



TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, including back up information, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

MEETING INFORMATION

Date Submitted: May 6, 2022 Date of Meeting: May 26, 2022
 Submitted by: Town Council Chair Finlay Rothhaus and Vice Chair Nancy Harrington
 Department: Time Required: 15 minutes
 Speakers: Asst. Director Public Works/Wastewater Background Info. Yes: No:
 Sarita Croce Supplied:

CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:	<input type="checkbox"/>	Recognition/Resignation/Retirement:	<input type="checkbox"/>
Public Hearing:	<input type="checkbox"/>	Old Business:	<input type="checkbox"/>
New Business:	<input type="checkbox"/>	Consent Agenda:	<input checked="" type="checkbox"/>
Nonpublic:	<input type="checkbox"/>	Other:	<input type="checkbox"/>

TITLE OF ITEM

Consideration of Changes to Chapter 158, Sewer Use, of the Merrimack Town Code [Final Reading]

DESCRIPTION OF ITEM

The Town Council to consider the acceptance of recommended changes to Chapter 158, Sewer Use, of the Merrimack Town Code, pursuant to Charter Article V.

REFERENCE (IF KNOWN)

RSA: Warrant Article: _____
 Charter Article: V Town Meeting: _____
 Other: N/A

EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:	<input type="checkbox"/>	Grant Requirements:	<input type="checkbox"/>
Easel:	<input type="checkbox"/>	Joint Meeting:	<input type="checkbox"/>
Special Seating:	<input type="checkbox"/>	Other:	<input type="checkbox"/>
Laptop:	<input type="checkbox"/>	None:	<input type="checkbox"/>

CONTACT INFORMATION

Name: Sarita Croce Address: 36 Mast Road
 Phone Number: 603-883-8196 Email Address: scroce@merrimacknh.gov

APPROVAL

Town Manager: Yes No: Chair/Vice Chair: Yes No:

1 **Public Hearing**

2 **1. Public Hearing - Consideration of Changes to Chapter 158, Sewer Use, of the Merrimack Town**
3 **Code**

4 *Submitted by Town Council Chair Tom Koenig and Vice Chair Finlay Rothhaus*

5 The Town Council will hold a public hearing to consider the acceptance of recommended changes to
6 Chapter 158, Sewer Use, of the Merrimack Town Code, pursuant to Charter Article V.

7
8 Assistant DPW Director/Wastewater Assistant Director Sarita Croce was present to discuss the Town
9 Council comments on the Sewer Use Ordinance revisions. Town Manager Paul Micali wanted to state that
10 they did get buy in from both the EPA and DES for the changes that they are going to present to the Council
11 and public tonight. Additionally, he stated that they did notify businesses that they thought would be
12 interested in this ordinance change, however there were no comments from the businesses. Ms. Croce then
13 reviewed the sewer ordinance and why they were presenting to the Council, highlighting the following
14 reasons for the revision:

- 15 • To comply with USEPA required revisions
- 16 • To comply with NHDES regulatory changes
- 17 • To match the most recent USEPA model ordinance
- 18 • To match the most recent USEPA Local Limits Development Guidance Document
- 19 • Administrative changes to provide further clarity to the SUO

20
21 Ms. Croce then shared the following revisions made during the April 14th meeting:

- 22 • NHDES no longer requires industrial users served by a WWTP that have an EPA approved
23 pretreatment program file an Industrial Wastewater Indirect Discharge Request (IDR) under Env-Wq
24 305.10 and obtain DES approval prior to issuance of a permit by the WWTP
- 25 • The Town has revised the SUO to include the IDR requirements previously included in Env-Wq
26 305.10
- 27 • Revisions are presented on Redline Version- Page 43-44
- 28 • Added section 158-56(I)
- 29 • The ordinance allowed for the review and approval of the Town IDR application by both EPA and
30 NHDES:
 - 31 ○ (i) The completed application shall be sent to both NHDES and USEPA for review and
32 approval
 - 33 ○ (ii) Comment period shall be 30 days. Should either NHDES or USEPA not provide
34 comments, the IDR permit application shall be considered approved
- 35 • Town Council questioned the need for NHDES review
- 36 • 158-56 (I) revised to remove the requirement for both EPA and NHDES to review and approve the
37 IDR application
- 38 • EPA believes that the Town has the authority to review and approve the IDR without EPA's
39 oversight
- 40 • NHDES concurred with the Town Council's comment
- 41 • 158-56(I) revised as follows:
 - 42 ○ (g) The approval shall be based on and apply only to the subject discharge request and all
43 associated plans and supporting information as submitted in the completed, signed discharge
44 request
- 45 • 158-56(I) revised per NHDES request:
 - 46 ○ Changed "Indirect Discharger" to "Industrial User" as indicated below:
 - 47 ○ (I) Industrial Wastewater Discharge Request
 - 48 ▪ (a) Subject to (b), below,
 - 49 ▪ (1) Is from a significant industrial user

- 1 • 158-56 (I):
 - 2 ○ Added “decrease” as indicated below:
 - 3 ○ (f) The indirect discharger shall now make changes to any processes that contribute to the
 - 4 wastewater discharge that would increase/decrease the amount of flow, change the
 - 5 characteristics of the pollutants discharged, or increase the concentration of any pollutant
 - 6 without prior approval by the Town through the submission of a new industrial wastewater
 - 7 discharge request
- 8 • 158-57 Wastewater discharge permit reconsideration
 - 9 ○ Any person, including the industrial user, may petition the Town Manager to reconsider the
 - 10 terms of a wastewater discharge permit within 30 calendar days of its issuance
 - 11 ○ Added “calendar” to the citation for clarity

12
13 After Ms. Croce’s presentation, there were no comments from the Council, therefore the public hearing was
14 opened at 7:26pm and closed at 7:27pm.

15
16 **MOTION made by Vice Chair Harrington and seconded by Councilor Koenig to move this item to the**
17 **Consent Agenda.**

18 **MOTION CARRIES 7-0-0**

19
20 **Legislative Updates from State Representatives**

21 None.

22
23 **Town Manager’s Report**

24 None.

25
26 **Consent Agenda**

27 None.

28
29 **Old Business**

30 None.

31
32 **New Business**

33 **1. Ambulance Capital Reserve Fund Withdrawal Request & Discussion**

34 *Submitted by Fire Chief Mark DiFronzo*

35 The Town Council to consider the request to withdrawal \$303,000 from the Ambulance Capital
36 Reserve Fund for the purchase of a new ambulance for the Merrimack Fire Rescue Department.

37
38 Town Manager Paul Micali began the discussion by stating that this ambulance was in the Capital Reserve
39 Fund under the Capital Improvement Plan since 2019. Chief DiFronzo then shared that with the high volume
40 of ambulance calls, they are in need of a new ambulance to cover the town’s needs. He then stated that if
41 they were to trade in their current ambulance, they would only get about \$20,000, mostly due to the fact that
42 there is a power load stretcher system mounted in the truck. In lieu of this, they decided they could keep this
43 ambulance as a spare in case a truck goes out of service. Purchasing a new ambulance will cost just over
44 \$231,000 for the truck, \$32,000 for the striker load system, \$10,000 for radios, and about \$100,000 for
45 supplies. He also shared that they would also like to purchase a cardiac compression device as they currently
46 do not have one and this is a good opportunity to invest in one. There was some discussion among the
47 Council regarding collecting the data to back up the need for another ambulance and the capital reserve fund
48 balance, with the Council ultimately agreeing on this purchase.

Chapter 158, SEWER USE ORDINANCE

[HISTORY: Adopted by the Town Council of the Town of Merrimack 1-26-2012; Amended 10-26-2017; 5-26-2022. Amendments noted where applicable.]

GENERAL REFERENCES

Payment of wastewater treatment deficits — See Ch. 79.

Stormwater management standards — See Ch. 167.

Article I General Provisions

§ 158-1 Intent.

This chapter regulates the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system and provides penalties for violations thereof in the Town of Merrimack, County of Hillsborough, State of New Hampshire.

§ 158-2 Purpose and policy.

This chapter sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the Town of Merrimack and enables the Town to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- E. To improve the opportunity to recycle and reclaim wastewater and sludge 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 Town to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

§ 158-3 Applicability.

This chapter shall apply to all users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

**Article II
Allocation Policy**

§ 158-4 Requests for allocations and connections.

