

**TOWN OF MONTVILLE
NOTICE OF ADOPTION OF ORDINANCE**

Notice is hereby given that the Town Council of the Town of Montville, at a regular meeting held August 10, 2009, adopted the following Ordinance:

ORDINANCE NO. 2009-4

Sewer Use Ordinance

THE TOWN OF MONTVILLE HEREBY ORDAINS THAT THE TOWN CODE SHALL BE AMENDED BY ENACTMENT OF THE FOLLOWING ARTICLE IV REPLACING EXISTING ARTICLE IV OF CHAPTER 313 IN ITS ENTIRETY:

ARTICLE IV

Sewer Connections and Uses and Related Service Charges and Penalties

§ 313-17. Water Pollution Control Authority to implement and enforce WPCA Sewer Use Rules and Regulations.

(a) The Water Pollution Control Authority (hereinafter "WPCA") is the authority or similar body serving in the capacity of the water pollution control authority for the Town under Chapter 103 of the Connecticut General Statutes, as amended, and exercising powers with regard to sewers and sewerage, as designated in the Town Charter and Town Code, through a duly appointed commission or board, a WPCA Enforcement Official, and other duly authorized representatives from the Town's Sewer Department.

(b) *WPCA Enforcement Official* is the Sewer Department Administrator or other municipal officer or employee, if such other officer or employee is designated by Town Charter, Town Code or WPCA resolution to issue notices, warnings, citations, decisions or orders or otherwise undertake enforcement actions on behalf of the WPCA pursuant to local, state or federal law.

(c) *WPCA Sewer Use Rules and Regulations* are the rules and regulations, and all amendments thereto, governing sewer use, sewage collection and treatment facilities, sewerage systems, and related discharges, waste waters, conditions, activities, and facilities that have been adopted by the WPCA.

(d) The WPCA Sewer Use Rules and Regulations adopted by the WPCA on June 1, 2009, with an effective date of September 1, 2009, are hereby incorporated herein by reference as the legally binding requirements for connection to and use of the Town's sanitary sewer system, to be filed, published, authenticated and recorded by the town clerk in accordance with all applicable provisions of the Town Charter and the Connecticut General Statutes.

(e) The WPCA shall implement and enforce the WPCA Sewer Use Rules and Regulations, consistent with all applicable provisions, terms and conditions set forth in: the Town Charter, including without limitation Town Charter §§ C407 and C1011.A (as amended); the rules and regulations adopted by the State of Connecticut Department of Environmental Protection; the permits, approvals, and orders issued to the Town by the State of Connecticut Department of Environmental Protection; and the Connecticut General Statutes, including without limitation Conn. Gen. Stat. §§ 7-246a, 7-247, 7-249, 7-255, 7-267, 7-268, and 7-270 (as amended).

§ 313-18. Enforcement by written warning.

Violations of the WPCA Sewer Use Rules and Regulations or this Article IV are prohibited. The WPCA Enforcement Official may issue a written warning to any person who, by act and/or omission, commits, assists, counsels, or aids in any violation of the WPCA Sewer Use Rules and Regulations or this Article IV. Such warnings may impose a schedule by which such person shall be required to correct any such violations. Written warnings shall include, without limitation, notices and orders that the WPCA issues in writing pursuant to the WPCA Sewer Use Rules and Regulations and that describe such violations or require such corrective actions. Any appeals seeking rescission or modification of any such written warning shall be requested and considered in accordance with the procedures set forth in the WPCA Sewer Use Rules and Regulations.

§ 313-19. Enforcement by citation and penalties.

The WPCA Sewer Use Rules and Regulations and this Article IV are hereby designated for enforcement by citation and in accordance with the following penalties and procedures.

(a) The WPCA Enforcement Official may issue a citation providing for the imposition of a fine against any person who has received a written warning of any such violation(s) and who fails to cause any such violation(s) to cease or otherwise fails to correct any such violation(s) to the satisfaction of the WPCA Enforcement Official. No such penalty shall exceed two hundred fifty dollars (\$250.00) for each offense. In case of a continuing violation, each day of continuances thereof shall be deemed to be a separate and distinct offense.

(b) Penalties imposed through such a citation shall be due and payable within thirty (30) days of receiving the citation or on any other later date specified in the citation, except as otherwise provided in subsection (c) below.

(c) Any person who is aggrieved by and seeks rescission or modification of a penalty set forth in such a citation must notify the WPCA by submitting a written statement to the WPCA Enforcement Official, at the WPCA's offices in Montville Town Hall, within ten (10) days of receiving the citation, stating the relief sought and the basis for the request, in reasonable detail and completeness. Following receipt of any such written request, the WPCA Enforcement Official shall send notice, in writing, to the

aggrieved person seeking relief of the date, time and place at which the person may appear before the WPCA to show cause why the WPCA should not approve the citation and impose the penalty set forth in the citation. At this WPCA proceeding, the aggrieved person seeking relief and any other interested persons may present questions, comments, and additional records and information related to the penalty for the WPCA's consideration, subject to any deadlines for submission of additional records and information set forth in the WPCA's citation or notice or otherwise established by the WPCA. The WPCA may, in its sole discretion, consolidate this proceeding with its proceedings considering any appeal requested on the written warning pursuant to the WPCA Sewer Use Rules and Regulations.

