

**TOWN OF ASHLAND, NEW HAMPSHIRE**  
**SEWER USE ORDINANCE**

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Pursuant to RSA 149-I:6, the Town of Ashland, by its Water and Sewer Commissioners, adopts the following sewer use and sewage treatment ordinance:

## **ARTICLE 1 - GENERAL PROVISIONS**

### **1.1 Purpose and Policy.**

- A. This ordinance sets forth requirements for users of the Ashland Sewer System and Waste Treatment Facility, and enables the Ashland Water and Sewer Commission to comply with applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). This ordinance applies to all users of the Publically Owned Treatment Works (POTW) as well as those who dispose of sewage in the Town.
- B. This ordinance intends:
  - a. To promote, consistent with the policy of the Federal government:
    - i. Recycling in an environmentally-safe manner when pollution cannot be prevented;
    - ii. Treatment in an environmentally-safe manner of pollution that cannot be prevented or recycled; and
    - iii. Disposal or other release into the environment in an environmentally-safe manner only as a last resort.
  - b. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
  - c. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
  - d. To protect both POTW personnel who may be affected by wastewater and biosolids in the course of their employment and the general public;
  - e. To promote reuse of biosolids from the POTW;
  - f. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
  - g. To enable the Ashland Water and Sewer Commission to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other Federal or State law to which the POTW is subject.

### **1.2 Administration.**

Except as otherwise provided by express provisions of this ordinance, this ordinance shall be administered by the Superintendent under the direction and control of the Ashland Water and Sewer Commission. Any provision of this ordinance pertaining to commission approval of a discharge or alteration of a standard shall require action by the Commissioners or the commissioner's designee.

### **1.3 Rules of Construction.**

Unless the context requires otherwise, the application and interpretation of this ordinance shall be as follows:

- A. Words shall have the meaning indicated for them by § 1.5 or State statute or State administrative rule. Words not so defined shall have their ordinary meaning.
- B. Words of one gender shall include the other. The singular shall include the plural and the plural shall include the singular.
- C. References to State statutes (RSA) and Federal statutes and administrative rules shall constitute references to them as they may be subsequently amended.

### **1.4 Abbreviations.**

In this ordinance, the following abbreviations have the meanings designated:

- A. CFR – Code of Federal Regulations.
- B. EPA – United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- C. gpd – Gallons per day.
- D. IDP – Industrial Discharge Permit.
- E. mg/l – Milligrams per liter.
- F. NPDES – National Pollutant Discharge Elimination System.
- G. POTW – Publicly Owned Treatment Works.
- H. RCRA – Resource Conservation and Recovery Act.
- I. U.S.C. – United States Code.
- J. WSPCD – New Hampshire Water Supply and Pollution Control Division of the New Hampshire Department of Environmental Services.

### **1.5 Definitions.**

In this ordinance, unless the context clearly requires otherwise:

- A. *“Authorized Representative of the User”* means:
  - a. If the user is a corporation:
    - i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - ii. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - c. If the user is a Federal, State, or Local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or that official's designee.
  - d. An individual described in § 1.5-A, a-c may designate another authorized representative if: the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Ashland Water and Sewer Commission.
- B. *"Biochemical Oxygen Demand"* ("BOD") means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for 5 days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).
  - C. *"Building Drain"* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.
  - D. *"Building Sewer"* means the extension from the building drain to the public sewer or other place of disposal.
  - E. *"Bypass"* means the intentional diversion of wastestreams from any portion of a wastewater treatment facility.
  - F. *"Categorical Pretreatment Standard"* means any regulation containing pollutant discharge limitations promulgated by EPA under § 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
  - G. *"Clean Water Act"* means the Federal Water Pollution Control Act, as amended, (33 U.S.C., *et seq.*)
  - H. *"Commercial"* when used to describe premises or waste refers to usage for financial gain, such as business or industrial use, but excluding residential uses and related accessory uses.
  - I. *"Domestic Wastewater or Sewage"* means normal water-carried household and toilet wastes or waste from sanitary conveniences of residences, commercial buildings, and industrial plants, excluding ground, surface, or storm water.
  - J. *"Easement"* means an acquired legal right for the specific use of land owned by others.
  - K. *"Existing Source"* means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.
  - L. *"Garbage"* means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

- M. “*Grab Sample*” means a sample which is taken from a wastestream without regard to the flow of the wastestream and over a period of time not to exceed 15 minutes.
- N. “*Grease*” means the material removed from a grease interceptor (trap) serving a restaurant or other facilities requiring such grease interceptors, and also includes volatile and non-volatile residual fats, fatty acids, soaps, waxes, and other similar materials.
- O. “*Hauler*” means a person who pumps, hauls, transports, or disposes of septage, who is licensed as such by the appropriate authority of the State, and who conforms to the requirements of RSA 149-M:10.
- P. “*Human excrement and other putrescible material*” means the liquid or solid matter discharged from the intestinal canal of a human, or other liquid or solid waste materials which are likely to undergo bacterial decomposition, however, this term shall not include garbage as defined in § 1.5-L .
- Q. “*Industrial Discharge Permit*” (“IDP”) means a written permit issued by the Ashland Water and Sewer Commission to allow an industrial user to discharge wastewater to the POTW.
- R. “*Industrial User*” means a person who discharges industrial wastes to the sanitary sewer of the Ashland Water and Sewer Commission, and includes any source of pollutants introduced into the POTW from any non-domestic source regulated under § 307 (b), (c), or (d) of the Clean Water Act.
- S. “*Industrial Wastes*” or “*Non-Domestic Wastewater*” means the wastewater and waterborne wastes from industrial processes, trade, or business, as distinct from domestic wastewater, sewage or unpolluted water.
- T. “*Instantaneous Discharge Limit*” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
- U. “*Interference*” means a discharge, which alone or in conjunction with discharge(s) from other source(s):
- a. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal;
  - b. Is a cause of a violation of the commission’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or Local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act, including Title II (“RCRA”); any State law or rules regulating sludge management; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; and 40 CFR Part 503 Standards for Sewage Sludge Use and Disposal.
- V. “*Local Limits*” means numerical limitations on the discharge of pollutants established by the Ashland Water and Sewer Commission under this ordinance.
- W. “*May*” is permissive.
- X. “*Medical waste*” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding,



- surgical wastes, potentially contaminated laboratory wastes, chemotherapy wastes, and dialysis wastes.
- Y. “*NPDES Permit*” means a permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342).
- Z. “*Natural Outlet*” means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body or surface water or groundwater.
- AA. “*Non-Contact Cooling Water*” means water used for cooling which does not directly contact any raw material, intermediate product, waste product, or finished product.
- BB. “*Pass-through*” means a discharge which exits the POTW into waters of the United States in a quantity or concentration which, alone or in conjunction with a discharge(s) from other source(s), is a cause of a violation of any requirement of the commission’s NPDES permit, including an increase in the magnitude or duration of a violation.
- CC. “*Person*” means an individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents, or assigns; and includes all Federal, State and Local governmental entities.
- DD. “*pH*” means a logarithmic measure devised to express the hydrogen ion concentration of a solution, expressed in standard units. Solutions with pH values greater than 7 are basic (or alkaline); solutions with pH values less than 7 are acidic.
- EE. “*Pollutant*” means dredged spoil; solid waste; incinerator residue; filter backwash; sewage, garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal, agricultural or industrial wastes; and wastewater with certain characteristics (e.g., pH, temperature, suspended solids, turbidity, color, BOD, COD, toxicity, or odor) that are prohibited or regulated by this ordinance.
- FF. “*Pollution Prevention*” means the use of processes, practices or products that reduce or eliminate the generation of pollutants and wastes or that protect natural resources through conservation or more efficient use.
- GG. “*POTW*” means the commission’s treatment works as defined in § 212 of the Clean Water Act (33 U.S.C. § 1292) and includes devices or systems used in the collection, storage, treatment, recycling, or reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances when used to convey wastewater to the POTW.
- HH. “*Pretreatment*” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- II. “*Pretreatment Requirement*” means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