All requests for sewer connections and sewer allocations for proposed developments shall be referred to the Public Works Director. The Director shall evaluate the request within the parameters established by the Town of Merrimack Sewer Master Plan, latest edition. The Director may request of the applicant projected construction phasing and implementation of requested allocation schedules. The Director may make aforementioned schedules a condition of approval of allocation requests. Existing allocations are non-transferrable upon sale of the property or Change of Use. A new allocation request must be made to the Director.

§ 158-5 Grant or referral of requests.

After proper evaluation, the Public Works Director may grant sewer connection and allocation. In the event that the sewer allocation request falls outside the parameters as described above, the Public Works Director shall refer the request, with his recommendation, to the Town Manager.

**Article III
Definitions and Abbreviations**

§ 158-6 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

ACT

The Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251.

APPROVAL AUTHORITY

The EPA Regional Administrator.

AUTHORIZED AGENT

- (1) If The User is a corporation:

- (a) 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
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) 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 their designee.
 - (4) The individuals described in paragraphs 1 through 3, above, may designate a Duly 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 written authorization is submitted to the Town.

BEST MANAGEMENT PRACTICES (BMP)

The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 158-38 and 40 CFR §403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND (BOD)

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C, expressed in milligrams per liter, as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition.

BUILDING LATERAL

The sewer lateral from the building to the public sewer; also called "house connection."

BUILDING SEWER

That part of the lowest horizontal piping of a drainage system which receives the discharge from inside the walls of the building and conveys it to the building lateral, beginning 30 inches outside the inner face of the building wall.

BYPASS

The intentional diversion of waste streams from any portion of an industrial user's pretreatment facility.

COMBINED SEWER

A sewer intended to receive both wastewater and storm- or surface water; such system as it exists in the Town shall be separated.

COMMERCIAL FACILITY/USER

Any building or portion thereof where commerce is transacted. Commercial facility may include but not be limited to: office buildings, medical centers including dental facilities, restaurants, food service facilities, hotels, malls, retail stores, farm land, multifamily housing buildings, warehouses, septage haulers, and garages.

COMPOSITE SAMPLE

The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

CONTROL AUTHORITY

The Town , in compliance with the EPA approval of the pretreatment program on February 27, 1985.

DENTAL DISCHARGER

A facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).

DENTAL MOBILE UNIT

A specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.

DOMESTIC WASTEWATER or SANITARY SEWAGE

Normal water-carried household and toilet wastes or waste from sanitary conveniences, excluding ground-, surface or stormwater.

DWELLING UNIT

A building or portion of a building in which no more than one family lives.

EASEMENT

An acquired legal right for the specific use of land owned by others.

ELEMENTARY NEUTRALIZATION SYSTEM

Elementary neutralization systems are tanks, tank systems, or containers, used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic. Corrosivity characteristics of hazardous wastes are exhibited by liquids that have a pH equal to or less than 2.0 or greater than or equal to 12.5. These systems neutralize the waste which may be discharged to the Town between a pH of 5.0 and 9.5 per Town of Merrimack Code, Chapter §158-38(B)(3).

EXISTING SOURCE

Any source of discharge, the construction or operation of which commenced prior to the publication 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 Act.

FEDERAL

The United States Environmental Protection Agency.

FLOATABLE OIL

Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil or fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE

The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

GRAB SAMPLE

A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

INDIRECT DISCHARGE

A facility that discharges waste into a publicly owned treatment works (POTW) from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL ESTABLISHMENT

Any building or portion thereof where people or companies are engaged in industrial production or enterprise.

INDUSTRIAL USER

A person or entity who discharges industrial wastes to the wastewater facilities of the Town of Merrimack.

INDUSTRIAL WASTES

The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT

The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE

An indirect discharge that, alone or in conjunction with indirect discharge(s) from other sources:

- (1) Inhibits or disrupts the POTW's treatment processes or operations, or its processing, use, or disposal of sludge in compliance with applicable statutes and rules; or
- (2) Is a cause of a violation of any requirements of the POTW's federal or state discharge permit; or
- (3) Prevents sewage sludge use or disposal in compliance with the following statutory provisions and rules or permits issued thereunder:
 - a. Env-Sw 100 et seq. relative to solid waste management;
 - b. Env-A 100 et seq. relative to air pollution control;
 - c. The General Pretreatment Regulations For Existing and New Sources of Pollution, 40 CFR 403;
 - d. The Federal Toxic Substances Control Act;
 - e. The Federal Marine Protection, Research and Sanctuaries Act; and
 - f. Env-Wq 800 and 40 CFR 503 relative to use or disposal of sewage sludge.

LOCAL LIMIT

Specific discharge limits developed and enforced by the Town, following EPA review and approval, upon industrial or commercial Users to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

MAY

Is permissive (see "shall").

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL PRETREATMENT STANDARD

Any regulations containing pollutant discharge limits promulgated by USEPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) which apply to a specific category of industrial users and which are found in the Code of Federal Regulations, 40 CFR, Subchapter N, Parts 401 through 471.

NATURAL OUTLET

Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

NEW DEVELOPMENT

Any new subdivision or condominium development.

NEW SOURCE

- A. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection A(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a new source as defined under this definition has commenced if the owner or operator has:
- (1) Begun, or caused to begin as part of a continuous on-site construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities, which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

NHDES

The New Hampshire Department of Environmental Services.

NONCONTACT COOLING WATER

The water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

PASS-THROUGH

The discharge of pollutants through the POTW into surface waters in quantities or concentrations which, alone or in conjunction with discharges from other sources, are a cause of a violation of any requirements of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of applicable water quality criteria.

PERSON

Any individual, firm, company, association, society, corporation, group, partnership, municipality, governmental subdivision or other entity.

pH

The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} . A measure of acidity or alkalinity expressed in standard units.

pH EXCURSION

An unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the applicable effluent limitations guidelines. Any pass-through or interference episode shall supersede an excursion event.

PHARMACEUTICAL WASTE

A prescription drug, as defined by RSA 318:1, XVII, or a nonprescription or proprietary medicine, as defined by RSA 318:1, XVIII, that is no longer suitable for its intended purpose or is otherwise being discharged.

POLLUTANT

Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, total suspended solids (TSS), turbidity, color, biochemical oxygen demand (BOD), chemical oxygen demand (COD), toxicity, and odor].

POTW or PUBLICLY OWNED TREATMENT WORKS

A wastewater treatment plant as defined by Section 212 of the Clean Water Act (33 U.S.C. section 1292) which is owned by the Town. This definition includes any devices and

systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. This definition includes sewers, pipes and other conveyances used to convey wastewater to the Town wastewater treatment plant. The term also means the Town, which has jurisdiction over the Indirect Discharge to and discharges from the Town wastewater treatment plant.

PRETREATMENT

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.

PRETREATMENT REQUIREMENTS

Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

PRETREATMENT STANDARDS or STANDARDS

Prohibitive discharge standards, categorical pretreatment standards, and local limits.

PRIVATE SEWER

A sewer or sewer system privately owned, maintained, and used by one or more properties.

PRIVATE WASTEWATER DISPOSAL SYSTEM

Any privately owned and operated and maintained system, device, or facility for the collection, treatment and disposal of wastewaters. For example: condominiums developments, septic systems, and laterals from the main to the building.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES

The absolute prohibitions against the discharge of certain substances; these prohibitions appear in Article VII, § 158-38B.

PROPERLY SHREDDED GARBAGE

The animal or vegetable wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PUBLIC SEWER

A common sewer controlled by a governmental agency or public utility.

PUBLIC WORKS DIRECTOR (DIRECTOR)

The public works director or his/her designee shall be responsible for all the functions and duties of the public works department as established by federal laws, state laws, Town ordinances, or resolutions.

RADIOLOGICAL WASTE

A radioactive waste as regulated by RSA 125-F.

RESIDENTIAL USER

Discharge of wastewater from household and toilet wastes or from sanitary conveniences, excluding ground-, surface or stormwater.

RIGHT-OF-WAY

Per RSA 674:24, VII, "right-of-way" means and includes all present and proposed Town, state and federal highways and land on either side of same as covered by statutes to determine the widths of rights-of-way.

SANITARY SEWER

A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground-, storm-, and surface waters that are not admitted intentionally.

SCREENING LEVEL

That concentration of a pollutant which, under baseline conditions, would cause a threat to personnel exposed to the pollutant or would cause a threat to structures of wastewater facilities. If any of the sewer screening levels based on fume toxicity values are exceeded in the sewer system, the industrial user may be required at the discretion of the Town to further evaluate the health, flammability and chemical reactivity in the collection system.

