

## CHAPTER 111

### SEWERAGE

#### *Arrangement of Sections*

#### Section.

1. Short title.
2. Interpretation.
3. Powers of council.
4. Notice and plan of works to be served on Director of Public Works.
5. Council may enter and survey lands and bore, dig and cut, etc.
6. Council may open up streets.
7. Compensation for land damaged by council.
8. Sewerage rate.
9. Payments by Government in respect of Crown property.
10. Owner may be required to connect if within 100 feet of sewer.
11. Where owner elects to perform work.
12. Drain layers.
13. Control of drain layers.
14. No sewer to be connected without approval.
15. By-laws.
16. Powers of Governor when council defaults.
17. Obstruction of council.
18. Damage to works.
19. Application of penalties, etc.
20. Application to townships.

---

### SEWERAGE

Ordinance  
No.  
of 1966.

*An Ordinance to provide for the operation, maintenance and control of sewerage systems and for matters connected therewith.*

[24th February, 1966.]

Short title.

1. This Ordinance may be cited as the Sewerage Ordinance.

Interpretation.

2. (1) In this Ordinance, unless the context otherwise requires—

“approved drain layer” means any person approved by a council under the provisions of section 12 of this Ordinance;

“council” means the town council of a town;

"town" means a city or town constituted under the provisions of the Towns Ordinance; Cap. 106.

"township" means a township proclaimed under the provisions of the Townships Ordinance. Cap. 107.

(2) This Ordinance shall apply to any town, and may be applied to any township specified by the Governor by notification in the Gazette:

Provided that in the application of this Ordinance to any township—

- (a) the word "council" shall include a township board;
- (b) the word "town" shall include a township;
- (c) the words "town clerk" shall include an officer appointed by a township board for the purpose of performing duties similar to those of a town clerk in a town.

3. (1) A council may, with the approval of the Governor in Council, by notification in the Gazette declare any area within a town to be a sewerage area and formulate and carry out a scheme for the disposal of sewerage in such area. Powers of council.

(2) Before a council declares any area to be a sewerage area under the provisions of the last preceding subsection, the council shall publish, once in the Gazette and four times in a newspaper published in Fiji and circulating in the town, a notice of intention to make such a declaration and calling on all persons to submit within a period of one month, to the person charged by the Governor with responsibility for local government, any objection which such person may wish to make.

(3) The person charged by the Governor with responsibility for local government shall consider any objections made under the provisions of the last preceding subsection and shall allow or disallow such objections and the council shall alter or modify its declaration as may be required by such decision.

(4) A council shall have full powers—

- (a) to maintain a sewerage system constructed and lawfully in existence at the commencement of this Ordinance;
- (b) to construct a sewerage system or new sewerage works subject to the conditions hereinafter provided;
- (c) to make connecting sewers from the main and branch sewers or any of them up to the limit of any premises proposed to be placed in connexion with the same; and
- (d) for any and every such purpose to enter upon, take and use any lands required to be taken or used for such purpose:

Provided that the council shall do as little damage as may be in the execution of the several powers herein contained.

4. (1) At least sixty days before commencing the construction of any new sewerage works contemplated under the provisions of this Ordinance (not being repairs, renewals or amendments of existing works of which the character and position are not altered) a council shall serve a notice upon the Director of Public Works describing the proposed works together with a plan of the Notice and plan of works to be served on Director of Public Works.

works showing the mode and position in which such works are intended to be executed and shall, upon being required to do so by the Director of Public Works, from time to time furnish such further information in relation thereto as he may desire.

(2) The Director of Public Works shall make a report on the proposed works to the Governor who may thereupon in his discretion approve of any such works or plan subject to such amendments or conditions as may seem fit or may disapprove the same and shall give notice of such approval or disapproval to the council.

(3) If the Governor fails to give any such notice of approval or disapproval to the council within sixty days after the service of the notice upon the Director of Public Works, the Governor shall be deemed to have approved such works or plan.