(d) After considering the citation, the written request seeking penalty rescission or modification, and any other relevant records or information presented to the WPCA in accordance with these procedures, the WPCA shall decide whether the citation and penalty should be approved, with or without modifications, or rescinded. The WPCA's decision shall be reduced to writing, which the WPCA Enforcement Official shall issue to the aggrieved person submitting the request. Any penalty imposed under the WPCA's decision shall be final and non-appealable and due and payable within thirty (30) days of receiving the WPCA's written decision or on any other later date specified in the WPCA's written decision.

(e) The Town may collect any and all costs associated with the imposition and collection of such penalties, including without limitation reasonable interest, overhead and legal expenses incurred by the Town in connection therewith, from the person responsible for the violation of the WPCA Sewer Use Rules and Regulations.

(f) The authorization of the Town under this section and its use of the citation, penalty and other powers and proceedings set forth in this section shall not bar or establish a prerequisite on the Town or its WPCA from seeking any other relief or taking any other actions, as authorized under any other applicable provisions of law, against persons for violations of the WPCA Sewer Use Rules and Regulations or this Article IV.

§ 313-20. Enforcement by citation and termination of sewer connection and service.

The WPCA Sewer Use Rules and Regulations and this Article IV are hereby designated for enforcement by citation and in accordance with the following procedures for termination of sewer connection and service.

(a) The WPCA Enforcement Official may issue a citation providing for termination of sewer connection and service to any person who has received written warning of any violation(s) of the WPCA Sewer Use Rules and Regulations and who fails to cause any such violation(s) to cease or otherwise fails to correct any such violation(s) to the satisfaction of the WPCA Enforcement Official. If any person fails to comply with any provision of the WPCA Sewer Use Rules and Regulations or this Article IV after receiving notice from the Town or its WPCA of such violation, or fails

thereafter to use, operate and maintain any connection with the public sewers of the Town, or appurtenance thereof, as required by the WPCA Sewer Use Rules and Regulations, the Town, acting through the WPCA, the WPCA Enforcement Official or any other authorized agencies and representatives of the Town, may terminate such person's public sewer service and the sewer connection of the buildings and other property used or owned by such person.

(b) The Town may collect any and all costs associated with such termination of sewer connection and service, including without limitation reasonable interest, overhead and legal expenses incurred by the Town in connection therewith, from the person responsible for the violation of the WPCA Sewer Use Rules and Regulations.

(c) The Town may commence and complete such actions in accordance with any applicable provisions of law, including without limitation the following procedures for citation and termination by the WPCA:

(i) The WPCA Enforcement Official shall issue a citation to the Owner, User or other Person (as defined in the WPCA Sewer Use Rules and Regulations) responsible for the connection or wastes in questions, setting forth the WPCA's findings and proposed actions.

(ii) In the citation or other notice issued to any such Owner, User or other Person, the WPCA Enforcement Official shall provide notice of a date, time and place at which the citation recipients may appear before the WPCA to show cause why the Town should not take the proposed actions. At this WPCA proceeding, the aggrieved person seeking relief and any other interested persons may present questions, comments, and additional records and information related to the proposed actions for the WPCA's consideration, subject to any deadlines for submission of additional records and information set forth in the WPCA's citation or notice or otherwise established by the WPCA. The WPCA may, in its sole discretion, consolidate this proceeding with its proceedings considering any appeal requested on the written warning pursuant to the WPCA Sewer Use Rules and Regulations.

(iii) After considering the citation and any other relevant records or information presented to the WPCA in accordance with these procedures, the WPCA shall decide whether the citation should be withdrawn or approved, with or without modifications, as a final order. The WPCA Enforcement Official, on behalf of the WPCA, shall issue any such final order, in writing, to the citation recipients. The WPCA's final order shall be final and non-appealable and may impose conditions requiring the citation recipients to complete appropriate corrective actions to the satisfaction of the WPCA Enforcement Official and pay any and all costs associated with such termination of sewer connection and service, including without limitation reasonable interest, overhead and legal expenses incurred by the Town and its WPCA as a result of the termination proceedings and related actions.

(iv) Acting through its WPCA Enforcement Official and any other authorized agencies and representatives of the Town, the WPCA shall oversee and, as appropriate, arrange for contractors to perform the approved actions in accordance with any such final order. If the final order provides for the disconnection of a Building Connector or Building Connector Lateral from the public sewer system, as defined in the WPCA Sewer Use Rules and Regulations, the WPCA Enforcement Official shall notify the Town's Director of Health.

(d) If the Town has terminated sewer connection and service, it may thereafter refuse to permit the resumed use or restoration of the former connection or of any new connection to the property concerned in the violation of the WPCA Sewer Use Rules and Regulations until the claim of the Town for such costs has been paid in full and all appropriate corrective actions have been completed to the satisfaction of the WPCA Enforcement Official.

(e) The authorization of the Town under this section and its use of the citation, termination and other powers and proceedings set forth in this section shall not bar or establish a prerequisite on the Town or its WPCA from seeking any other relief or taking any other actions, as authorized under any other applicable provisions of law, against persons for violations of the WPCA Sewer Use Rules and Regulations or this Article IV.

This Ordinance shall be effective thirty (30) days after its adoption.

Dated at Montville Connecticut this 11th day of August 2009.

Lisa Terry, Montville Town Clerk