SEPTIC TANK WASTE

Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SEWAGE

The spent water of a community. The preferred term is "wastewater."

SEWER

A pipe or conduit that carries wastewater or drainage water.

SHALL

Is mandatory (see "may").

SIGNIFICANT INDUSTRIAL USER

A. Except as provided in Subsections **B** and **C** of this definition, the term "significant industrial user" means:

- (1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- (2) Any other industrial user that discharges an average of 25,000 gallons per day or more of

process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)].

- B. The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
- (1) The industrial user, prior to the Control Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
 - (3) The industrial user never discharges any untreated concentrated wastewater.
- C. Upon a finding that an industrial user meeting the criteria in Subsection **A(2)** of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SLUG LOAD or SLUG DISCHARGE

Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Article **VII**, § **158-38B**, of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE

A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

STORM DRAIN (sometimes termed "storm sewer")

A drain or sewer for conveying stormwater, groundwater, subsurface water, or unpolluted water from any source.

STORMWATER

Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

SUPERINTENDENT/ ASSISTANT DIRECTOR OF PUBLIC WORKS

The supervisor of wastewater facilities, or of wastewater treatment works, or of water pollution control of the Town of Merrimack, or his authorized deputy, agent, or representative.

SUSPENDED SOLIDS (SS)

Total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as "nonfilterable residue."

TOWN

The Town Council is the governing board for the Town of Merrimack, County of Hillsborough, State of New Hampshire. The Town Council appoints a Town Manager who acts as a liaison between elected officials and the public.

TOWN MANAGER

The Town of Merrimack Principal Executive Officer.

TOXIC POLLUTANT

One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. § 1317) of the Act.

TREATMENT PLANT EFFLUENT

Any discharge of pollutants from the POTW into waters of the state.

UNPOLLUTED WATER

Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER

The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

WASTEWATER FACILITIES

The structures, equipment, and processes required to treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS

An arrangement of devices and structures for the treatment of wastewater, industrial waste and sludge. Also known as "POTW or publicly owned treatment works," "wastewater treatment plant," "wastewater treatment facility" or "water pollution control plant."

WATERCOURSE

A natural or artificial channel for the passage of water either continuously or intermittently.

§ 158-7 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand
BMP	Best Management Practice
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
gpd	Gallons per day
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NHDES	New Hampshire Department of Environmental Services
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and maintenance
POTW	Publicly owned treatment works
PWD	Public Works Department

RCRA	Resource Conservation and Recovery Act
ROW	Right-of-way
SIC	Standard industrial classifications
SWDA	Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.)
TSS	Total suspended solids
USC	United States Code

Article IV
Use of Public Sewers Required

§ 158-8 Unlawful deposit.

It shall be unlawful for any person to 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 within the Town of Merrimack, or in any area under the jurisdiction of said Town.

§ 158-9 Unlawful discharge.

It shall be unlawful to discharge to any natural outlet within the Town of Merrimack, or in any area under the jurisdiction of said Town, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

§ 158-10 Privies and septic tanks.

When a public sewer is available, it shall be unlawful to construct or maintain any privy, privy vault, septic tanks, cesspool, or other facility intended or used for the disposal of wastewater, except as hereinafter provided.

§ 158-11 Owner requirements.

- A. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer of the Town, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter and the International Plumbing Code as adopted, within 180 days after date of official notice to do so, provided that said public sewer is within 200 feet of the said building.
- B. Upon written request from the owner to defer connection to the public sewer, the Town, through the Town Council, may defer the requirement to connect to the public sewer provided the owner meets the following criteria:

- (1) Has had an inspection performed by a New Hampshire licensed subsurface disposal designer approved by the Town demonstrating the system is properly functioning which has been reviewed and approved by the Health Officer and Public Works Director.
- (2) The system has received approval by the New Hampshire Department of Environmental Services (NHDES).
- (3) The system was installed less than 30 years from the time of the request.

§ 158-12 Industrial wastes.

- A. Persons discharging industrial process wastes into the public sewer or Town wastewater treatment facility shall comply with the applicable requirements of the federal (including the National Categorical Pretreatment Standards, as amended) and New Hampshire Department of Environmental Services (NHDES) pretreatment regulations (as amended) in addition to this chapter.
- B. All industrial and commercial facilities in the Town of Merrimack that will be discharging to the sewer system must complete and submit an industrial wastewater classification survey to the Director. A completed survey must be received by the director within 30 days of the occurrence of any of the following:
 - a. Receipt of a survey questionnaire with a request for completion and submittal a Town Official;
 - b. Application for a building permit for initial construction, expansion or remodeling; and/or
 - c. Change of use of the facility.
- C. The survey questionnaire must be submitted for review before the building permit is issued.
- D. All industrial and commercial users shall update their industrial wastewater classification survey on file with the Town of Merrimack whenever significant changes are made in an industrial operation or process. Significant changes include, but are not limited to, an increase or decrease in wastewater volume, changes in the concentration or mass loadings of waste materials or substances, or changes in types of waste discharged to the POTW sewer. The Pretreatment Manager may also require the submittal of a new industrial wastewater discharge application in accordance with Chapter 158-24 as deemed necessary.

Article V

Private Wastewater Disposal

§ 158-13 Use of private system.

Where a public sanitary sewer is not available under the provisions of Article IV, § 158-11, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

§ 158-14 Permit required; permit and inspection fees.

Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain design approval from the New Hampshire Department of Environmental Services (NHDES) and a written permit signed by the Town Building Inspector or designee. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Town. A permit and inspection fee as established by the Town Council shall be paid to the Town at the time the application is filed. Additional payments shall be made to the Town for inspection of private wastewater facilities serving larger industrial and commercial users. In such cases, the payment shall be based on the actual cost to the Town.

§ 158-15 Inspections.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Town. The Town shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Town when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Town.

§ 158-16 Construction standards.

The type, capacities, location, layout and installation (including inspection) of a private wastewater disposal system shall comply with all laws and regulations of the New Hampshire Department of Environmental Services (NHDES) and the Town of Merrimack. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§ 158-17 Abandonment.

At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, as provided in Article IV, § 158-11, a direct connection shall be made to the public sewer within 180 days and any abandoned holding tank or tanks and connections thereto shall be filled and sealed in accordance with the provisions of the Town's International Plumbing Code as adopted.

§ 158-18 Operation and maintenance.

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town. At no time should any quantity of industrial waste be discharged to a private wastewater disposal facility.

§ 158-19 Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Building Inspector or designee of the Town of Merrimack pursuant to RSA 147:8.

§ 158-20 Construction in public streets.

No private sewer or drain shall be laid within the limits of any public street, except by an experienced, bonded drain layer approved by the Town. The bonded drain layer shall be held liable for any expense to the Town on account of any imperfect work within the street limits done by his employees.

§ 158-21 Contractor.

All contractors who apply for a permit for making excavation within the limits of the public streets of the Town for the purpose of laying private sewers must comply with the following requirements:

- A. Applicant shall post a surety bond in an amount sufficient to cover the cost of the project as required in the permit to work in the Town right-of-way (ROW) as issued by the Public Works Department (PWD), Highway Maintenance Division.
- B. All work performed by contractors under this permit shall comply with all Town regulations.
- C. All contractors will cause the excavation to be properly guarded at all times for the protection of the public.
- D. All contractors will properly make all connections and joints in every sewer and will indemnify and hold harmless the Town of Merrimack from any damage or cost for which it may be liable by reason of injury resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any private sewer, or proper fencing or lighting any excavation or obstruction, or in performing any other work connected therewith.

§ 158-22 Septage hauler requirements.

Additional septage hauler requirements are as follows:

- A. The Town shall require septage haulers to obtain an individual user pretreatment permit prior to discharging to the Merrimack POTW. These permits will be reissued on a periodic basis.
- B. Septage haulers can only discharge loads at locations specifically designated by the Town.
- C. The Town may collect samples of each hauled load to ensure compliance with applicable pretreatment standards.
- D. No load may be discharged without prior consent of the Town.
- E. The Town may require the hauler to provide a waste analysis of any load prior to discharge.
- F. The waste hauler must use the POTW waste tracking form to record every load that is pumped and delivered to the POTW.