- JJ. *“Pretreatment Standard”* refers to limitations or prohibitions on discharges, including prohibited discharge standards and local limits.
- KK. *“Prohibited Discharge Standard”* means an absolute prohibition against the discharge of certain substances under this ordinance.
- LL. *“Properly Shredded Garbage”* means garbage that has been shredded to such a degree that all particles will be transported freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch in any dimension.
- MM. *“Public Sewer”* means a common sewer controlled by a governmental agency or public utility.
- NN. *“Sanitary Sewer”* means a sewer that carried liquid and water-carried wastes from residences, commercial buildings, industrial facilities, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- OO. *“Screening Level”* means that concentration of a pollutant that under baseline conditions would cause a threat to personnel exposed to the pollutant, or would adversely impact structures of the POTW. To be administered as local limits applicable to a particular discharge, the screening levels must be adjusted to account for conditions at the point of discharge that differ from baseline conditions.
- PP. *“Sewage”* means human excrement and gray water (waste resulting from household showers, dish washing operations, etc.).
- QQ. *“Sewer”* means a pipe or conduit that carries wastewater, storm water, groundwater, subsurface water, or unpolluted water from any source.
- RR. *“Significant Industrial User”* means:
- a. A user subject to categorical pretreatment standards under 40 CFR 403.8 and 40 CFR Chapter I, Subchapter N; or
  - b. A user that:
    - i. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down wastewater);
    - ii. Contributes a process wastestream which comprises 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - iii. Is designated as such by the Ashland Water and Sewer Commission on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
  - c. Upon determining that a user meeting the criteria in § 1.5-RR (b) (i or ii) has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the Ashland Water and Sewer Commission may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8 (f) (6), determine that such user should not be considered a significant industrial user.
- SS. *“Slug”* or *“Slug Load”* means:

- a. Any discharge of water, wastewater, sewage, or industrial sewage which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration or flow during normal operation;
  - b. Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in this ordinance; or
  - c. Any discharge which may adversely affect the collection system and/or performance of the POTW.
- TT. “*Standard Industrial Classification Code*” means a classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.
- UU. “*State*” means the State of New Hampshire.
- VV. “*Storm Sewer*” means a sewer for conveying storm water, groundwater, subsurface water, or unpolluted water from any source.
- WW. “*Storm Water*” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- XX. “*Superintendent*” means the person designated by the Ashland Water and Sewer Commission to supervise the operation of the POTW.
- YY. “*Suspended Solids*” or “*Total Suspended Solids*” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- ZZ. “*Commission*” means the Ashland Water and Sewer Commission.
- AAA. “*Treatment Plant, Works or Facility*” means any device or system used in the storage, treatment, equalization, recycling or reclamation of wastewater and/or wastewater sludges as defined herein.
- BBB. “*Unpolluted Water*” means water of quality equal to or better than the State Water Quality Standards (Part Env-Ws 432) or water that would not cause a violation of receiving water quality standards and would not be benefitted by discharge to the POTW.
- CCC. “*Wastewater*” means liquid and water-carried industrial wastes and/or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

## ARTICLE 2 – GENERAL SEWER USE AND WASTE DISPOSAL REQUIREMENTS

### 2.1 General Waste Disposal Standards.

- A. Sanitary Disposal of Waste. Pursuant to RSA Chapter 147, no person may place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable waste, in any unsanitary manner on public or private property.
- B. Wastewater Discharge Restricted. No person may discharge to any natural outlet, within the Town of Ashland or subject to the Commission’s jurisdiction, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this ordinance, and State and Federal laws and regulations.

- C. Nonsewered Disposal. Where a public sanitary sewer is not available under § 2.2, the building sewer shall be connected to a private wastewater disposal system complying with RSA 149-E and applicable State rules. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Ashland Water and Sewer Commission. At no time shall any quantity of industrial waste be discharged to a private, domestic wastewater disposal facility or system.
- D. Future Connection Required. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, the owner shall connect to the public sewer, as provided in § 2.2. Any septic tank, cesspool, or similar private wastewater disposal facilities shall be cleaned of solids and filled with clean, mineral soils, and their use shall be discontinued.

## **2.2 Use of Public Sewers.**

- A. Private Disposal Within Sewer Service Area. Except as provided in § 2.2-B, no person may construct, use, or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater within the sewer service area.
- B. Sewer Service Area; Connection Required. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes resulting in the generation of wastewater, situated within the Town of Ashland and abutting on any street, alley, or right-of-way in which a public sanitary sewer is located, at the owner's expense, shall install suitable toilet facilities therein, and connect such facilities directly with the proper public sewer in accordance with this ordinance, within 90 days after official notice to do so, provided that the public sewer is within 100 feet of said house, building, or property. The requirement to so connect to the public sewer may be waived upon application to the Ashland Water and Sewer Commission if the property utilizes a properly functioning, State-approved septic system approved and installed after December 31, 1985.
- C. Sewers for Intended Uses Only. No person shall discharge into any public sewer of the Town of Ashland, or into any fixture which thereafter discharges into any public sewer, any waste or substance other than that for which the particular sewer is intended, designed or provided.
- D. Applicable Permits Required. No person shall discharge into any public sewer of the Town of Ashland, or into any fixture which thereafter discharges into any public sewer, any waste or substance until all applicable permits have been obtained.
- E. Use of Sanitary Sewers. Except as specifically allowed by the Commissioners for a designated individual sewer, sanitary sewers shall be used only for the conveyance and disposal of domestic wastewater, and for industrial wastes which are not objectionable as set forth in this ordinance. No sanitary sewer shall be used to receive and convey or dispose of any storm or surface water, subsoil drainage, or unpolluted water.

- F. Use of Storm Sewers. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or a natural outlet approved by the Commissioners. Industrial cooling water, process waters, or storm water runoff generated in areas of industrial activity (as defined in 40 CFR § 126) require an NPDES permit prior to discharge to a storm sewer or natural outlet.
- G. Use Designation. If the intended or designated use of any particular sewer or drain of the allowable discharge thereto is unclear, the Commissioners shall consider the pertinent facts and make a determination. Said determination shall be final and binding.
- H. Damage/Tampering Prohibited. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the POTW or any structure, appurtenance or equipment which is part of the public sewerage system. Any person violating this subsection shall be guilty of a violation of this ordinance.
- I. Health Officer Authority. This ordinance shall not supersede or alter the authority of the Town Health Officer under RSA Chapter 147.

### **2.3 Regulation of Waste Received From Other Jurisdictions.**

- A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Commission shall enter into an inter-municipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by § 2.3-A, the Commission shall request the following information from the contributing municipality:
  - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality.
  - b. An inventory of all users located within the contributing municipality that are discharging to the POTW.
  - c. Such other information as the Commission may deem necessary.
- C. Any such inter-municipal agreement shall contain the following conditions:
  - a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance as it pertains to the discharge to be contributed to the POTW, and local limits which ensure that the pollutant loadings allocated to the contributing municipality are not exceeded. Any such ordinance and local limits shall be revised as necessary to reflect changes made to this ordinance or revisions to the loadings allocated to the contributing municipality.
  - b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis.
  - c. A provision specifying which pretreatment implementation activities, including IDP issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality, and which of those activities will be conducted by the Commission, and which of these activities will be conducted jointly by the contributing municipality and the Commission.

- d. A requirement for the contributing municipality to provide the Commission with access to all information that the contributing municipality obtains as part of its pretreatment activities.
  - e. Limitations on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW.
  - f. Requirements for monitoring the contributing municipality's discharge.
  - g. A provision ensuring the Commission access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by Commission.
  - h. A provision specifying remedies available for breach of the terms contained within the agreement.
- D. Such an inter-municipal agreement shall be entered pursuant to RSA Chapter 53-A and shall be approved by the New Hampshire Water Supply and Pollution Control Division of the New Hampshire Department of Environmental Services (WSPCD).

#### **2.4 Septage.**

No person may dispose of septage at the POTW or by discharge into Ashland's sewerage system, except by express, prior permission granted by the Commission.