(4) Notwithstanding anything contained in this Ordinance, the council shall not be entitled to execute any such works as above specified except so far as the same may be of a description and in accordance with a plan which has been approved or is to be deemed to have been approved by the Governor as abovementioned, but where any such works, description and plan are so approved or to be deemed approved, the council may cause such works to be executed in accordance with such description and plan subject in all respects to the provisions of this Ordinance.

(5) If the council makes default in complying with any of the requirements or restrictions of this section, it shall be liable to a fine not exceeding fifty pounds for every such default and in the case of a continuing offence to a further fine not exceeding two pounds for every day after the first day during which such default continues.

(6) The provisions of this section shall not apply to the city of Suva nor to any other town specified by the Governor by notification in the Gazette.

Council  
may enter  
and survey  
lands and  
bore, dig  
and cut, etc.

5. A council may enter into and upon any lands whatsoever required for the purposes of this Ordinance and survey and take levels of the same and set out and ascertain such parts thereof as it thinks necessary and proper for making, erecting or repairing any works or machinery authorised by this Ordinance, and may also bore, dig, cut, trench, get, remove, take and carry away and lay earth, clay, stone, rubble, gravel or sand for making works, which may be got in carrying on the said works or out of any lands of any person adjoining any part of such works which the council is hereby empowered to enter for the purpose of getting such material, and to make such roads as may be requisite for removing the same and also to place, lay and work the same in such lands:

Provided that—

- (a) the council shall not be entitled to take earth, stone or other such material from any private garden, yard, lawn or pleasure ground;
- (b) the council shall do as little damage as may be in the execution of the several powers referred to in this section.

6. It shall be lawful for a council from time to time as occasion may arise to open up any street, lane, road, path, passage and access of any description in the town for the purposes of this Ordinance:

Council  
may open  
up streets.

Provided that it shall keep open alternative routes and shall provide outlets when streets are opened up or access to premises is obstructed, and shall replace all road materials and as far as possible restore all streets and places to the condition previous to being opened up.

7. (1) Every person whose land has been or shall hereafter be used by the council in carrying into effect any of the provisions of this Ordinance shall be entitled to reasonable compensation for any damage sustained by him by reason of such use of his land, such compensation to be ascertained and awarded in the manner provided in the next succeeding subsection.

Compensation for  
land  
damaged by  
council

(2) In all cases in which compensation is claimed it shall be lawful for the council to agree with the claimant for payment of such sum of money by way of compensation as the council may think reasonable, and upon any such agreement being made the sum so agreed upon shall be paid accordingly, and in all cases it shall be lawful for the council to tender to the claimant such sum by way of compensation as the council thinks fit and, in case the council and claimant do not agree upon the amount to be paid the same shall be determined by arbitration.

8. (1) A council under and in pursuance of the powers conferred upon it in that behalf by any other Ordinance shall establish a special rate and shall, by means of that special rate, levy in each year the amount required during the ensuing year for sewerage purposes under the provisions of this Ordinance, including the cost of maintenance and also the amount necessary to meet interest and sinking fund on the sums advanced against any loan raised for sewerage purposes and on sums advanced against any loan, and also an amount which shall be applied by the council in defraying in each year respectively the cost of removing and disposing of nightsoil from premises which cannot be required to be connected to the sewerage system of the town in accordance with the provisions of section 10 of this Ordinance.

Sewerage  
rate.

(2) Should the proceeds of the special rate prove inadequate, the deficit shall be raised in the following year by special rate as part of the sums required to be raised during that year and shall be applied in the manner provided in the last preceding subsection.

(3) The said special rate shall be levied on the unimproved value of all rateable land within the town but the council may levy the rate separately in the several wards and may do so in such manner that the rate made and levied in any one or more of such wards may vary from that in another or others.

Payments by Government in respect of Crown property.

9. The Accountant-General shall annually credit the council with or pay to it, as the case may be, such an amount as is equal to the amount in respect of the special rate for sewerage purposes which would be leviable upon premises the property of the Crown.

Owner may be required to connect if within 100 feet of sewer.