- G. Septage haulers are strictly prohibited from discharging industrial septage at the Merrimack POTW, unless prior consent is granted by the Town and New Hampshire Department of Environmental Services (NHDES).

Article VI

Building Sewers and Connections

§ 158-23 Permit required.

No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.

§ 158-24 Application for permit.

There shall be two classes of building sewer permits: for residential and commercial service producing only domestic wastewater (or sanitary sewage) as defined herein, and for service to establishments producing industrial wastes and commercial facilities that produce a process wastewater effluent or discharge. Commercial facility may include but not be limited to: office buildings, medical centers including dental facilities, restaurants, food service facilities, hotels, malls, retail stores, farm land, multifamily housing buildings, warehouses, septage haulers, and garages. In either case, the owner(s) or agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Town. A permit and inspection fee, as established by the Town Council from time to time, for a residential or commercial building sewer permit shall be paid to the Town at the time the application is filed. The permit and inspection fee for industrial service and commercial facilities that produce a process wastewater effluent or discharge shall be based on the actual cost to the Town.

- A. The Town may stipulate special conditions and terms upon which the industrial user permit is predicated, and this may include, but shall not be limited to, the following:
- (1) Limitation on quantity, rate of discharge and wastewater characteristics.
 - (2) Installation of flow monitoring and sampling facilities.
 - (3) Requirements for monitoring programs (including monitoring waivers approved in accordance with 158-44- Monitoring), including flow measurement, wastewater sampling and analysis and schedule for reporting and submission of data. The Town will review the data furnished and has the authority to request additional information if required.
 - (4) Pretreatment requirements, including schedules of compliance and progress notification.
 - (5) Special fees and service charges.
 - (6) Wastewaters discharge peak rate and volume over a specified time period.
 - (7) Chemical analyses of wastewaters.

- (8) Information on raw materials, processes, and products affecting wastewater volume and quality.
 - (9) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
 - (10) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
 - (11) Details of wastewater pretreatment facilities.
 - (12) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
 - (13) Other requirements to comply with federal, state and local regulations.
- B. Discharge permits shall not be transferred or reassigned.
- C. A permit expiration date can be extended and will remain enforceable if the permit is not reissued provided the permittee complies with the following:
1. The permittee has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and
 2. 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.
 3. The extension shall not exceed one year period or 365 days.
- D. It is the responsibility of the permittee to ensure that all the characteristics of the wastewater have been fully disclosed. The permittee shall certify that there are no material omissions or misrepresentations in the application hereto and that neither the application nor the attached information contains any untrue statement of a material fact or omit to state any material facts necessary to issue a wastewater discharge permit. Permittees shall be subject to the remedies, including penalties for failure to disclose.

§ 158-25 Costs and expenses.

All costs and expenses incidental to the installation, maintenance and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the improper maintenance or installation of the building sewer. Furthermore, the building owner is responsible for all costs of maintenance, cleaning and repair of the lateral connection from the sewer main to the building. All costs and expenses incidental to the installation, maintenance, cleaning and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation and maintenance of the building sewer, including the proper installation, maintenance and cleaning of backflow preventers (check valve) and building laterals where the building lateral fails or develops a blockage.

§ 158-26 Separate building sewer required.

Unless specifically authorized by the Town, a separate and independent building sewer shall be provided for every building, except 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 Town does not and will not assume any obligation or responsibility for damage caused by, or resulting from, any such single connection aforementioned.

§ 158-27 Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the Town, to meet all requirements of this chapter. All costs of such testing and inspection, including any pipeline video recording [see Town Public Works Department (PWD) Construction Standards for testing requirements], shall be borne by the owner(s).

§ 158-28 Materials and methods of construction.

The size, slope, alignments, 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 Town's Building and Plumbing Codes and the appropriate sections of the Town's standard specification for sewer construction. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the latest edition of the ASTM Water Environment Federation Manual of Practice No. 9 shall apply.

§ 158-29 Elevation of building sewer.

Whenever possible, any 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 from the sanitary facilities to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the owner's expense.

§ 158-30 Surface runoff and groundwater.

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

§ 158-31 Connection specifications.

The connection of the building sewer into the public sewer shall conform to the requirements of the Town's Building and Plumbing Codes and other applicable rules and regulations of the Town or the procedures set forth in appropriate specifications of the ASTM and the Water Environment Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by Town inspection. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.

§ 158-32 Inspection and supervision.

The applicant for the building sewer permit shall notify the Town when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Town.

§ 158-33 Guarding of excavations; restoration of disturbed property.

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 work shall be restored in a manner satisfactory to the Town at the expense of the owner.

§ 158-34 New discharge; increase or change in discharge.

- A. Any person proposing a new discharge into the system or an increase in the volume, beyond limits previously permitted, or in the strength or character of pollutants that are discharged into the system shall make application to the Town at least 60 days prior to the proposed change or connection. No person shall operate with such an increase or change without first having received a modification to his permit. Proposed new discharges from residential or commercial sources involving loading exceeding 50 population equivalents (5,000 gpd) or any extensions of the sanitary sewer collection system with eight-inch pipe or larger, including manholes, etc., any new industrial discharge, or any alteration in either flow or waste characteristics in industrial discharge may require approval by the New Hampshire Department of Environmental Services (NHDES).
- B. In the event a permittee intends to cease to discharge from a regulated process or plans to disconnect from the wastewater system, the Public Works Director must be notified no later than 60 days prior to commencement of any action by the permittee. The notification shall provide a closure management plan that includes the following information, as a minimum:
 - a. Date of planned disconnect;
 - b. Methods of disposal of regulated process tanks, chemicals, sludges, plating wastes, cleaning solutions;
 - c. Methods of cleaning tanks, barrels or other vessels containing regulated pollutants;
 - d. Names of carriers and ultimate disposal site(s) of the regulated pollutants and the EPA permit numbers for transportation of the wastes, if a permit is required by EPA.
- C. The permittee shall be responsible for all discharges to the wastewater system and shall not be disconnected until the Director or his/her designee has determined the permittee has disposed of the regulated wastes in a proper and safe manner and has requested termination of the discharge permit in writing. The permit shall be terminated in accordance 158-59(C).

§ 158-35 Contractor

All contractors who apply for a permit for making excavation within the limits of the public streets of the Town for the purpose of laying private sewers must comply with the following requirements:

- A. Applicant shall post a surety bond in an amount sufficient to cover the cost of the project as required in the permit to work in the Town right-of-way (ROW) as issued by the Public Works Department (PWD), Highway Maintenance Division.
- B. All work performed by contractors under this permit shall comply with all Town regulations.
- C. All contractors will cause the excavation to be properly guarded at all times for the protection of the public.
- D. All contractors will properly make all connections and joints in every sewer and will indemnify and hold harmless the Town of Merrimack from any damage or cost for which it may be liable by reason of injury resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any private sewer, or proper fencing or lighting any excavation or obstruction, or in performing any other work connected therewith.

Article VII Use of the Public Sewers

§ 158-36 Discharge of unpolluted waters.

No person(s) shall discharge or cause to be discharged to the wastewater facilities any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or noncontact cooling water to any sanitary sewer.

§ 158-37 Stormwater; industrial cooling water.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or a natural outlet approved by the Town. Industrial cooling water or process waters require a National Pollutant Discharge Elimination System (NPDES) permit and Town approval prior to discharge to a storm sewer or natural outlet.

§ 158-38 Pollutants; prohibited discharges.

- A. Pollutants introduced into the POTW by any sewer User shall not pass through or interfere with operation or performance of the POTW.
- B. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - (1) Pollutants which could create a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed-cup flash point of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.

- (2) Any industrial wastes, including oxygen demanding wastes (BOD, etc.), released in a discharge at a flow rate or concentration which will cause interference with the wastewater treatment works, constitute a hazard to humans or animals, create a public nuisance, exceed any applicable National Categorical Pretreatment Standards, or cause pass-through.
- (3) Any waters or wastes having pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers and/or interferes with the proper operation of the wastewater facilities, such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (5) Wastewater sufficiently hot to cause the influent at the wastewater treatment facilities to exceed 104° F. (40° C.) or cause inhibition of biological activity in the POTW.
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
- (7) 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.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW and at such times as are established by the Town.
- (9) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Town.
- (10) Any wastewater causing the treatment plant's effluent to fail a whole effluent toxicity testing standard.
- (11) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- (12) Strong acid pickling waste and concentrated plating solutions, whether neutralized or not.
- (13) Any medical/infectious wastes, pharmaceutical waste, or radiological waste except as specifically authorized in a discharge permit.
- (14) Household hazardous wastes, including but not limited to paints, stains, thinners, pesticides, herbicides, antifreeze, transmission and brake fluids, motor oil and battery acid.

