*** § 17-1719. Actions by municipalities to prevent discharge of sewage into waters.**

1. Any incorporated city or village in the state of New York, which has made such provision for the disposal of its sewage as not to pollute or contaminate therewith any river, stream, lake or other body of water, may have and maintain an action in the supreme court to prevent the discharge of any sewage or substance deleterious to health, or which shall injure the potable qualities of the water in any river, stream, lake or other body of water, from which such incorporated city or village shall take or receive its water supply, provided, that such river, stream, lake or other body of water is wholly, or in part, within the boundaries of the county in which such plaintiff is located.

2. Whenever action shall be brought under the provisions of this section, it shall be the duty of the supreme court upon proof of the existence of facts justifying the bringing and maintenance of such action under the provisions of this section to render a judgment in which shall be incorporated a mandatory injunction requiring the person, body, board, corporation, municipality, village, county or town, being a defendant to said action which directly or indirectly, or by its servants, agents or officers shall discharge or dispose of its sewage, or any other substance deleterious to health or which shall injure the potable qualities of the water in such ways as that the same shall enter into any river, stream, lake or other body of water, from which such plaintiff shall take or receive its water supply, within such reasonable time as may be prescribed by the court, to take such action as shall prevent such discharge or the disposal of such sewage or other substance into such waters, or the pollution thereof, with such further directions in the premises as may be proper and desirable to effect such purpose, provided that such river, stream, lake or other body of water is wholly, or in part, within the boundaries of the county in which such plaintiff is located.

3. No such action shall be brought as provided for in this section until the department has examined and determined whether the sewage does pollute or contaminate the river, stream, lake or other body of water

into which said sewage is discharged.

4. The expense of such examination by the department shall be a charge upon and paid by the municipality in whose interests and on whose behalf such examination is made.

5. In case the department shall find upon examination that the discharge of said sewage does pollute or contaminate said waters or any of them in such manner as to be a menace or danger to the health of those using said waters the plans for the removal or disposal of the sewage ordered to be prepared by the court as provided in this section shall be submitted to the department for its approval.

* NB Expired September 1, 1973