction, or other need for inspection in the service area. This form will conform to sewer use law enforcement and verification.

D. Surcharge for exceeding allowable daily flow

Each municipality may discharge up to 2.2 times their contracted amount on a daily basis as the Center operating conditions allow. Flows greater than 2.0 times contract volumes will have an additional charge of \$ 1.50 per 1,000 gallons of metered

sewage flow added to the day that the overage occurred. This will apply for each day of the billing cycle that this is applicable to.

Table 1: Surcharge for Exceeding Allowable Daily Flow

Municipality	Contracted Volume	Daily discharge Limit
Town of Lewiston	1.55 MGD	3.41 MGD
Town of Porter	0.75 MGD	1.65 MGD
Village of Lewiston	0.45 MGD	0.99 MGD

The surcharge rate for 2019 equals \$1.50 per 1,000 gallons of metered sewerage flow above the daily limit. The surcharge limits in Table 1 are not to be considered as guaranteed contractual volumes and may be limited as operating conditions at the Center warrant or as regulatory requirements change.

Example:

A municipality exceeds its allowable discharge by 200,000 gallons per day.

200,000 gal. metered sewage flow / 1000 gallons = 200 x \$ 1.50 = \$ 300 additional daily charge.

11. All other provisions of the existing agreements among the parties regarding the manner of computing and paying for the cost of sewage treatment, or which are in conflict with the provisions of this agreement, are superseded by this Agreement. All other provisions of the existing agreement(s) among the parties shall remain in full force and effect.

12. The Town of Lewiston, as a separate and distinct municipal corporation, for and in consideration of the mutual promises herein, agrees to fully indemnify, save, and hold harmless the other municipal parties to this agreement and all of their officers, agents and

employees from and against any and all liability of any type whatsoever including, but not limited to, any and all damages, expenses, causes of action, lawsuits, claims, penalties, fines, assessments or judgments relating to, arising out of or occurring in connection with use of the "Pletcher Park" of the Town of Lewiston.

13. This Agreement may not be altered, changed, modified or amended except in writing duly executed by and among the parties hereto. This Agreement shall be entered and executed by the Mayors of the Villages of Lewiston and Youngstown, and the Supervisors of the Towns of Porter and Lewiston. By executing this document, all such signatories certify that the Agreement has been entered into after due deliberation and vote by a majority of the Board of each municipality, except for the Town of Lewiston, which requires a super-majority vote for entry hereof.

The Town of Lewiston does hereby certify that such super-majority vote was given prior to execution hereof by the Town of Lewiston. Such signatories do further certify that they are duly authorized by resolution or vote of their Boards to enter into this agreement on behalf of such municipalities. Any further change, modification, or amendment to this agreement must occur by a majority of the signatories of this agreement together with a super- majority vote of the Board of the Town of Lewiston.

All meetings of the Lewiston-Porter Sewer Advisory Board shall be attended by the Supervisors and Mayors of the Towns and Villages as aforesaid or their designees. In no event shall any municipality possess more than one (1) vote for such Lewiston- Porter Sewer Advisory Board provided that all such business of the Lewiston- Porter Sewer

STATE OF NEW YORK }
COUNTY OF NIAGARA } ss:

On this 4th day of December, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared **Steven Broderick** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executes the instrument.



NOTARY PUBLIC

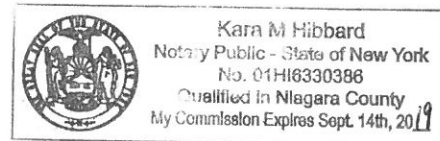
AMY SMITH
Notary Public, State of New York
Appointed in Niagara County
My Commission Expires Nov. 8 2021

STATE OF NEW YORK}
COUNTY OF NIAGARA} ss:

On this 20 day of February 201⁹, before me, the undersigned, a Notary Public in and for said State, personally appeared **John Johnston**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executes the instrument.



NOTARY PUBLIC

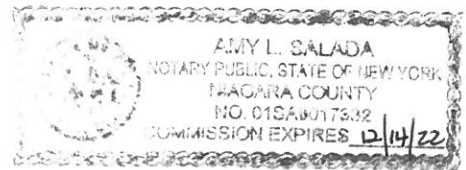


STATE OF NEW YORK }
COUNTY OF NIAGARA } ss:

On this 5th day of February, ²⁰¹⁹~~2017~~, before me, the undersigned, a Notary Public in and for said State, personally appeared **Anne ^{Welch}Welsh**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executes the instrument.



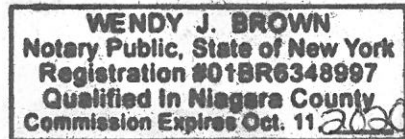
NOTARY PUBLIC



STATE OF NEW YORK }
COUNTY OF NIAGARA } ss:

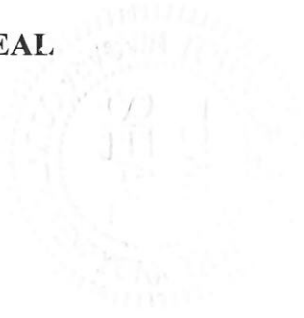
On this 14th day of February, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared **Raleigh Reynolds**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executes the instrument.

Wendy J. Brown
NOTARY PUBLIC



IN WITNESS WHEREOF the parties hereto have caused this instrument to be duly executed by their duly authorized officers, and their corporate seals to be hereunto affixed the day and year first above written.

SEAL



TOWN OF LEWISTON

Steven Broderick
Supervisor

SEAL



TOWN OF PORTER

John "Duffy" Johnston
Supervisor

SEAL



VILLAGE OF YOUNGSTOWN

Raleigh Reynolds
Mayor

SEAL



VILLAGE OF LEWISTON

Anne Welsh
Mayor