- (15) Any hazardous waste listed or designated by New Hampshire Department of Environmental Services (NHDES) under Chapter Env-Hw 400 (Identification and Listing of Hazardous Wastes) of the New Hampshire Code of Administrative Rules.
- (16) Any substance with color not removed at the POTW, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (17) Any emulsifying agents, solvents or enzymes that causes fats, oils or grease to pass through an interceptor causing blockages of or the requirement for excessive maintenance of the sanitary sewer.
- (18) Any substance which may cause the POTW's effluent or treatment residues, biosolids or scums to be unsuitable for reclamation and reuse or which may interfere with such reclamation and reuse process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under section 405 of the Clean Water Act, any criteria, guidelines or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, Ambient Ground Water Quality regulations, the Clean Air Act, the Toxic Substances Control Act or state or local standards applicable to the biosolids management method adopted by the city.
- (19) Any substance which damages or causes unusual wear of POTW equipment.
- (20) Any wastewater that has not been specifically disclosed in the permit application.
- (21) Molybdenum based corrosion inhibitors from commercial and industrial dischargers.

§ 158-39 Limited discharges; enforcement.

The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger life, limb, or public property or constitute a nuisance. The Town may set limitations lower than the limitations established in the regulations below if in its opinion such limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the Town will give consideration to such factors as the quantity of subject 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 plant, and other pertinent factors. The Town shall not permit those discharges which are prohibited by § 158-38 of this article. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated are as follows:

- A. Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin. Compliance shall be determined using Method 1664 A HEM and Method 8015 or an equivalent method which has been approved by the Director. If the facility also discharges FOG to the sewer system, then the facility shall substitute Method 1664 A HEM with Method 1664 A SGT (TPH method).
- B. Any garbage that has not been properly shredded (see the definition of "properly shredded garbage" in Article III, § 395-6). Garbage grinders may be connected to sanitary sewers 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.
- C. Any waters or wastes containing heavy metals, solvents, and similar objectionable or toxic substances to such degree that any such materials discharged to the public sewers exceed the limits established by the Town, the New Hampshire Department of Environmental Services (NHDES), or the National Categorical Pretreatment Standards, as promulgated by the U.S. Environmental Protection Agency, for such materials.
- D. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the Town, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge.
- E. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable state or federal regulations.
- F. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein. Any unusual concentrations, spills, or slugs shall be reported immediately to the Assistant Public Works Director/Wastewater Division of the wastewater treatment plant. A written report shall be sent by the industrial user to the Town within five days of the incident describing the reason for the spill, remedial action taken, and the steps taken to prevent its reoccurrence.
- G. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the permitted discharge.
- H. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- I. Wastewater with any of the following constituents at concentrations greater than those indicated below:

Cadmium	0.09 mg/l
Total chromium	1.54 mg/l
Copper	1.03 mg/l
Lead	0.15 mg/l
Nickel	0.44 mg/l
Silver	2.1 mg/l
Zinc	2.1 mg/l
Arsenic	0.19 mg/l
Selenium	1.0 mg/l
Mercury	0.17 mg/l
Total cyanide	3.73 mg/l

- (1) At the discretion of the Public Works Director or his designee, the Town may impose mass limitations in addition to or in place of the concentration-based limitations above.
- (2) The daily maximum allowable discharge standards are concentration limitations based on contributory flow from industrial users discharging industrial process wastewater to the Town's wastewater treatment facility. Industrial users that have historically discharged at or below the domestic or background concentrations for all or any one of the pollutants listed above may not discharge above their current level. If the industrial user intends to increase its contribution above its current level, the industrial user must submit a formal request to the Town for review.
- (3) The Town shall review industrial monitoring results to ensure that an industrial user previously discharging a particular pollutant at or below the domestic or background concentrations has not exceeded the respective threshold level. If a significant change in the concentration of a particular pollutant(s) is identified, the Town shall evaluate its current allowable headworks loading value(s) for that particular pollutant(s). If necessary to ensure the maximum headworks loading thresholds are not exceeded, the Town shall recalculate and adjust the discharge standards accordingly.

- (4) If an industrial user exceeds any of the discharge standards, the industrial user shall notify the Town within 24 hours of becoming aware of the violation. The industrial user must attempt to identify the source and duration of noncompliance and initiate corrective action immediately. A written report on noncompliance must be submitted to the Town within 30 days of the event. The industrial user shall also repeat analysis to the Town within 30 days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the industrial user, the Control Authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. However, the industrial user is not required to resample if the Town performs sampling at the industrial user at a frequency of at least once per month or the Town performs sampling at the industrial user between the time when the initial sampling was conducted and the time when the industrial user or the Town receives the results of this sampling.
- (a) All compliance reports must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. For all other pollutants, twenty-four-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge, and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.
- (b) For sampling required in support of baseline monitoring and ninety-day compliance reports, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the periodic reports on continued compliance and reports for industrial users not subject to categorical pretreatment standards, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

- J. The Town reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives present in Article I, General Provisions (§ 395-2, Purpose and policy), of this chapter or the general and specific prohibitions in Article VII of this chapter.
- K. If any of the following sewer screening levels are exceeded in the sewer and the repeat analyses indicate noncompliance with this screening level, then the industrial user shall implement, within 30 days of receipt of the repeat analyses, a study to evaluate the potential impact of the discharge of this pollutant to the Town collection system or the wastewater treatment facility. This study must be conducted under the supervision and approval of the Town. The screening level for sulfate shall be adjusted to account for the type of concrete used in sewer construction and the dilution present (community-specific list of screening levels).

Chloride	1,500 mg/l
Sulfate	1,500 mg/l
Sulfide	1.0 mg/l
Sulfite	2.0 mg/l

- L. If any individual sewer screening levels based on fume toxicity values are exceeded in the sewer system (list below is not all inclusive), the industrial user may be required at the discretion of the Town to further evaluate the health, flammability and chemical reactivity in the collection system. Such screening levels, generated on the basis of standard conditions, shall be adjusted for the particular conditions applicable to the specific discharge. Screening levels noted below are referenced from the USEPA's Local Limits Development Guidance Appendices, July 2004.

Compound	mg/l	Compound	mg/l
Acrolein	0.047	Ethyl benzene	1.659
Acrylonitrile	4.822	Hydrogen Cyanide	1.149
Benzene	0.014	Hydrogen Sulfide	0.03
Bromoform	0.227	Methyl bromide	0.30
Carbon Tetrachloride	0.011	Methyl chloride	0.557

Compound	mg/l	Compound	mg/l
Chlorobenzene	5.880	Methylene chloride	4.139
Chloroethane	5.880	Tetrachlorethane,1,1,2,2-	1.847
Chloroform	0.060	Tetrachloroethylene	0.945
Dichloroethane, 1,1-	1.685	Toluene	2.075
Dichloroethane, 1,2-	0.168	Trichloroethane,1,1,2-	1.601
Dichloroethylene, 1,1	0.016	Trichloroethane,1,1,1	2.759
Trans-Dichloroethylene,1,2	2.040	Trichloroethylene	0.026
Vinyl chloride	0.012		

M. The Town shall enforce the provision of this chapter in accordance with EPA guidelines and will define noncomplying events using the following terms:

(1) Significant noncompliance (SNC). Any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties. Instances of significant noncompliance (SNC) are industrial user violations which meet one or more of the following criteria:

(a) Violation of wastewater discharge limits.

[1] Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l).

[2] Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except pH).

[3] Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the

general public).

- [4] Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the POTW's exercise of its emergency authority to halt or prevent such a discharge.
 - (b) Violation of compliance schedule milestones, contained in the industrial user permit (IUP) or an enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - (c) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards within 30 days from the due date.
 - (d) Failure to accurately report noncompliance.
 - (e) Any other violation or group of violations that the Town considers to be significant.
- N. Dental dischargers shall comply with the Best Management Practice requirements identified in Code of Federal Regulations Title 40 CFR, Part 441, *Dental Office Point Source Category* and the requirements identified in New Hampshire Code of Administrative Rules Env-Wq 306, *Standards For Management of Mercury-Containing Amalgam*. These rules do not apply to wastewater discharges from dental mobile units.

