

Town/Village of (Enter Municipality Name Here)
Local Law No. (Varies by Municipality) of the year 1991

A LOCAL LAW AMENDING AND SUPPLEMENTING THE CROSS-CONNECTION CONTROL LAW

Be it enacted by the Town/Village Board of the Town/Village of (Enter Municipalities Name) (the "Municipality") as follows:

PREAMBLE

WHEREAS, the State of New York has adopted the New York State Sanitary Code (NYCRR 10 (Health), Volume A, Chapter 1, State Sanitary Code, Part 5) which contains Subpart 5-1, entitled "Public Water Supplies," which, in turn, contains Section 5-1.31, entitled "Connection Control" (the IINYS Cross-Connection Control Law"), and

WHEREAS, the New York State Department of Health has issued a policy statement regarding public water supply cross connections in the Department of Health's Bureau of Public Water Supply's publication entitled "Public Water Supply Guide: Cross-Connection Control," dated January, 1981, and

WHEREAS, the Municipality has enacted a Local Law for Cross Connection Control, designated Local Law No. of 1979 (the 11CCC Law" or the "Cross-connection Control Law"), and

WHEREAS, the Town of Dryden, the Town of Ithaca, the Town of Lansing, the Village of Cayuga Heights and the Village of Lansing are members of the Southern Cayuga Lake Intermunicipal Water Commission (the "Commission"), and

WHEREAS, the Municipality desires to amend and supplement the CCC Law in order to provide additional safeguards to potable water supplies by implementing a more comprehensive and effective back-flow prevention program that conforms to the requirements of the New York State Cross-Connection Control Law and New York State Department of Health policy guidelines:

NOW, THEREFORE, the Municipality enacts this Local Law to be known as the "Supplementary Cross-Connection Control Law."

PART I.

AMENDMENT OF THE ORIGINAL CCC LAW AND DELEGATION OF AUTHORITY

Article 1. Definitions, Interpretation and Separability.

All terms defined in the CCC Law and used in this Law shall have the meanings given to them in the CCC Law. This Law is to be interpreted reasonably. In applying this Law, enforcement officials shall recognize that different circumstances result in varying degrees of hazard, and that the degree of protection or prevention required in each situation should be commensurate with the degree of hazard. If any article, section, paragraph, subdivision, clause, phrase or provision of this Law shall be adjudicated invalid or unconstitutional, the validity of this Law as a whole or any part thereof other than the part so adjudicated to be invalid or unconstitutional shall not be affected.

Article 2. Specific Amendments to the CCC Law.

(a) Article 2, Section 6, entitled "Barometric Loop" of the CCC Law is hereby deleted in its entirety.

(b) In Article 3, Section I, Part 1 of the CCC Law, the following language is hereby added to the end of the first sentence: "or the auxiliary water supply is properly abandoned."

(c) In Article 3, Section I, Part 2 of the CCC Law, the language "other than the supplied water" is hereby added to the first sentence after the phrase "on which any substance" and preceding the phrase "is handled under pressure."

(d) Article 3, Section I, Part 3 of the CCC Law is hereby deleted in its entirety and replaced by the following paragraph:

Each service connection from a public water system for supplying water to premises on which any substance that is unusually toxic or a danger to human health is or may be handled in liquid form, or in solid or gaseous form if such substance is intended to be used after conversion to liquid form, even if such substance is not under pressure, shall be protected against back-flow of the water from the premises into the public water system. Examples of such premises include, but are not limited to, plating factories, premises on which cyanide is handled and hospitals. This paragraph is not intended to apply to normal residential installations.

(e) In Article 3, Section II, Part I the word "approved" is hereby added before the words "auxiliary water supply."

(f) In Article 3, Section II, Part 2 of the CCC Law, the phrase "or where the auxiliary water supply is not approved" is hereby added following the comma in such section.

(g) The first sentence of Article 3, Section II, Part 4 is hereby deleted in its entirety and replaced by the following sentence: "At each service connection from a public water system for supplying water to premises on which any substance that is

unusually toxic or a danger to human health is or may be handled, in liquid form, or in solid or gaseous form if such substance is intended to be used after conversion to liquid form, even if it is not under pressure, the public water supply shall be protected by an air-gap separation or an approved reduced pressure principle back-flow prevention device."