10. (1) In respect of any premises or any part thereof within one hundred feet of any sewer constructed under the provisions of this Ordinance or of any Ordinance repealed by this Ordinance the council may, by notice in writing, require the owner of such premises to do all or any of the following things within the time specified in such notice:—

(a) to provide, construct and lay a private drain from any land or building or from any existing septic tank and to connect such private drain with such sewer lying within such distance as aforesaid as the council may think fit:

Provided that it shall not be lawful for any person other than the council by itself or by its agents, servants or workmen to construct and lay such portion of any such private drain as aforesaid as extends from such sewer as aforesaid to the intercepting chamber at the boundary of any such land or building as aforesaid;

(b) to cleanse and repair and relay and alter the course and direction and discharge of any existing private drain of or belonging to such premises;

(c) to require the owner of any premises to cause the sewerage and surface water respectively arising therefrom to be drained by separate drains to separate overfalls;

(d) to execute, provide and do generally any works, materials and things which in the opinion of the council are necessary or expedient for the efficient drainage of such premises and every part thereof.

(2) Every notice under the provisions of the last preceding subsection shall specify the works, materials and things to be executed, provided or done thereunder, and the sewer with which any private drain is required to be connected, and shall limit a time within which the same works, materials and things shall be so executed, provided and done.

(3) If an owner fails to do the work specified in a notice given under the provisions of this section and as therein directed or, if the owner so requests, the council may cause such work to be done at the cost and expense of the owner and may recover from the owner all such costs and expenses including the cost and expense of replacing the surface of any road damaged in the course of such work together with interest at the rate of six *per centum* per annum from the date of the completion of the works.

(4) In the event of the owner of any premises requesting the council to do all or any of the works referred to in this section before the council may have required him to do all or any of

such works then and in such case the council may cause all or any of such works to be done at the cost and expense of the owner and may recover from the owner all such costs and expenses together with interest at the rate of six *per centum* per annum from the date of the completion of the works.

(5) Upon the production to the Registrar of Titles of a certificate in duplicate signed by the Town Clerk of the town in the form contained in the Schedule to this Ordinance, the amount, including interest thereon at the rate of six *per centum* per annum, therein certified to be payable by the owner of the premises in respect of which the work has been done, shall form a charge on the land comprising such premises, and the Registrar of Titles shall thereupon register such charge as a mortgage in favour of the council as mortgagee under the provisions of the Land (Transfer and Registration) Ordinance. In case default be made in payment of the principal sum or of any instalment of principal or of interest due and payable in respect of such work as aforesaid the council may exercise all or any of the powers of a mortgagee under the provisions of the Land (Transfer and Registration) Ordinance.

Schedule.

Cap. 136.  
1955 Edition.

11. Whenever in exercise of the power given under the provisions of the last preceding section a council requires the owner of any premises or part thereof to do all or any of the works in the said section specified and the owner in compliance with such demand elects to perform the work or works himself, it shall not be lawful for him to employ for the purpose of the said work or works any person other than an approved drain layer.

Where  
owner elects  
to perform  
work.

12. (1) A council may approve any person as a drain layer for the purpose of carrying out the work of connecting, constructing, extending, altering or repairing house sewers or doing any other work required to be done under the provisions of this Ordinance.

Drain layers

(2) Before approving any drain layer a council shall satisfy itself of the competency of the applicant, who shall enter into an agreement with the council to carry out the requirements of this Ordinance or of any by-laws or regulations made thereunder or of any by-laws or regulations in force at the commencement of this Ordinance relating to sewerage and still in force and to comply with all such instructions and conditions as the council may from time to time give or impose. An approved drain layer shall be responsible in respect of all acts and deeds done by persons employed by him or acting under his instructions as though the acts and deeds were done by the approved drain layer himself.

(3) Each council shall maintain a register of drain layers approved by such council which register shall be open during normal office hours for inspection by members of the public.