§ 158-40 Authority of Town.

- A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in § 158-39 of this article, or which, in the judgment of the Town, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Town may, subject to limitations in §§ 158-38 and 158-47 of this article:
- (1) Reject the wastes.
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
 - (3) Require control over the quantities and rates of discharge, which includes flow equalization.
 - (4) Require industrial users with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter.
 - (5) Require any industrial user to develop and implement an accidental discharge/slug control plan. If required, slug control plans must be included in their industrial user discharge permit. At a minimum this slug control plan must include a description of discharge practices, including nonroutine batch discharges and a description of stored chemicals. This requirement will give the Town the flexibility to review the need for a slug control plan or other action as necessary on a continuing basis. Any additional significant industrial users must be evaluated within one year of being designated a significant industrial user. For

purposes of this subsection, a slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through or in any other way violate the POTW's regulations, local limits or permit conditions. Significant industrial users are required to notify the POTW immediately of any changes at their facility affecting potential for a slug discharge.

- (6) Require payment to cover added cost of handling and treating the wastes.
 - (7) Require 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, and measures for containing toxic organic pollutants (including solvents and equipment for emergency response).
- B. If Town or federal effluent limitations require pretreatment or equalization of waste flows, the design and installation of such facilities shall be subject to the review and approval of the Town and subject to the requirements of all applicable codes, ordinances and laws. Such facilities shall not be connected to the sanitary sewer until said approval is obtained in writing. Such approval shall not relieve the owner of the responsibility of discharging treated waste meeting the requirements of this chapter. Plans and specifications for a proposed pretreatment facility shall be the result of the design of a professional engineer registered in New Hampshire.
- C. To determine compliance with respect to prohibited discharges and categorical limitations on wastewater discharges with respect to the industrial user discharge permit, prohibitions and limitations may be made on the basis of either instantaneous grab samples or composite samples of the wastewater. Sampling of industrial wastewaters for the purpose of compliance determination will be performed at such frequency as the Town designates and may be on either a scheduled or random basis to ensure compliance.

§ 158-41 Grease, oil and sand interceptors.

- A. Grease interceptors, oil separators and sand interceptors shall be installed for the proper handling of liquid wastes containing floatable oil or grease, as specified in § 158-39A on the building drain of the following users of the sewer system:
- a. All commercial establishments engaged in the preparation and sale of foodstuffs to the general public such as restaurants, cafes, lunch counters, cafeterias, bars, kitchens in hotels, hospitals, factories or other profit or nonprofit organizations providing food services;
 - b. Establishments engaged in automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having wash or grease racks;

- c. All establishments operating a commercial garbage grinder;
- d. Dairies, slaughterhouses, commercial processing plants and other similar sources of grease and fat byproducts, unless such establishments are otherwise regulated by a discharge permit issued under this chapter;
- e. Any other users producing quantities of grit, sand, grease, fat or other materials which have the potential of causing partial or complete obstruction of the building sewer or other areas in the sewer system, require excessive maintenance of sewer lines or impede the transmission or treatment of sewage.

Interceptors Design installation, operation and maintenance.

- B. All interceptors shall be designed and installed in accordance with the requirements of current version of the International Plumbing Code, published by the International Code Council, Inc. All interceptors shall be of a type and capacity approved by the Town and shall be located as to be readily and easily accessible for cleaning and inspection.

The design standards are such that excessive amounts of grease, oil, sand, and other inert solids are effectively prevented from entering the POTW sewer. All other requirements of the International Plumbing Code, including safety considerations, access provisions for maintenance and cleaning, design of vents and covers, and types of construction materials shall be applicable.

They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town

- C. All interceptors shall be installed, maintained, repaired and operated by the discharger at his or her own expense. The installation shall be kept in continuous operation at all times, and shall be inspected and cleaned on a regular basis as required for efficient operation, by a service contractor qualified to perform such cleaning and inspection. Bioremediation may be used in addition to regular maintenance provided that the grease does not pass through the interceptor and cause blockages or excessive maintenance requirements.

Certificates of inspection and maintenance shall be kept on the premises of the interceptor installation and shall be made readily available to city authorized personnel for review and inspection. Wastes removed from the interceptor must not be reintroduced into an interceptor or sewer. Dischargers shall be subject to the remedies, including penalties for failure to inspect and maintain interceptors.

D. Enforcement

Any person, firm, partnership or corporation found to be violating, or in violation of, this provision will be subject to enforcement actions in accordance with §158- 79, *Continuing Violations*, of this chapter. For all continuing violations, the response will include a compliance

schedule. Additional enforcement responses available to the Town are consent orders, show cause hearing, compliance order, cease and desist order, administrative fines and civil or criminal prosecution.

§ 158-42 Pretreatment standards.

Persons discharging industrial process wastes into the public sewer or Town wastewater treatment facility shall comply with the National Categorical Pretreatment Standards, found in 40 CFR Chapter I, Subchapter N, Parts 405 to 471, which are hereby incorporated into this chapter. In addition, compliance is required with National Categorical Pretreatment Standards that have yet to be promulgated or amended, and the New Hampshire Department of Environmental Services (NHDES) pretreatment regulations (as amended), in addition to this chapter.

§ 158-43 Industrial wastes.

The Town, with the advice of a professional engineer registered in New Hampshire, shall determine the quantity and quality of all industrial wastes which can be properly taken into the sewerage system and treated at the sewage treatment works, in addition to the sanitary sewage from the Town, and the Town may regulate, by separate industrial user permit(s) approved by the Town Council, the flow of industrial wastes into the sewerage system.

§ 158-44 Monitoring.

- A. When required by the Town, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Town. The structure shall be installed at the owner's expense and shall be maintained by the owner(s) to be safe and accessible at all times.
- B. All industrial users discharging into a public sewer shall perform such monitoring as the Public Works Director or duly authorized employees or agents of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the PWD. Such records shall be made available upon request by the PWD to other agencies having jurisdiction over discharges to the receiving waters.
- C. All Industrial Users shall be allowed to apply for a monitoring waiver to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the permittee has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:
 - 1. A monitoring waiver may also be granted where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

2. The monitoring waiver shall only be valid only for the duration of the effective period of the Permit. The User must submit a new request for the waiver with each permit application.
 3. In making a demonstration that a pollutant is not present, the permittee must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with 40 CFR § 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis. An industrial user who is granted a monitoring waiver for pollutant(s) not present must certify that there has been no increase in the pollutant(s) in its wastestream due to activities of the industrial user in all required reports. The certification statement shall be as follows: I certify under penalty of law that that there has been no increase in the pollutant(s) listed in our monitoring waiver to our wastestream due to our industrial activities during the timeframe of this report. This document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure 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.
- D. In lieu of continuous monitoring for total toxic organics (TTO), the permittee may submit a toxic organic management plan to the Town following receipt of TTO analyses results indicating full compliance with the federal categorical standard.
1. At a minimum, the solvent/toxic organic management plan shall consist of:
 - a. Identification of the toxic organic compounds used [source(s) of pollutant(s)];
 - b. Method of disposal (control options exercised); and
 - c. Procedures for assuring that toxic organics do not routinely spill or leak into wastewater discharge to the Town (effectiveness of control options).
 2. Upon approval of the plan by the Town, the permittee shall submit a certification statement by July 31 and January 31 of each calendar year in lieu of performing the laboratory analysis for total toxic organics (40 CFR 122), Appendix D, Table II).
 3. The certification statement shall be as follows:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Total Toxic Organics (TTO), I certify that, to the best of my knowledge and belief, no discharge of toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the Toxic Organic Management Plan submitted to the Town of Merrimack.”

4. The certification statement shall be signed by an individual as defined in Part 4, Section H. of this permit and submitted to the office of the Merrimack Wastewater Treatment Facility, Industrial Wastewater Pretreatment Manager.

Any change in toxic organic management at the permitted facility, including any change in the toxic organic compounds used, shall nullify the plan approval, and shall require an additional TTO analyses results (compliant with standards) be submitted to the Town. In addition, a revised toxic organic management plan (see 1. above) shall be submitted for approval in lieu of continued TTO monitoring.

§ 158-45 Information to be provided.

The Town may require a user of sewer services to provide information needed to determine compliance with this chapter. Where the Town or Pretreatment Standard requires compliance with a BMP or pollution prevention alternatives, the User must submit documentation to determine compliance in periodic reports on continued compliance as required by the Standard or the Town.