(h) The first sentence of Article 3, Section II, Part 5 of the CCC Law is hereby deleted and replaced with the following sentence: "At each service connection from a public water system for supplying water to premises on which any substance that is unusually toxic or dangerous to human health is or may be handled under pressure, the public water supply shall be protected by an air-gap separation or an approved reduced pressure principal back-flow prevention device."

(i) The text of Article 3, Section III of the CCC Law is hereby deleted in its entirety and in place thereof reference shall hereafter be made to the provisions of Part II, Article 2 of this Law.

Article 3. Delegation of the Municipality's Authority under this Law.

(a) The Municipality is hereby authorized to delegate all or any part of its power, authority and/or responsibilities under this Law and under the CCC Law, to the extent permitted by applicable law, to an authorized delegate, such as the commission or an authorized representative of the commission. In the event that the Municipality does delegate all or any part of its power, authority and/or responsibilities to an authorized delegate, such delegate shall be deemed to be acting with the full power and authority of the Municipality in regard to such matters, to the extent such power and authority exists under applicable law and to the extent such power and authority may be so delegated under applicable law. In the event that the Municipality so delegates its power, authority or responsibility in regard to a particular matter discussed in this Law, then, for the purposes of interpreting the text of this Law referring to such matter, each and every reference in such text to "the Municipality" may be understood to be a reference to the Municipality's authorized delegate, such as, for example, as a reference to "the Commission."

(b) The delegation of power, authority or responsibility described in Section (a) above may be made by written agreement among the municipalities that are members of the Commission. In such an agreement, the Municipality may authorize the entity to which the Municipality is thereby delegating its power, authority or responsibility, such as the Commission, to (i) appoint an administrator for a back-flow prevention program designed to implement the provisions and fulfill the requirements of this Law and the CCC Law who shall be an employee of the authorized delegate, or (ii) select and engage an engineering or contracting or similar firm or person to act as administrator for the backflow prevention program, or (iii) administer the back-flow prevention program itself, or (iv) combine options (i), (ii) and (iii) in structuring, and assigning the various tasks of, the administration of the program. In the event that the municipality so empowers its authorized delegate, and its authorized delegate takes any of the foregoing actions, the Municipality's authorized delegate may grant to the program administrator any and all such power, authority or responsibility as has been delegated to the authorized delegate, and as the municipality's authorized delegate deems necessary or appropriate, to develop, implement, administer and enforce the terms of a back-flow prevention program on behalf of the Municipality. Such delegation to the program administrator shall be made only to the extent permissible under applicable law.

PART II
SUPPLEMENTARY PROVISIONS TO THE CCC LAW

Article 1. Installation and servicing of Water Distribution Systems.

All persons within the Municipality that own or operate any water distribution system, or component of a water distribution system, that is connected to the public water supply system of the Municipality (each, a "user"), as well as all persons that perform installation, repair, modification or servicing of any part of such users' water distribution system, shall take all steps necessary or appropriate to minimize the occurrence of back-flow into the public water supply system and any resultant damage. Such steps shall include, but shall not be limited to, control of fire hydrant flow, maintaining maximum possible pressure during repairs, follow-up flushing and bacterial testing. Users of the public water supply system, and persons that intend to perform installation, repair, modification or servicing of any part of such users, water distribution system, shall contact the Municipality, or its designated agent, to obtain the information regarding the potential causes of and problems resulting from back-flow into the public water supply, as well as the measures necessary or appropriate to prevent back-flow in accordance with the New York State Cross Connection Control Law and N.Y.S. Department of Health requirements, that such persons may require in order to achieve and maintain compliance with this Law.

Article 2. Survey of Users.

(a) Each user of the public water system who, under applicable New York State law, may be considered to be a potentially hazardous user shall cooperate, to the extent reasonably possible, in enabling the Municipality, utilizing either its own personnel or independent contractors or a combination of both, to perform surveys of such user's water distribution system in order to determine if such user is a potentially hazardous user.

(b) Any person selected by the Municipality to perform such surveys, whether an employee of the Municipality or an independent contractor, shall demonstrate to the satisfaction of the Municipality that such person has received such training as is necessary or appropriate to perform the surveys in a thorough and accurate manner.

Article 3. Certification of Potentially Hazardous Users.