Pursuant to the authority vested in the Water and Sewer Commissioners by RSA 149-I:7 and 8, the Commission hereby adopts the following provisions for establishing and amending assessments, rents, user charges and fees for defraying the costs of construction, improvements, operation and maintenance of the Ashland Sewage Collection and Treatment System.

- A. Implementing Language. Add to Article 2 of the Ashland Sewer Use Ordinance as adopted on July 15, 1996, the following new section:

#### **2.5 Fees and Charges.**

Pursuant to RSA 149-I:7 and 8, the Commission, after notice and hearing, shall establish a schedule of user charges and fees to defray the costs of construction, improvement, repair, replacement, operation, and maintenance incurred by the Commission in providing sewage collection and disposal under this ordinance. The Commission may establish reasonable classifications of users and may enter agreements with specific users when deemed appropriate in the best interests of the Town. The Commission may amend such a rate schedule as they deem necessary after notice and hearing.

- A. 1996 Rate Schedule. The Commission hereby adopt as the sewer user charges and fees, see the attached rate schedule:

In addition, the Commission shall impose all charges, costs, and fees as required by the Sewer Use Ordinance for permits, inspections, and other services and expenses, including appropriate allocations of overhead, administrative and other similar costs and expenses.

- B. Effective Date. The rates established herein shall apply to all sewage disposal on or after April 1, 2017, and shall be reflected in the first statements, invoices or bills rendered after such date.

(Note: Article 2 was amended on September 16, 1996, adding the paragraph following § 2.4 and 2.5.)

## **ARTICLE 3 – BUILDING SEWERS AND CONNECTIONS**

### **3.1 Permission to Connect/Use.**

No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a building sewer permit or other written permission from the Commission.

### **3.2 Building Sewer Permits.**

- A. Classification. There shall be 2 classes of building sewer permits:
- a. For residential and commercial service producing only domestic wastewater, and
  - b. For service to establishments producing industrial wastes.
- B. Submission of Application/Fees. The Commission shall establish and provide application and permit forms for building sewer permits to carry out the purposes of this ordinance. For residential and commercial service, the owner shall apply on the application form at least 30 days prior to proposed connection. For an establishment producing industrial wastes, the application shall be made at least 60 days prior to proposed connection. The permit application shall be supplemented by any plans, specifications, or other information deemed necessary or appropriate by the Commission. A permit and inspection fee shall be paid to the Commission at the time the application is filed in the amount set forth in Appendix A.

### **3.3 Costs of Installation and Connection.**

All costs and expenses incurred in, or incidental to, the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Commission from any cost, loss, or damage that may directly or indirectly be occasioned by the installation of the building sewer.

### **3.4 Separate Building Sewers Required.**

A separate and independent building sewer shall be provided for every building. However, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer, but the Commission shall not assume any obligation or responsibility for damage caused by, or resulting from, any such single connection. The Commission may require an easement or other appropriate document providing perpetual use for such a single connection.

### **3.5 Use of Existing Building Sewers.**

Existing building sewers may be used in connection with new buildings only when they are found, on examination and testing by the Commission, to meet all requirements of this ordinance.

### **3.6 New Sewer Construction.**

During construction of a new sanitary sewer, the Commission shall construct the service connections for existing buildings to the curb or the property line of the edge of a right-of-way, whichever is closer to the sewer. Construction of the building sewer, including connection to the structure served, shall be the responsibility of the owner of the improved property to be connected. Such owner shall indemnify the Commission, its officers, and agents from all cost, loss or damage that may result, directly or indirectly, due to the construction of a building sewer on his premises or its connection to the service connection. The owner shall thereafter pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed of the building sewer and service connection.

### **3.7 Location of Building Sewer.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage conveyed by such building drain shall be lifted by an approved means and discharged to the building sewer at the owner's expense.

### **3.8 Prohibited Actions.**

- A. No person shall connect roof downspouts, interior or exterior foundation drains, area-way drains, or other sources of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- B. No person shall obstruct the free flow of air through any drain or soil pipe.

### **3.9 Standards: Materials, Construction and Installation.**



- A. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Environment Federation (WEF) Manual of Practice No. FD-5 shall apply.
- B. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable regulations of the Town, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. FD-5. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials shall be approved by the Commission before installation.

### **3.10 Procedures.**

- A. The holder of the building sewer permit shall notify the Commission when the building sewer is ready for inspection and connection to the public sewer. Such notice shall be provided not less than 48 hours in advance of the time any connection is to be made to any public sewer. The connection and testing shall be made under the supervision of the Commission's designee. This section shall also apply to repairs or alterations to building connections, drains or pipes thereto.
- B. Suitable provisions shall be made at the point of connection for testing, which responsibility shall rest with the holder of the building sewer permit.
- C. No building sewer shall be covered until it has been inspected and approved by the Commission. If any part of building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the property to be connected to the public sewer.
- D. The Commission shall maintain a record of all connections made to public sewers and drains under this ordinance and all repairs and alterations made to building connections or drains connected to or discharging into public sewers and drains of the Commission or intended to so discharge. All persons concerned shall assist the Commission in providing data needed for such records.

### **3.11 Excavations.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Commission at the expense of the owner.

### **3.12 State Approval Required for Certain Discharges**

Any proposed new discharge from a residential or commercial source involving loadings exceeding 50 population equivalents (5,000 gpd), any new industrial discharge, or any significant alteration in either flow or waste characteristics of existing industrial wastes that are being discharged into the POTW must be approved by WSPCD, in accordance with the Commission's NPDES permit.

- 3.13** The property and/or building owner is responsible for the lateral to the property line (Commission). The building and/or property owner is responsible to show that the blockage or other problem is not on their property first. If the problem is shown to be in the Commission's portion of the lateral, the Commission will pay for the property and/or building owner's costs relating to the method used to test or clean the line.

(Note: Article 3, § 3.13 was amended on December 1, 1997.)

## **ARTICLE 4 – PROHIBITED DISCHARGE STANDARDS**

### **4.1 General Prohibitions.**

No person, whether or not it is subject to categorical pretreatment standards or any other Federal, State, or local pretreatment standards or requirements, shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference.

### **4.2 Specific Prohibitions.**

No person shall introduce or cause to be introduced into the POTW the pollutants, substances or wastewater identified in this section:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, gas, solid, or any substance which may generate or form any flammable, combustible or explosive substance, fluid, gas, vapor or liquid when combines with air, water or other substances present in sewers, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
- B. Wastewater having a pH less than 5.5 or greater than 9.5, as measured at the point of connection to the sanitary sewer or other available monitoring location, or otherwise causing corrosive structural damage or hazard to the POTW equipment, or personnel, or with alkalinity in such quantities that the pH of the influent to the POTW is caused to exceed 8.0.
- C. Solid or viscous substances including water or wastes containing fats, wax, grease, or oils, whether emulsified or not, or containing substances that may solidify or become viscous at temperatures between 32° and 150° F (0° C – 65° C), in amounts that will cause obstruction of the flow in the POTW resulting in interference.
- D. Pollutants, including oxygen-demanding pollutants (BOS, COD, etc.), or chlorine demand requirements released in a discharge at a flow rate and/or pollutant

concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

- E. Wastewater having a temperature greater than 150° F (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the POTW treatment plant to exceed 104° F (40° C).
- F. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
- G. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- H. Trucked or hauled pollutants, except at discharge points designated by the Commission.
- I. Household hazardous wastes including but not limited to paints, stains, thinners, pesticides, herbicides, anti-freeze, transmission and brake fluids, motor oil, and battery acid.