These requirements may include:

- A. Wastewater discharge peak rates and volume over a specified time period.
- B. Chemical analyses of wastewaters.
- C. Information on raw materials, processes, and products affecting wastewater volume and quality.
- D. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- E. A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- F. Details of wastewater pretreatment facilities, including plans and specifications.
- G. Details of systems to prevent and control the losses of materials through spills into the municipal sewer.

§ 158-46 Measurements, tests and analyses.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the EPA-approved methods published in the Code of Federal Regulations, Title 40, Part 136 (40 CFR 136), or if none are available, then sampling and analysis shall be performed using validated analytical methods or other applicable procedures approved by the Town. Sampling methods, location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the Town.

§ 158-47 Special agreements.

- A. No statement contained in this article, except in § 158-38, shall be construed as preventing any special agreement or arrangement between the Town and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, provided that such agreements do not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder, are compatible with any user charge system in effect, and do not waive applicable National Categorical Pretreatment Standards. Special agreements may not, under any circumstances, be less stringent than any corresponding federal limitations established for the parameter of concern. Any special agreement established is subject to a mandatory annual evaluation.

- B. In addition, if at any time during the year the industrial user's process(es) or discharge(s) changes from the conditions to which the special agreement applies, or if a new industrial user connects to the Town's wastewater treatment facility whose discharge may impact the total industrial allocation of the specific parameter for which the special agreement has been reached, the Town may at that time reevaluate the special agreement and change the conditions of the agreement or revoke the agreement entirely, as determined to be necessary.

§ 158-48 Reporting.

Each significant industrial user must report twice a year to the Town by July 31 and January 31 of each year, or such other time as designated by the Town, a semiannual report containing information as to the minimum, average and peak flows of industrial wastewater discharges during the previous year and at time or times designated, analyses and wastewater samplings taken in an acceptable manner at approved times during the flow measuring periods.

§ 158-49 Septic tank waste.

- A. Septic tank waste (septage) may be accepted into the sewer system at a designated receiving structure within the treatment plant area, and at such times as are established by the Public Works Department, provided such wastes do not contain toxic pollutants or materials, and provided such discharge does not violate any other special requirements established by the Town. Septage will not be accepted at the treatment facility which exhibits a pH of less than five standard pH units. Permits to use such facilities shall be under the jurisdiction of the Public Works Department or its duly authorized representatives. The discharge of industrial wastes as "industrial septage" requires prior approval of the New Hampshire Department of Environmental Services (NHDES). Fees for dumping septage will be established as part of the user charge system. The Town shall have authority to limit the disposal of such wastes if such disposal would interfere with the treatment plant operation or violate the National Pollutant Discharge Elimination System (NPDES) permit. Procedures for the disposal of such wastes shall be in conformance with the operating policy of the Town, and disposal shall be accomplished under supervision of the Town unless specifically permitted otherwise. Municipalities need not accept septage if it would interfere with the proper operation of municipal treatment and disposal facilities (RSA 486:13).

B. Additional septage hauler requirements are as follows:

- (1) The Town shall require septage haulers to obtain an individual user pretreatment permit prior to discharging to the Merrimack POTW. These permits will be reissued on a periodic basis.
- (2) Septage haulers can only discharge loads at locations specifically designated by the Town.
- (3) The Town may collect samples of each hauled load to ensure compliance with applicable pretreatment standards.
- (4) No load may be discharged without prior consent of the Town.
- (5) The Town may require the hauler to provide a waste analysis of any load prior to discharge.
- (6) The waste hauler must use the POTW waste tracking form to record every load that is pumped and delivered to the POTW.
- (7) Septage haulers are strictly prohibited from discharging industrial septage at the Merrimack POTW, unless prior consent is granted from the Town and New Hampshire Department of Environmental Services (NHDES).

§ 158-50 Dilution.

It shall be illegal to meet requirements of this chapter by diluting wastes in lieu of proper pretreatment.

§ 158-51 Protection from accidental discharge.

Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharges shall be provided and maintained at the industrial user's expense.

§ 158-52 Bypass.

Bypass is prohibited except where the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. The industrial user shall notify the Town immediately in the event of any bypass. Prior authorization must be obtained from the Town to accommodate maintenance activities. Industrial users must still comply with Article **VII** of this chapter whenever permission is granted to bypass.

§ 158-53 Notification of spill or other incident.

A notice shall be permanently posted, plainly visible to an industrial user's personnel responsible for managing wastewater discharges, which shall instruct all employees whom to call in the event of a spill, slug discharge, pretreatment upset or bypass. Employers shall ensure that all employees who may cause or suffer such a discharge to occur know of the required notification of the Town.

§ 158-54 Sampling.

If sampling performed by an industrial user indicates a violation, the user shall notify the Town 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 Town within 30 days after becoming aware of the violation, except that the industrial user is not required to resample if:

- A. The Town performs sampling at the industrial user at a frequency of at least once per month; or
- B. The Town performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

**Article VIII
Industrial Pretreatment**

§ 158-55 Applicability.

All persons discharging industrial process wastes into public or private sewers connected to the Town's wastewater works shall comply with applicable requirements of federal and state industrial pretreatment regulation (as amended), in addition to the requirements of these industrial pretreatment rules.

§ 158-56 Industrial user permit (IUP).

- A. Industrial user permit (IUP) required. Effective 120 calendar days after this provision is adopted by the Town, the discharge of any industrial process waste to the Town's wastewater works or to a public or private sewer connected to the Town's wastewater works is prohibited without a valid industrial user permit (IUP).
- B. Industrial user permit (IUP) application. Within 60 days after the effective date of these industrial pretreatment rules, and subsequently when required by the Town, persons subject to these rules shall submit an application for an industrial user permit (IUP) containing information required under applicable federal and state industrial pretreatment reporting regulations. Such information, as a minimum, shall include:
 - (1) The name and address of the facility, including the name of the operators and owners.
 - (2) A list of all environmental permits held by or for the facility.
 - (3) A brief description of the nature, average rate of production, and standard industrial classification of the operations carried out at such facility.
 - (4) An identification of the categorical pretreatment standards applicable to each regulated process.
 - (5) An analysis identifying the nature and concentration of pollutants in the discharge.

- (6) Information showing the measured averaged daily and maximum daily flow, in gallons per day, to the public sewer from regulated process streams and from other streams.
 - (7) A schedule of actions to be taken to comply with discharge limitations; including a slug control plan if applicable.
 - (8) Additional information as determined by the Town may also be required.
 - (9) Any other information which may be needed to meet the baseline monitoring requirements applicable to industrial users subject to National Categorical Pretreatment Standards.
- C. Provisions. The industrial user permit (IUP) will outline the general and specific conditions under which the industrial process waste is accepted for treatment at the Town's wastewater treatment plant.
- (1) Specifically, included in the permit are the following:
 - (a) Pretreatment and self-monitoring facilities required.
 - (b) Parameters to be monitored, type of samples, and monitoring frequencies required.
 - (c) Location of sampling site.
 - (d) Notification by the industrial user of slugs, bypass or noncompliance.
 - (e) Penalties for noncompliance.
 - (f) Compliance schedule.
 - (g) Effluent limitation on the industrial process waste.
 - (2) Reporting requirements.
 - (a) Industrial users shall submit periodic reports as required, but not less often than semiannually, indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment standards and the average and maximum daily flow for these process units. The reports shall state whether the applicable categorical pretreatment standards and effluent limitations are being met on a consistent basis and, if not, what additional operation and maintenance practices and pretreatment are necessary. Additional requirements for such reports may be imposed by the Town.
 - (b) If an individual user subject to the report requirements in Subsection **C(2)(a)** monitors any pollutant more frequently than required by the Town, using procedures prescribed in Article **VII, § 158-46**, the results of this monitoring shall be included in the report. All industrial users must submit analytical results performed in accordance with 40 CFR Part 136.