13. If in the opinion of a council an approved drain layer does anything contrary to the provisions of this Ordinance or of the by-laws or regulations made thereunder or in any way fails to carry out the work to its satisfaction, then the approval of such

Control of  
drain layers.

drain layer may be withdrawn. The withdrawal of such approval shall not prejudice the right to recover damages caused by the neglect or default of the person from whom it is withdrawn.

No sewer to be connected without approval.

14. It shall not be lawful for any person to connect any sewer or drain with a sewerage system without the knowledge and approval in writing of the appropriate council. Any person contravening the provisions of this section shall be liable to a fine not exceeding fifty pounds for every day until the removal of such connexion after notice in writing to remove the same has been given by the council.

By-laws.

15. (1) It shall be lawful for a council from time to time to make by-laws, or in the case of a township board, regulations, regulating the dimensions, material, form, construction, maintenance, cleansing and repairing of sewers and of the traps and other apparatus connected therewith and for the extension of the system and generally for such other purposes as may be found necessary for carrying out the provisions of this Ordinance.

(2) Such by-laws or regulations may impose a maximum penalty not exceeding twenty pounds for any breach thereof and shall be subject to the approval of the Governor in Council.

Powers of Governor when council defaults.

16. If a council fails to carry into effect the provisions of this Ordinance or of any by-laws or regulations made thereunder or of any by-laws or regulations in force at the commencement of this Ordinance relating to sewerage and still in force or of the agreement subject to which a council took over a sewerage system, or, if in the opinion of the Governor the public health is imperilled by reason of the condition of such system, the Governor may appoint a commissioner who shall forthwith assume for such time as may be directed by the Governor the care, control and management of the system, and the council shall be divested of such care, control and management but shall be liable to make good any expense or cost incurred by the commissioner in his absolute discretion in the exercise of such care, control and management.

Obstruction of council.

17. Any person who obstructs or endeavours to obstruct a council or any officer, servant or workman employed by it in the exercise of any of the powers in this Ordinance contained shall be guilty of an offence and shall be liable to a fine not exceeding twenty pounds.

Damage to works.

18. Any person who wilfully or negligently injures or damages or causes to be injured or damaged any of the works constructed under the provisions of this Ordinance or of any Ordinance hereby repealed shall be liable to a fine not exceeding fifty pounds and in addition he shall be liable for the cost of repairing any such injury or damage. Nothing herein contained shall operate as a bar to proceedings under any other Ordinance for the time being in force:

Provided always that no person shall be liable to be punished twice for the same offence.

19. All fines, penalties and forfeitures recovered under the provisions of this Ordinance by or on behalf of a council shall be paid into and form part of the town fund of such council. Application of penalties, etc.

20. Immediately upon the provisions of this Ordinance being applied to any township under the provisions of subsection (2) of section 2 of this Ordinance, the Townships Ordinance shall be amended with respect to its operation to such township by deleting the word and punctuation "sewer," in— Application to townships. Cap. 107.

(i) the second line of subsection (2) of section 40;

(ii) the third line of subsection (3) of section 40.

21. All by-laws, regulations and notices in force at the commencement of this Ordinance validly made under the provisions of the Suva Sewerage Ordinance (repealed by this Ordinance) or the Towns Ordinance, shall, in so far as they are not inconsistent with the provisions of this Ordinance, remain in force until revoked as if such by-laws, regulations and notices had been made or issued under the provisions of this Ordinance. Saving. Cap. 84. 1955 Edition. Cap. 106.

#### SCHEDULE

#### CERTIFICATE UNDER SECTION 10 (5) OF THE SEWERAGE ORDINANCE

[No. of certificate.]

It is hereby certified under the provisions of section 10 of the Sewerage Ordinance, that the sum of [*here insert amount*] has been expended by the \_\_\_\_\_ City/Town Council in connecting [*here insert description of premises, owner and nature of title*] with the system of sewerage (or as the case may be), such amount bearing interest at six *per centum* per annum as from the date hereof and being payable by instalments of £ \_\_\_\_\_ per the first of such instalments being payable on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

TOWN CLERK.