#### **4.3 Substances Allowed Only by Discharge Permit**

No person shall introduce or cause to be introduced into the POTW the substances, pollutants or wastewater identified in this section, unless specifically authorized by an industrial discharge permit, issued under **Article 7**. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

- A. Wastewater which imparts color that may not be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently may impart color to the treatment facility's effluent, thereby violating the Commission's NPDES permit
- B. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
- C. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations. The Commission may require documentation of compliance with applicable standards.
- D. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, or otherwise unpolluted wastewater.
- E. Biosolids, screenings, or other residue from the pretreatment of industrial wastes.
- F. Medical wastes.
- G. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- H. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

- I. Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10% of the Lower Explosive Limit of the meter.
- J. Garbage that has not been properly shredded, provided that garbage grinders which properly shred garbage may be connected to sanitary sewers, without a special discharge permit, from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- K. Any quantities of flow, concentrations, or both which constitute a slug as defined by § 1.5-SS.
- L. Waters or wastes which, by interaction with other water or wastes in the treatment works, release dangerous or noxious gases, form suspended solids which affect the operation of the collection system, or create a condition deleterious to structures and treatment processes.
- M. Any materials which exert or cause unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime, slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

#### **4.4 Federal Categorical Pretreatment Standards**

Categorical pretreatment standards applicable to users in the Town are found at 40 CFR Chapter I, Subchapter N, Parts 405-471, which are incorporated herein by reference.

- A. EPA shall be the control authority for industrial users subject to categorical pretreatment standards. Industrial users are responsible to the EPA for compliance with categorical pretreatment standards and the requirements of 40 CFR Part 403. Categorical industrial users shall provide the Commission with copies of any reports to, or correspondence with, EPA relative to compliance with the categorical pretreatment standards.
- B. The industrial user is responsible for determining the applicability of categorical pretreatment standards. The user may request the EPA provide written certification as to whether the user is subject to the requirements of a particular category.

#### **4.5 Local Discharge Restrictions.**

- A. All persons discharging industrial process wastes into public or private sewers connected to the Commission's POTW shall comply with applicable Federal requirements and State standards for pretreatment of wastes (as amended) in addition to the requirements of this ordinance.
- B. Local numerical discharge limitations as established in § 4.6 ("local limits") and all State pretreatment standards shall apply, whichever is more stringent. In developing the list of pollutants of concern for which local limits are established, the Commission has considered the allowable headworks loading at the

wastewater treatment facility. Pollutants which exceed 50% of their allowable headworks loading at the wastewater treatment facility are considered to be of concern and have resulted in development of local limits.

**4.6 Maximum Allowable POTW Headworks Loadings Limitations (Local Limits).**

- A. The following numerical pollutant loading limitations are established to protect against pass-through and interference:

POLLUTANT	ALLOWABLE LIMIT – LBS/DAY
Cadmium	0.3580
Chromium	8.34
Copper	1.8910
Lead	0.3460
Molybdenum	N/A
Zinc	2.50
<i>Note: The table in § 4.6-A, with the exception of the Chromium limit, was amended on August 18, 1997.</i>	

- B. The Commission shall calculate and administer daily mass limits (i.e., local limits) when required as described in this section to ensure that the combined industrial pollutant discharge loadings do not cause or contribute to exceeding any such local limit. For industrial discharge applications, the headwork loading limitations set forth in § 4.6-A shall apply at the end of the process train prior to dilution with non-industrial wastewaters.
- C. Daily mass is the mass of a pollutant discharged, determined from the analysis of a flow-composited sample (or other sampling procedure approved by the Superintendent) representative of the discharge over the duration of a 24-hour day or industrial operating schedule of less than 24 hours.
- D. All local limits for metals represent total metal unless indicated otherwise.
- E. Local limits are developed based on the identification of industrial users known to be discharging each pollutant (industrial contributory flow procedure). Unless specifically identified in an industrial discharge permit, an industrial user shall not discharge any pollutant for which a local limit has been established at a concentration significantly greater than domestic/background concentrations.

F.

**4.7 Screening Levels.**

- A. Detection of the pollutants set forth in column 1 of the following table at concentrations higher than the limit shown in column 2 of the table shall result in the actions set forth in § 4.7-C.

(Note: The introductory paragraph, § 4.7-A was amended on September 16, 1996.)

COMPOUND	CONCENTRATION
Isopropylbenzene (Cumene)	0.42 mg/L
o-Xylene	2.54 mg/L
1,2,4-Trimethylbenzene (Pseudocumene)	0.53 mg/L
1,3,5-Trimethylbenzene (Mesitylene)	0.38 mg/L

- B. Screening levels are numerical values above which actions are initiated to evaluate, prevent or reduce adverse impacts due to flammability, chemical reactivity, organic/solids loadings, or worker health and safety.
- C. If any of the screening levels are exceeded, repeat analysis shall be performed to verify compliance or noncompliance with that screening level. If noncompliance is indicated, then the industrial user may be required, at the discretion of the Commission, to conduct an appropriate engineering evaluation to determine the potential impact of the discharge of the pollutant to the POTW. This evaluation shall be conducted under the supervision and approval of the Commissioners and/or the Superintendent. Should the evaluation indicate the impact to be unsatisfactory, the industrial user shall reduce the pollutant concentration to a satisfactory level. If the evaluation supports development of an alternate site-specific limitation, then the screening level shall be adjusted and administered as a limit for the specific discharge.

#### **4.8 Commission Action to Address Violations.**

- A. If any waters or wastes are discharged or are proposed to be discharged to the POTW which exceed the standards or restrictions established in §§ 4.1, 4.2, 4.3, 4.5, 4.6 or 4.7, the Commission may take one or more of the following actions:
  - a. Reject or prevent any discharge to the POTW after the discharger has been notified and has had a reasonable opportunity to respond as specified in the notice.
  - b. Require pretreatment prior to discharge to the POTW pursuant to Article 5.
  - c. Require control (e.g., equalization) over the quantities and rates of discharge.
  - d. Require payment to cover additional cost of handling and treating the wastes.
- B. If the Commission allows the pretreatment or equalization of waste flows under § 4.8-A, the design and installation of the systems and equipment shall be subject to the review and approval of the Commission and the State as specified in Article 5.

#### **4.9 Special Agreements.**

- A. This Article 4 shall not be construed to prevent any special agreement between the Commission and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the Commission for treatment, provided that any such agreement: (a) does not contravene any requirements of existing Federal or State laws, or regulations promulgates thereunder, (b) is compatible with any user charge system in effect, and (c) does not waive applicable Federal categorical pretreatment standards.

- B. For pollutants with numerical local limits, the Commission has allocated a percentage of its allowable industrial loadings for such special agreements. Requests for special agreements that exceed this allocation shall not be approved.

**4.10 Commission’s Right of Revision.**

- A. The discharge standards and requirements set forth in this Article 4 are established for the purpose of preventing discharges to the POTW which would harm either the sewers, wastewater treatment process, or equipment; would have an adverse effect on the receiving stream; or would otherwise endanger lives, limb, public property, or constitute a nuisance.
- B. The Commission may, from time to time, review and temporarily set more stringent standards or requirements than those established in this article, if, such more stringent standards or requirements are necessary to meet the objectives set forth in § 4.10-A. In determining whether to set such a standard, the Commission may consider such factors as the quantity of waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment facility, degree of treatability at the wastewater treatment facility and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer shall not be exceeded without the approval of the Commission.
- C. The Commission shall allow affected industrial users reasonable time to comply with any such temporary changes to local limits. The conditions and schedule for compliance shall accompany the written notification of amended local limits.
- D. The Commission may also impose longer term or permanent changes in local limits by appropriate amendments to this ordinance.

**4.11 Dilution.**

No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

**ARTICLE 5 – PRETREATMENT OF WASTEWATER**

**5.1 Pretreatment Facilities.**

Each user shall provide wastewater treatment as necessary to comply with this ordinance and shall comply with all local limits, prohibitions, and requirements set out in Article 4 by the earlier of the dates specified by EPA, the State, or this ordinance. All facilities required to achieve and maintain compliance shall be provided, operated, and maintained

at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Commission for review, and shall be approved by the Commission and the WSPCD before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Commission under this ordinance.