(a) Each user that receives written notice of having been identified, under applicable New York State law, as a potentially hazardous user shall be obligated, immediately upon receipt of such notice, to obtain and deliver to the Municipality, or to the Municipality's designated agent, as stated in such notice, written certification (i) certifying whether the hazard described in the notice does or does not exist, and (ii) if such hazard does exist, certifying that a New York State Health Department approved back-flow prevention device (A) has been properly installed and (B) is fully-operational. The written certification must be signed by a licensed professional engineer who has adequate training, in the opinion of the Municipality or its designated agent, in sanitary engineering, including in back-flow prevention systems, water distribution and hydraulics. Any inspection and/or testing performed in connection with the preparation of the written certification must be performed by a person who has received certification from the State of New York Department of Health as a certified back-flow prevention device tester (such person referred to in this Law as a "certified back-flow prevention device tester"), who has performed such inspection and/or testing under the supervision of the professional engineer who signs the written certification. The certification shall be dated, signed and sealed by the certified back-flow prevention device tester not later than seventy-two (72) hours following the performance of any necessary tests at the site, and, if no testing was performed, not later than forty-eight (48) hours following physical inspection of the site.

(b) In the event that a user receives written notification from the Municipality, or its designated agent, that such user's certification (i) is materially deficient in regard to the scope, nature or detail of information provided, (ii) contains any material errors or (iii) provides information indicating that the user's back-flow prevention device or system is inadequate or unsatisfactory, then this subsequent notice shall have the same effect as the initial notice described in subsection (a) above, that is, immediately upon receipt of this subsequent notice, the user shall be obligated to obtain and deliver to the Municipality, or to the Municipality's designated agent, as stated in such notice, a certification as described in (a) above, which certification, in addition to the requirements of (a) above, specifically states the manner in which the defect identified in the subsequent notice has been cured.

(c) In the event that the user has failed to deliver either (i) the certification described in subsection (a) above within thirty (30) days of the date of the initial notice to the user, or (ii) the certification described in subsection (b) above within fifteen (15) days of the subsequent notice to the user, then such user shall be in violation of this Law and subject to such penalties as are provided for herein and under all other applicable law.

(d) Each user shall pay a filing fee established by the Municipality for the filing of the above-described certifications. Such fees may vary depending upon the nature of the user's business, the volume of water used by the user, and the size, age and location of the user's facilities.

(e) All surveys of user's water distribution systems and all certifications delivered in accordance with this law shall be and remain the property of the Municipality.

(f) Each user who has been identified as a potentially hazardous user and has been sent a notice in accordance with subsection (a) above shall be required to deliver to the Municipality, or its designated agent, an updated certification as described in subsection (a) above not less than once during every twelve (12) month period following the date of the initial notice to the user stating that the user has been identified as a potentially hazardous user. The Municipality may deliver notices of such requirement for updated certifications to users periodically. In any case that the Municipality has notified a user that a certification is defective as described in subsection (b) above, the Municipality may require, by delivery of written notice to the user, that the user deliver to the Municipality additional written certifications, as described in subsection (a) above, once in each four (4) month period during the twelve (12) months following delivery of the defective certification.

(g) In the event that any user that has previously been identified as a potentially hazardous user by having received a notice as described in (a) above intends to install any back-flow prevention device at its premises, prior to installation of such device the user shall deliver to the Municipality, or to the Municipality's designated agent, a written statement, (prepared by) a New York State-licensed professional engineer, describing the device and a copy of the user's plans for its installation. The user shall not install such device until the user has received the Municipality's, or the Municipality's designated agent's, written approval to such plans, and such approval as may be required from the Tompkins County Health Department. If the installation of the device deviates substantially from such plans, the user shall obtain the Municipality's, or the Municipality's designated agents, written approval, and such approval as may be required from the Tompkins County Health Department, to such deviation.

Article 4. Penalties.

(a) In the event that a user of the public water supply fails to comply with any term or provision of this Law, the user shall be in violation of this Law, and such user shall be subject to the imposition of such penalties as are provided in accordance with the Cross Connection Control Law, and/or in accordance with this Law and/or in accordance with any other applicable law. In addition, a violation of this Law shall constitute a violation under the Penal Law of the State of New York. If no other penalties are provided, a violation of this Law shall be deemed to be a misdemeanor, and the violator shall be subject to a fine of up to One Thousand and 00/100 (\$1,000.00) Dollars and imprisonment for up to one (1) year. Each week's continued violation shall constitute a separate offense. The provisions of the Criminal Procedure Law, and any other law applicable to misdemeanors, shall govern criminal prosecutions of violations of this Law.