## **5.2 Additional Pretreatment Measures.**

- A. Whenever deemed necessary to protect the POTW or to determine the user's compliance with this ordinance, the Commission may: require a user to restrict its discharge during peak flow periods; designate that certain wastewater be discharged only into specific sewers; relocate and/or consolidate points of discharge; separate sewage wastestreams from industrial wastestreams; or impose such other conditions as may be necessary.
- B. The Commission may require any user to install, on its property and at its expense, a suitable storage and flow-control facility to ensure equalization of flow. Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously to ensure satisfactory and effective operation by the user at its expense. An Industrial Discharge Permit may be issued under **Article 7** solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided at the owner's expense when, in the opinion of the Commission, these devices are necessary for the preliminary treatment of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. Interceptors shall be of a type and capacity approved by the Commission and shall be so located to be easily accessible for cleaning and inspection. Interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at its expense. The user shall properly remove and dispose by appropriate means the captured materials and shall maintain records of the dates and means of disposal, which shall be subject to periodic review by the Commission. Any removal and hauling of the collected materials shall be performed by currently licenses waste disposal firms.
- D. A user with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter and alarm.
- E. When required by the Superintendent, the owner of any property serviced by a building sewer caring industrial wastes shall install a suitable control manhole together with such necessary meters, valves, monitoring equipment, and other appurtenances in the building sewer to facilitate observation, monitoring, sampling, measurement, and control of the discharge of such wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with the plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and said manhole and its related equipment, shall be maintained by the owner so as to be safe and accessible at all times. The owner shall have reasonable time to construct and provide proper equipment but at no time will the start of construction be more



than ninety days from receiving written notice from the Superintendent or his agents. Failure to comply within the ninety days shall constitute a violation of this ordinance.

(Note: **Article 5, § 5.2** was amended on May 19, 1997, adding item (E)).

### **5.3 Accidental Discharge/Slug Control Plans.**

At least once every 2 years, the Commission shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Town may require that any such user, at the user's cost, develop, submit for approval, and implement such a plan. Alternatively, the Commission may develop such a plan for the user, with costs thereof reimbursed to the Commission by the user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by § 8.3;
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to: inspection and maintenance of storage areas; handling and transfer of materials; loading and unloading operations; control of plant site runoff; worker training; building of containment structures or equipment; measures for containing toxic organic pollutants, including solvents; and/or measures and equipment for emergency response.

## **ARTICLE 6 – INDUSTRIAL DISCHARGE PERMIT APPLICATION**

### **6.1 Wastewater Characterization.**

When requested by the Commission any user shall submit information on the nature and characteristics of its wastewater within 60 days of the request. The Commission shall prepare a form for this purpose and may periodically require users to update this information.

### **6.2 IDP Requirement.**

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining an Industrial Discharge Permit from the Commission, except that a significant industrial user that has filed a timely and complete application pursuant to § 6.4 may continue to discharge for the time period specified in that section.
- B. The Commission may require other users to obtain Industrial Discharge Permits, or submit an application for an Industrial Discharge Permit, when the

Commission has determined or reasonably believes that the user's discharge may contain characteristics that would warrant monitoring of the discharge to prevent the introduction of any substances listed in §§ 4.1, 4.2, 4.3, 4.4, 4.5, or 4.6.

- C. Any violation of the terms and conditions of an Industrial Discharge Permit shall be deemed a violation of this ordinance. Obtaining an Industrial Discharge Permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements, local limits, or with any other requirements of Federal or State law or regulation and this ordinance.

### **6.3 Altered/Increased Discharge; WSPCD Approval.**

Any industrial user shall obtain WSPCD approval for any new industrial discharge, or any significant alteration in either flow or waste characteristics of existing industrial wastes that are being discharged to the POTW. Such approval shall be obtained in accordance with the Commission's NPDES permit and modification of user's IDP pursuant to §7.5.

### **6.4 IDP: Existing Connections.**

Any user required to obtain an Industrial Discharge Permit who was discharging wastewater into the POTW prior to July 16, 1996 (the effective date of this ordinance), and is not currently covered by a valid Industrial Discharge Permit, and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the Commission for an Industrial Discharge Permit in accordance with § 6.7 and shall not cause or allow discharges to the POTW to continue after November 12, 1996 (120 days of the effective date of this ordinance) except in accordance with an Industrial Discharge Permit issued by the Commission.

### **6.5 IDP: New Connections.**

Any user required to obtain an Industrial Discharge Permit who proposes to begin or recommence discharging into the POTW after July 16, 1996 (the effective date of this ordinance) shall obtain an Industrial Discharge Permit prior to the beginning or recommencing of such discharge. An application for the Industrial Discharge Permit, in accordance with § 6.7, shall be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

### **6.6 IDP: New/Amended Categorical Standards.**

Within 120 days after the effective date of a new or amended categorical pretreatment standard, an industrial user subject to that standard shall submit an application for an Industrial Discharge Permit amendment. The application shall contain the information noted under § 6.7.

### **6.7 IDP Application Contents.**

- A. Any user required to obtain an Industrial Discharge Permit shall submit a permit application, including the following information:
  - a. Description of facilities and production processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which could accidentally be discharged to the POTW.
  - b. The estimated average, maximum and total daily flow for each process and other discharges.
  - c. Each product produced by type, amount, process or processes, and rate of production.
  - d. Analysis of the waste stream(s) to be discharged which shall include testing or estimates for those parameters found to be present and regulated.
  - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge and sampling.
  - f. Time and duration of discharges.
  - g. Copies of existing pollution prevention plans and/or brief narrative of all known pollution prevention opportunities which may exist at the facility.
  - h. Notification to the Commission of any proposed or existing discharge of listed or characteristic hazardous waste [as required by 40 CFR 403.12.12(p)].
  - i. In those instances in which the industrial user provides notification of the discharge of hazardous waste, the industrial user shall also provide the following certification: "I certify that (the user) has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree (the user) has determined to be economically practicable."
  - j. An indication of whether the conditions referenced in the application are existing or proposed.
- B. The Commission may require such additional information upon review of any application as may be deemed necessary to evaluate the Industrial Discharge Permit application for compliance with this ordinance and protection of the POTW and Commission personnel.
- C. Incomplete or inaccurate applications shall not be processed and shall be returned to the user for revision.
- D. The Commission shall establish a form for application for reissuance of an IDP pursuant to § 7.7.

## **6.8 Signatories and Certification.**

Each IDP application and user report shall be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

## **6.9 Hauled Wastewater Permits.**

- A. Septic tank waste may be introduced into the POTW only at locations and times designated by the Commission under § 2.4. Transport and discharge of such waste shall comply with rules and regulations established by the Commission.
- B. Any generators of hauled industrial waste shall obtain an Industrial Discharge Permit. The discharge of hauled industrial waste is subject to all requirements of this ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers shall provide a waste-tracking form for every load. This form, to be provided by the Town to the hauler, shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are hazardous wastes as defined in the State’s Hazardous Waste Rules (Env-Wm 110, 211-216, 351-353, 400-1000).

## **ARTICLE 7 – IDP ISSUANCE PROCESS**

### **7.1 IDP Decisions.**

The Commission shall evaluate the data provided by the industrial user and may require additional information as set forth in § 6.7-B. Within 30 days after receipt of a completed IDP application, or 90 days in the case of an application for a new or increased discharge requiring review and approval by the WSPCD, the Commission shall determine if the proposed discharge complies with the requirements of this ordinance, and shall issue or deny the permit. If the permit is issued, it shall be in writing as required by this Article and a notice of the issuance of the permit shall be publicly posted. If the Commission denies the permit, it shall state the reasons for such denial. An applicant may appeal the decision within 30 days pursuant to § 7.4. However, if an applicant believes there is a minor issue which can be addressed without the necessity of filing a formal appeal, the applicant may file a written request for review, within 15 days after the initial decision, specifying the grounds for review. If the applicant is still dissatisfied with the Commission decision after seeking review, the applicant may file an appeal under § 7.4. If the applicant does not timely file an appeal, the applicant shall file a new application if it seeks to obtain an IDP.

## **7.2 IDP Duration.**

- A. An IDP shall be issued for a specified time period as determined by the Commission, not to exceed 5 years from its effective date.
- B. An IDP shall automatically terminate upon cessation of operations or transfer of business ownership, unless transfer of the IDP is approved under § 7.6. Any IDP issued to a particular user shall be void upon issuance of a new IDP to that user.

## **7.3 IDP Contents.**

- A. An IDP shall include such conditions as are deemed reasonably necessary by the Commission to: (a) prevent pass-through or interference, (b) protect the quality of the water body receiving the treatment facility's effluent, (c) protect worker health and safety, (d) facilitate biosolids management and disposal, (e) protect against damage to the POTW, and (f) defray Commission costs and charges through appropriate user charges or fees.
- B. An IDP shall contain:
  - a. Its expiration date.
  - b. A statement that the IDP is nontransferable without prior approval by the Commission under § 7.6 and provisions for providing the new owner or operator with a copy of the existing IDP.
  - c. Effluent limitations based on applicable pretreatment standards and requirements.
  - d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored: sampling location, sampling frequency, and sample type based on this ordinance, and State and Federal laws and regulations.
  - e. User reporting requirements included in an IDP, at a minimum, shall require:
    - i. Periodic monitoring results indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment requirements and the average and maximum daily flow for these process units.
    - ii. A statement as to whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, then what additional operation and maintenance practices and/or pretreatment systems are necessary.
    - iii. Submission of any monitoring results performed in addition to the requirements of the IDP using procedures prescribed in the permit.
  - f. The dates for submission of compliance reports under § 8.1.
  - g. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. This schedule may not extend the time for compliance beyond that required by this ordinance, or applicable State and Federal laws and regulations.

- h. A statement that compliance with the IDP does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the IDP.
- C. An IDP may contain, but need not be limited to, the following conditions:
  - a. Limitations on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
  - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.
  - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
  - d. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
  - e. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  - f. Other conditions as deemed appropriate by the Commission to ensure compliance with this ordinance, and State and Federal laws and regulations.

#### **7.4 IDP Administrative Appeal.**

- A. Any person directly affected by a decision on an IDP, including the user, may file an administrative appeal by submitting a written request to the Commissioners within 30 days of the decision. If the appellant is a party other than the applicant, the appellant shall provide a copy of the request to the applicant.
  - a. Failure to submit a timely administrative appeal by the applicant under this section shall constitute a waiver of any further appeal. Any person other than the applicant who seeks to appeal a decision on an IDP shall file the written request within 30 days after the decision or after notice thereof is posted under § 7.1, unless the Commission extends the period for filing for good cause.
  - b. In its request, the appellant shall specify the reasons for its appeal. If any conditions of an IDP form the basis for the appeal, they shall be cited and any proposed alternatives shall be indicated.
  - c. The effectiveness of the IDP shall not be stayed pending the appeal, unless the Commission determines it appropriate to do so, in which case, the Commission may delay the effective date for such time, or impose such additional conditions, as may be deemed necessary in the public interest.
  - d. The Commission shall act on the appeal promptly. If action cannot be taken within 30 days, the Commission shall notify the parties and issue a decision on the appeal as promptly thereafter as possible.
- B. Any person who has timely filed an administrative appeal under this section and who is aggrieved by the decision rendered on the appeal, may (within 30 days thereafter) appeal the decision to court with appropriate jurisdiction.

#### **7.5 Industrial Discharge Permit Modification.**

The Commission may modify an IDP for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards of requirements.
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time the IDP was issued.
- C. Due to a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the POTW, Commission personnel, or the water quality of receiving waters.
- E. Violation of any term or condition of the IDP.
- F. Misrepresentation or failure to fully disclose all relevant facts in the IDP application or in any required report.
- G. Revision of, or a grant of variance from, categorical pretreatment standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the IDP.
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator when approved under § 7.6.

#### **7.6 IDP Transfer.**

- A. An IDP may be transferred to a new owner or operator only if the permitted user provides at least 60 days' advance notice to the Commission and the Commission approves the transfer.
- B. The notice to the Commission shall include a written certification by the new owner or operator which:
  - a. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes that generate wastewater to be discharged to the POTW.
  - b. Identifies the specific date on which the transfer is to occur.
  - c. Acknowledges full responsibility for complying with the existing IDP and this ordinance.
- C. The Commission may approve the transfer if it finds the new owner/operator to be financially and technically qualified to operate the facility in accordance with the permit. The burden shall be upon the current permittee and the transferee to demonstrate compliance with these criteria. Any material difference in operations or processes that generate wastewater to be discharged to the POTW shall require issuance of a new IDP.

#### **7.7 IDP Reissuance.**

- A. A permittee may apply for reissuance of its IDP by submitting a complete permit renewal application, in accordance with § 6.7-D, not less than 60 days prior to the expiration of the existing IDP.

- B. Under no circumstances shall the permittee continue to discharge without an effective permit, provided, however, that an expired permit shall continue to be effective and enforceable until the permit is reissued if:
  - a. The permittee has submitted a completed renewal application at least 60 days prior to the expiration date of the existing permit; and
  - b. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the permittee.

## **ARTICLE 8 – REPORTING REQUIREMENTS**

### **8.1 Periodic Compliance Reports.**

Each significant industrial user shall comply with the reporting requirements of this section.

- A. A significant industrial user shall, at the frequency set forth in its IDP, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measures or estimated average and maximum daily flows for the reporting period. All periodic compliance reports shall be signed and certified by an authorized representative of the user in accordance with § 6.8.
- B. All wastewater samples shall be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to maintain its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by § 8.1-A, using the procedures prescribed in §§ 8.7 and 8.8, the results thereof shall be included in the report.

### **8.2 Reports of Changed Conditions.**

Each user subject to § 8.1 shall notify the Commission of any planned significant change to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

- A. The Commission may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IDP application under Article 6.
- B. Upon approval of the request by the Commission, a Discharge Permit Request shall be submitted to the Commission to the WSPCD on behalf of the user. All applicable WSPCD review fees shall be paid by the user.



- C. Upon approval of the Discharge Permit Request or modification by the WSPCD, the Commission may issue or modify an IDP pursuant to Article 7 in response to changed conditions or anticipated changed conditions.

### **8.3 Reports of Slug/Potentially Adverse Discharges.**

- A. In the case of any discharge that may cause adverse impacts to the POTW (including, but not limited to, accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or a slug load), the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions conducted by the user.
- B. Within 5 days following such discharge, unless waived by the Commission, the user shall submit a detailed written report describing the cause of the discharge and the measures to be conducted by the user to prevent similar future occurrences. Such notification and reporting shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification and reporting relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the user's employee bulletin board or other prominent place advising employees whom to call in the event of a discharge described in § 8.3-A. Users shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

### **8.4 Reports from Non-IDP Users.**

All users not required to obtain an IDP shall provide appropriate reports to the Commission as the Commission may require.

### **8.5 Notice of Violation/Repeat Sampling and Reporting.**

If the results of sampling performed by a user indicate a violation, the user shall notify the Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days subsequent to becoming aware of the violation. The user is not required to resample if the Commission monitors at the user's facility at least once a month, or if the Commission samples between the user's initial sampling and when the user receives the results of this sampling.

### **8.6 Notification of the Discharge of Hazardous Waste.**

- A. Any user who commences the discharge of hazardous waste shall notify the Commission, the EPA Regional Waste Management Division Director, and State Waste Management Division, in writing, of any discharge into the POTW of a

substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges in excess of 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications shall occur no later than 180 days after the discharge commences. Any notification under this paragraph shall be submitted only once for each hazardous waste discharged. However, notifications of changed conditions shall be submitted under § 8.2. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards.

- B. A user is exempt from the requirements of § 8.6-A during a calendar month in which it discharges no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of the reported hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user shall notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and State Waste Management Division of the discharge of such substance within 90 days of the effective date of such regulations or the discharge, as applicable.
- D. This section shall not be construed to create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal and State laws and regulations.