(b) In addition to any other penalties provided in the Cross-Connection Control Law, or any other applicable law, if a user fails to provide to the Municipality, or to the Municipality's designated agent, any certification required in accordance with Article 3 of this Law, the user shall be subject to a fine. This fine shall not exceed twenty-five (\$25.00) dollars for each day beyond the one hundred eightieth (180th) day following the date of the original notice to the user (as described in Article 3, subsection (a) of this Law) multiplied by the number of inches of diameter of the largest pipe supplying public water to such user's premises.

(c) In addition to any other penalties provided for herein, the Municipality may institute any appropriate action or proceeding to prevent the unlawful installation, repair, modification, maintenance or use of a water distribution system that is connected to the public water supply in violation of the requirements of this Law, the Cross-Connection Control Law or other applicable law.

Article 5. Residential Users.

(a) Residential users shall be considered potentially hazardous users if a determination is made by the Municipality that (i) an activity conducted at the residential property or (ii) a circumstance specific to the residential property establishes an equivalent degree of hazard as might be found in the situation of a potentially hazardous non-residential user. Examples of such activities and circumstances include, but are not limited to, the presence of boiler feed inhibitors, antifreeze loops and single-walled heat exchangers. Residential swimming pools and double-walled heat exchanger systems shall not be considered potential hazards.

(b) Residential users also shall be considered potentially hazardous users if:

i. The residential user obtains its water supply from a private well in addition to the public water supply service. In this case, the residential user must either comply with all currently applicable requirements of the NYS Cross-Connection Control Law and of the NYS Department of Health Cross Connection control Guide, or abandon use of the private well supply in a proper manner.

ii. The residential user owns, operates, installs or relocates a lawn sprinkler system which employs underground lawn sprinklers. Such a residential user shall be required to install acceptable reduced pressure zone devices in accordance with the conditions of subpart 5-1.31(a) of the NYS Cross-Connection Control Law. Residential users who own, operate, install or relocate a "pop-up" lawn sprinkler system, rather than a strictly underground sprinkler system, shall likewise be required to install an *acceptable reduced* pressure zone device under said subpart 5-1.31(a), unless such owners apply in writing to the Municipality for a waiver of this requirement and receive written confirmation from the Municipality of such waiver. The requirement described in this subsection (ii) shall not apply to lawn sprinkler systems that are six (6) inches or more above grade.

Article 6. Private Hydrants.

Owners and operators of private hydrants which are not under the control of the public water supplier shall be required to install acceptable reduced pressure zone devices in accordance with part 5-1.31(a) of the HYS Cross-Connection Control Law. The foregoing requirement shall apply whether the private hydrants are used to augment fire fighting systems, for lawn fertilization, for tree spraying or for any other purposes.

Article 7. Multiple Customer Distribution Systems.

(a) A "multiple customer distribution system," according to the New York State Department of Health, includes all strip shopping centers, malls and similar water distribution networks. For the purposes of this Law, the term "multiple customer distribution system" shall also include any system providing water to any single non-residential building or group of non-residential buildings that are occupied by two (2) or more entities which entities are not all owned by a common owner or by one another or are not all engaged in the conduct of the same activities at the location served by said water system. All multiple customer distribution systems shall be identified as potentially hazardous users, because there is generally no communication with the Municipality regarding changes in individual customers using such systems. Owners of such systems, and/or their agents,

shall install acceptable reduced pressure zone protection in such systems within the common service portion of such systems and as close within such systems to the water meter as is reasonably practical.

(b) In the event that (i) the owner of multiple customer distribution systems, and/or the owner's agent, submits to the Municipality, or the Municipality's designated agent, a detailed written description, satisfactory to the Municipality, or its designated agent, of (A) the system and its users and (B) any change in any of the users of such system within thirty (30) days of such change, and (ii) the Municipality, or its designated agent, determines that no user of such system is a potentially hazardous user, and that the system otherwise complies with all applicable back-flow prevention laws, the multiple customer distribution system shall be entitled to a waiver of compliance with the requirements of (a) above. Failure on the part of the owner and/or the owner's agent to deliver the notification of change of users described in (B) above shall automatically make void any waiver from compliance with the requirement to install adequate reduced pressure zone protection in the multiple customer distribution system.

PART III **EFFECTIVE DATE**

This local law shall take effect immediately.

I hereby certify that the local law annexed hereto, designated as Local Law Number (Varies by Municipality) of 1991 of the Town/Village of was duly passed by the on (Varies by Municipality) 1991 in accordance with the applicable provisions of law.

Dated: 1991

(Sealed)