## **8.7 Analytical Requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the Commission.

## **8.8 Sample Collection.**

- A. Except as indicated in this section, the user shall collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Commission may authorize the use of time proportional sampling or a minimum of 4 grab samples where the user demonstrated that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to demonstrate compliance with instantaneous discharge limitations (e.g., screening levels established to protect worker health and safety). A single grab sample may also be used in place of a composite sample with approval of the Commission when:
  - a. The effluent is not discharged on a continuous basis (i.e., batch discharges of short duration), and only when the batch exhibits homogeneous characteristics (i.e., completely mixed) and the pollutant can be safely assumed to be uniformly dispersed;
  - b. Sampling a facility where a statistical relationship can be established between previous grab samples and composite data; and
  - c. The waste conditions are relatively constant (i.e., are completely mixed and homogeneous) over the period of the discharge.
- B. Samples for temperature, pH, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.

#### **8.9 Timing.**

Written reports shall be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a small facility serviced by the United States Postal Service, the date of receipt of the report by the Commission shall govern.

#### **8.10 Record Keeping.**

Any user subject to any reporting requirement under this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact location, method, and time of sampling, and the name of the person obtaining the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least 3 years. This period shall be automatically extended for the duration of any litigation concerning the user or the Commission, or where the user has been specifically notified of a longer retention period by the Commission.

### **ARTICLE 9 – POWERS AND AUTHORITIES OF INSPECTORS**

#### **9.1 Compliance Monitoring.**

The Commission may investigate instances of noncompliance with industrial pretreatment standards and requirements and this ordinance in general. As necessary, the

Commission may sample and analyze the wastewater discharges of users and conduct surveillance and inspection activities to identify, independently of information supplied by such users, occasional and continuing noncompliance with industrial pretreatment standards. Each industrial user shall be billed directly for costs incurred for analysis of its wastewater.

## **9.2 Right of Entry: Inspection and Sampling.**

All users shall allow unrestricted access by Commission, State and EPA personnel for the purpose of determining whether the user is complying with all requirements of this ordinance, or any Industrial Discharge Permit, or order issued under this ordinance.

- A. Industrial users shall also allow the Commission ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- B. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, Commission personnel may enter without delay for the purposes of performing specific responsibilities.
- C. The Commission may set up on the user's property, or require installation of, such devices as are necessary to conduct sampling or metering of the user's operations.
- D. The Commission may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the Commission and shall not be replaced. The costs of clearing such access shall be borne by the user.
- F. Unreasonable delays in allowing the Commission access to the user's premises shall be a violation of this ordinance.
- G. The Commission duly authorized employees may obtain information concerning industrial processes that have a bearing on the kind or source of discharge to the public sewer. The industrial user may request that such information not be disclosed to the public pursuant to Article 10. Information regarding wastewater discharge by the user (flow, constituents, concentrations, and characteristics) shall be available to the public without restriction.
- H. While performing the necessary work on private property referred to in this Section, the Commission duly authorized employees shall observe all safety rules applicable to the premises established by the user and shall comply with applicable State and Federal laws and regulations.
- I. The Commission duly authorized employees bearing proper credentials and identification may enter private property through which the Commission holds an easement related to sewage collection or treatment, for the purposes of, but not

limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW lying within the easement. All entry and subsequent work, if any, within the easement, shall comply with the terms of the easement.

- J. The Commission duly authorized employees bearing proper credentials and identification may inspect the premises of any user or consumer of Commission water for leakage or wastes of metered water upon written request. The Commission shall not be held liable for any condition which may exist which is discovered by the Commission pursuant to such a request.

### **9.3 Search Warrants.**

If the Commission is refused access to any property, or any part thereof, and believes that there may be a violation of this ordinance, or that there is a need for access as part of a routine inspection or sampling program, or to verify compliance with this ordinance or any permit or order issued under this ordinance, or to protect the public health, safety and welfare the Commission may apply for a search warrant pursuant to RSA 595-A or 595-B.

## **ARTICLE 10 – CONFIDENTIAL INFORMATION**

### **10.1 Public Access to Data; Exception for Trade Secrets.**

- A. Information and data on a user obtained from reports, surveys, Industrial Discharge Permit Applications, Industrial Discharge Permits, monitoring programs, and inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Commission that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request shall be asserted at the time of submission of the information or data.
- B. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person providing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. The Commission shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of industrial pretreatment standards and requirements.

## **ARTICLE 11 – ENFORCEMENT AND REMEDIES**

### **11.1 Manner of Commission Action; Definition of Violator.**

In this article:

- A. References to the “Commission” refer to the Commissioners or any person designated by the Commissioners to act under this Article, except where expressly provided otherwise.
- B. “Violator” means any person who has violated, or continues to violate, this ordinance, an Industrial Discharge Permit or order issued under this ordinance, or any other pretreatment standard or requirement.
- C. Any written notices issued by the Commission under this article shall be served personally by a duly authorized Commission official or by certified mail (return receipt requested). Such a notice may be served on any authorized representative of the user or claimed violator. Oral notice under § 11.2 need not be so served, but written notice shall be served prior to instituting any formal enforcement action, except for emergency action.

#### **SUBDIVISION 1: ADMINISTRATIVE ENFORCEMENT**

### **11.2 Procedure: Notice of Violation.**

When the Commission determines that a person is a violator, the Commission may serve a verbal or written notice of violation on the user. Within the time period specified in the violation notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Commission. Submission of this plan shall not relieve the user of liability for any violation occurring before or subsequent to receipt of the notice of violation. Nothing in this section shall limit the authority of the Commission to take any action, including emergency action or any other enforcement action, without initially issuing a notice of violation.

### **11.3 Procedure: Show Cause Order.**

The Commission may order a violator to appear before the Commission and show cause why a proposed enforcement action should not be taken. Notice shall be served on the violator not less than 10 days prior to the hearing, specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the violator show cause why the proposed enforcement action should not be taken. Following the show cause hearing, the Commissioners may issue such order or take such other action as they deem appropriate.

### **11.4 Remedy: Compliance Schedule Development.**

- A. The Commission may require any violator to develop a compliance schedule as follows:
  - a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet applicable pretreatment standards (such events include, but are not limited to, retaining an engineer, completing preliminary and final design plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).
  - b. No increment referred to in § 11.4-A(a) shall exceed 9 months.
  - c. The user shall submit a progress report to the Commission no later than 14 days following each date in the schedule and the final date for compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the action being taken by the user to return to the established schedule.
  - d. In no event shall more than 9 months elapse between such progress reports to the Commission.

**11.5 Remedy: Consent Order.**

The Commissioners may enter into a consent order, assurance of voluntary compliance, or other similar document establishing an agreement with any user responsible for noncompliance. Such an agreement shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the agreement, and may contain such other requirements as might be reasonable necessary and appropriate to address the noncompliance, including the installation of pretreatment systems, additional self-monitoring, and management practices. Such an agreement shall have the same force and effect as an order issued pursuant to § 11.6 and shall be judicially enforceable.

**11.6 Remedy: Cease and Desist Order.**

The Commission may issue an order to any alleged violator directing it to cease and desist the violation and to comply with all requirements set forth in the order and implement such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

**11.7 Remedy: Industrial Discharge Permit Termination.**

Any industrial user who engages in any conduct identified in this section is subject to termination of its IDP in accordance with § 11.9.

- A. Violation of any term or condition of its permit.
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge.

- C. Failure to report significant changes in operations or wastewater constituents and characteristics.
- D. Refusal to provide reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.
- E. Violation of any provision of this ordinance or State or Federal law or regulation.

**11.8 Remedy: Termination of Discharge.**

- A. In addition to permit termination under § 11.7, any person who engages in conduct identified in this section is subject to termination of its ability to discharge to the POTW or sewer system in accordance with subsection (2) and § 11.9.
  - a. Violation of terms or conditions in any permit issued for use of the POTW.
  - b. Failure to accurately report the wastewater constituents and characteristics of its discharge.
  - c. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge.
  - d. Refusal to provide reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.
  - e. Violation of the pretreatment standards of Article 5.
  - f. Violation of any provision of this ordinance or State or Federal law or regulation.
- B. The user shall be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 11.3 why the proposed action should not be taken.

**11.9 Termination: Notice and Opportunity for Hearing.**

Except in an emergency under § 11.10, prior to termination of an IDP under § 11.7 or a termination of discharge under § 11.8, the Commission shall provide not less than 10 days' written notice to the violator setting forth the basis for the proposed termination. If requested by the user, the Commission shall provide opportunity for hearing before the Commissioners. The request for hearing shall be submitted in writing not later than 5 days after the notice of termination and shall specify all grounds upon which the notice of termination is contested. The Commissioners shall provide opportunity for hearing unless they conclude that no proper basis is set forth in the request for hearing, and shall issue such interim order, pending the hearing, as may be necessary and appropriate to protect the Commission and the public.

**11.10 Emergency Suspension.**

- A. The Commission may immediately suspend a user's discharge, subsequent to such notice to the user as may reasonably be provided under the circumstances, whenever such suspension is necessary to terminate an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial danger to the health or welfare of POTW personnel or the public. The



Commission may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- a. Any user notified of an emergency suspension of its discharge shall immediately terminate or eliminate its wastewater discharge. If a user does not immediately comply with the suspension order, the Commission may take such action as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or its receiving stream, or danger to any individual. The Commission may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Commission that the circumstances causing suspension have been satisfactorily addressed, unless termination proceedings under § 11.7 or § 11.8 have been initiated.
  - b. A user that is responsible, in whole or in part, for any discharge presenting imminent danger shall submit a detailed written statement, describing the causes of the harmful discharge and the measures implemented to prevent any future occurrence. The statement shall be submitted prior to the date of any show cause or termination hearing under § 11.3 or § 11.9.
- B. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

#### **11.11 Recovery of Expenses.**

Any violator shall reimburse the Commission for any expense, loss, or damage incurred by the Commission as a direct or indirect result of the violation. If the Commission shall have caused the disconnection of a property from a public sewer, the Commission may collect the expenses associated with completing the disconnection from any person or user responsible for, or willfully concerned in, or who profited by such violation. The Commission may thereafter refuse to permit the restoration of the former connection or of any new connection to that property until the Commission is so reimbursed, including interest and the reasonable cost of any legal expenses incurred by the Commission.

### **SUBDIVISION 2: JUDICIAL ENFORCEMENT**

#### **11.12 Injunctive Relief.**

The Commission may petition the Superior Court for the issuance of a restraining order or temporary or permanent injunction to restrain violation of this ordinance, an Industrial Discharge Permit, or order issued hereunder, or any other pretreatment standard or requirement or to compel compliance therewith. The Commission may also seek such other action as is appropriate for legal or equitable relief, including a requirement for the user to conduct environmental remediation.

#### **11.13 Civil Penalties.**

- A. Pursuant to RSA 149-I:6, II, any violator shall be liable for a civil penalty not to exceed \$10,000 per day of such violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Commission may petition the Court to impose, assess, and recover expenses incurred by the Commission in enforcing this ordinance or any permit or order or administrative enforcement proceeding, including, without limitation, attorneys' fees, court costs, and other expenses such as sampling and monitoring expenses, and the cost of any actual damages incurred by the Commission.
- C. In determining the amount of civil liability, the Court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

#### **11.14 Criminal Prosecution.**

Any person who willfully or negligently violates any provision of this ordinance or any order or permit issued hereunder shall be subject to any criminal penalties imposed for such violation pursuant to State or Federal law or local ordinance.

### **SUBDIVISION 3: MISCELLANEOUS**

#### **11.15 Nonexclusive Remedies.**

The remedies for enforcing this ordinance are not exclusive. The Commission may take any, all, or any combination of these actions against a violator. However, the Commission may pursue other action against any user without limitation. The Commission may pursue more than one enforcement action against any violator and the institution of one type of action shall not bar the use of other remedies, nor shall the Commission be required to undertake any procedural step as a prerequisite to taking any other action except as expressly stated in this ordinance.

### **SUBDIVISION 4: AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

#### **11.16 Upset.**

- A. In this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards due to factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the user demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and the user can identify all causes of the upset;
  - b. At the time of the upset, the facility was operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - c. The user has submitted the following information to the Commission within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission shall be provided within 5 days):
    - i. A description of the indirect discharge and cause of noncompliance;
    - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - iii. Action being implemented and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- C. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- D. A user may assert a defense based upon a claim of upset only in an enforcement action brought for noncompliance with pretreatment standards.
- E. Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

#### **11.17 Prohibited Discharge Standards.**

A user may claim an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 4.1 or the specific prohibitions in § 4.2 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

- A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Commission was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements.

#### **11.18 Bypass.**

- A. In this section, "severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can

reasonable be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of § 11.18-C and D.
- C.
  - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Commission, at least 10 days before the date of the bypass, if possible.
  - b. A user shall submit oral notice to the Commission of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps implemented or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Commission may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- D.
  - a. Bypass is prohibited, and the Commission may initiate enforcement action against a user for a bypass, unless:
    - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - iii. The user submitted notices as required under § 11.18-C.
  - b. The Commission may approve an anticipated bypass, subsequent to considering its adverse effects, if the Commission determines that it will meet the three conditions listed in paragraph § 11.18-D(a)(i, ii and iii).

### **11.19 Enforcement Response Plan.**

The Commissioners, are authorized to adopt and amend an enforcement response plan which shall set forth the manner in which the Commission will proceed in enforcement actions as may be required by State or Federal law. The enforcement response plan shall be adopted or amended after public hearing and shall have the same force and effect as this ordinance. The Commission reserves the right to act in a manner other than that set forth in the enforcement response plan as circumstances may require.

(Note: Article 11 was amended on September 16, 1996, adding § 11.19)

## **ARTICLE 12 – MISCELLANEOUS**

### **12.1 Applicability.**

- A. This ordinance supersedes the existing “Rules and Regulations of the Ashland Sanitary Department,” adopted in 1971. If any provision of this ordinance conflicts with any provision of another Commission ordinance or regulation, or with any State or Federal law or regulation, that provision which imposes the higher standard or more stringent provision shall take precedence.
- B. The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part.

### **12.2 Interpretation.**

The provisions of this ordinance with respect to the meaning of technical terms and phrases, the classification of different types of sewers, the regulations with respect to making connections to sewers or drains, and other technical matters shall be interpreted and administered by the Superintendent under the direction and control of the Commissioners.

### **12.3 Appeals.**

Except for appeals of the denial of an IDP that shall be governed by § 7.4, any party aggrieved by any decision or order under this ordinance may appeal within 30 calendar days of said decision to the Commissioners. Any such appeal shall be in writing and shall set forth the grounds asserted as the basis for the appeal. A response to such appeal shall be issued within such time as may be necessary and appropriate. Any person aggrieved by a decision on appeal, or by a failure to act on the appeal, may appeal to a court with appropriate jurisdiction for further relief. Such appeal shall be filed within 30 days after the decision or within 45 days after the filing of the appeal if no action has been taken or scheduled on the appeal.

### **12.4 Effective Date.**

This ordinance shall take effect on April 1, 2017.

Duly adopted this 1<sup>st</sup> day of April, 2017, by the Commission of the Water and Sewer Departments, New Hampshire, pursuant to RSA 149-1.6.

Ashland, New Hampshire

By its Commissioners:

David Toth

Alan Cilley

Amended: September 1, 1996  
May 19, 1997  
December 1, 1997  
April 1, 2017

Ashland Sewer Department Rate Schedule

Billing Date: 15<sup>th</sup> of Every Month

Service Charge:

Meter Size	\$/Month	\$/Year
5/8"	\$5.00	\$ 60.00
1"	\$12.90	\$154.80
1 1/2"	\$29.00	\$348.00
2"	\$54.00	\$648.00

Volumetric Charge: \$7.20/100 cubic feet of water.

New Application Fee: \$100.00 plus fee for engineering review

Off Cycle Meter Reading: \$15.00

Connection Fee: \$15.00 per linear foot of frontage

Adopted:

Effective: April 1, 2017