- (c) The permittee shall submit a certification statement by July 31 and January 31 of each calendar year in lieu of performing the laboratory analysis for total toxic organics in accordance with 158-54(D).
- (3) Monitoring records.
 - (a) Industrial users subject to the reporting requirements under this section shall maintain records of information resulting from monitoring activities required to prepare such reports; such records shall include for each sample:
 - [1] The date, exact place, method and time of sampling and name of person or persons taking sample.
 - [2] The dates analyses were performed.
 - [3] The laboratory performing the analyses.
 - [4] The analytical techniques and methods used.
 - [5] The results of such analyses.
 - (b) Such records shall be maintained for a minimum of five years and shall be made available for inspection and copying by the Town. Record retention for BMP compliance shall be maintained for a minimum of five years and shall be made available for inspection and copying by the Town.
- (4) Additional conditions.
 - (a) The permit will be in effect for a period not to exceed 3 years and may be renewed upon review and receipt of a properly completed permit application. Permits may be extended in accordance with 154-24(C) for up to a one-year period.
 - (b) The permit is nontransferable and may be revoked by the Town for noncompliance or modified so as to conform to discharge limitation requirements that are enacted by federal or state rules and regulations.
 - (c) An industry proposing a new discharge or a change in volume or character of its existing discharge, beyond limits previously permitted, must submit a completed industrial user permit (IUP) application to the Town at least 60 days prior to the commencement of such discharge. The submitted application must include plans and engineering drawings, stamped by a registered professional engineer, of the proposed pretreatment facilities. Upon approval, the industry and the Town will enter into a new or amended IUP in accordance with the procedure outlined in this section.
 - (d) Industrial users and commercial facilities that produce a process wastewater effluent or discharge shall be assessed an annual fee by the Town as established by the Town Council from time to time to defray the administrative cost of the industrial user permit (IUP)

program. These costs may include all personnel, operational, maintenance and capital costs necessary to operate a successful pretreatment program.

- (5) Wastewater discharge permits may contain, but need not be limited to, the following:
 - (a) Limits on the average or maximum rate of discharge, time of discharge, and requirements for flow regulation and equalization.
 - (b) Limits on the instantaneous, daily and monthly average or maximum concentration, mass, or other measure or identified wastewater pollutants or properties.
 - (c) 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 treatment works.
 - (d) Development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
 - (e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
 - (6) Compliance with the wastewater discharge permit 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 wastewater discharge permit.
- D. Signature for reports. The reports required by Subsections **B** and **C(2)(a)** of this section and § **158-60E** and **F** of this article and any other report or correspondence required by the Town shall include the certification as set forth in Subsection **E** of this section and shall be signed as follows:
 - (1) By a responsible corporate officer, if the industrial user submitting the reports required in this chapter is a corporation. For the purpose of this subsection, a "responsible corporate officer" means:
 - (a) A president, manager, treasurer, or 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
 - (b) The manager of one or more manufacturing production or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate

procedures.

- (2) By a general partner or proprietor if the industrial user submitting the reports required by this chapter is a partnership or sole proprietorship, respectively.
 - (3) By a duly authorized representative of the individual designated in Subsection **D(1)** or **(2)** if:
 - (a) The authorization is made in writing by the individual described in Subsection **D(1)** or **(2)**;
 - (b) The authorization specified either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well or well field, superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (c) The written authorization is submitted to the Town.
 - (4) If an authorization under Subsection **D(3)** is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirement of Subsection **D(3)** must be submitted to the Town prior to, or together with, any reports to be signed by an authorized representative.
- E. Certification. All reports required to be signed as specified in Subsection **D** shall include the following certification:

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 ensure 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.

- F. Annual certification by nonsignificant categorical industrial users. A facility determined to be a nonsignificant categorical industrial user pursuant to 40 CFR 403.3(v)(2) must annually submit the following certification statement, signed in accordance with the signatory requirements in 40 CFR 403.12(l). This certification must accompany any alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____

(month)/ ____ (day)/ ____ (year) to ____ (month)/ ____ (day)/ ____ (year)

- a) The facility described as _____ (facility name) met the definition of a nonsignificant categorical industrial user as described in 40 CFR 403.3(v)(2);
 - b) The facility complied with all applicable pretreatment standards and requirements during this reporting period;
 - c) And the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information:
- G. Signatory requirements for POTW reports. Reports submitted to the Approval Authority by the POTW in accordance with 40 CFR 403.12(i) must be signed by a principal executive officer, ranking elected official or other duly authorized employee who must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted.
- H. Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- I. Industrial Wastewater Discharge Request.
- (a) Subject to (b), below, the owner of an indirect discharger from which industrial waste is or will be discharged to the POTW shall apply for approval of the discharge in accordance with this section prior to discharging any industrial waste, increasing the volume of the industrial wastewater flow, or changing any characteristics of the discharge, such as discharge location, pollutant concentration, or pollutant characteristics, if such discharge:
 - (1) Is from a significant industrial user;
 - (2) Could cause pass through or interference with the POTW;
 - (3) Could damage the POTW infrastructure or interfere with operations;
 - (4) Could have an adverse effect on the receiving stream or otherwise endanger public or private safety or property; or
 - (5) Could constitute a nuisance by affecting qualities not specifically regulated, such as odor or the color of the discharge.
 - (b) The completed discharge request application required in (a) above, shall be submitted on the “Application for Industrial Wastewater Indirect Discharge Request,”

- (c): The application shall include;
 - (1) Include the information specified in (d) below; and
 - (2) Be signed by an Authorized Agent.
- (d) The applicant shall submit the complete, signed discharge request.
 - (1) The name of the applicant;
 - (2) Whether the requested permit is for a new discharge or a modified discharge;
 - (3) Prior flow volume, if any; and
 - (4) Proposed flow volume and total flow volume to be discharged.
 - (5) The North American Industry Classification System (NAICS) code of the indirect discharger and, if available, the SIC code(s);
 - (6) Whether the indirect discharger is subject to national categorical standards, and if so, which standards;
 - (7) Information on the proposed flow, including the estimated average, minimum, maximum and total daily flow
 - (8) A schematic of the proposed pretreatment process;
 - (9) The name, company, and license number of the chemical, civil, sanitary, or environmental professional engineer (PE) authorized to work in New Hampshire under RSA 310-A who prepared the treatment system plans and specifications, if plans and specifications are being submitted for review;
 - (10) If applicable, plans, specifications, and operation and maintenance procedures for new or modified treatment facilities at the indirect discharger, stamped by the PE identified pursuant to (9) above;
 - (11) A schematic diagram showing the production process, including the origin of each waste stream;
 - (i) A list of pollutants expected to be present in the discharge and the anticipated quantity of each, based on:
 - (ii) Analyses of the waste stream(s) to be discharged, in which case test results shall be submitted with the discharge permit request; or Knowledge of the process that produces the wastewater;
 - (iii) If pretreatment is proposed, whether as a BMP or control technique or technology, performance results of the pretreatment as determined by testing or by the manufacturer;
 - (iv) Information on the toxicity and treatability of the pollutants proposed to be discharged, as available from manufacturer's testing, safety, and data publications;
 - (v) A map showing the location within the municipality of the indirect discharger with respect to the POTW;
 - (vi) A listing of all chemicals used at the indirect discharger that will be or could be discharged, such as production chemicals, degreasers, and cleaning solvents;
 - (vii) A description and location diagram of all sampling locations at the indirect discharger;
 - (viii) A brief narrative describing those measures taken or planned to reduce water usage and implement pollution prevention techniques, if any, such as: Flow restrictors, Countercurrent rinses, Recycling of non-contact cooling water, Chemical substitutions; and Pollutant source reduction; and
 - (ix) A list of all environmental permits held by or for the indirect discharger.
- (e) The indirect discharger shall not add any water or other liquid to the effluent so as to reduce the concentration of pollutants by increasing the volume of effluent as a substitute for any pretreatment necessary to maintain compliance;

- (f) The indirect discharger shall not make changes to any processes that contribute to the wastewater discharge that would increase/decrease the amount of flow, change the characteristics of the pollutants discharged, or increase the concentration of any pollutant without prior approval by the Town through the submission of a new industrial wastewater discharge request;
- (g) The approval shall be based on and apply only to the subject discharge request and all associated plans and supporting information as submitted in the completed, signed discharge request.
- h) The approval shall become void if the discharge approved does not begin within one year from the date of approval; and
- (i) Any other conditions as may be necessary to ensure compliance with pretreatment standards.
- (j) The Town shall provide a copy of the discharge permit issued to the indirect discharger in accordance with, above requirements, and any subsequent renewal.
- (k) The IDR permit is valid until which time the system is changed in accordance with (a) above or discontinued.

§ 158-57 Wastewater discharge permit reconsideration.

Any person, including the industrial user, may petition the Town Manager to reconsider the terms of a wastewater discharge permit within 30 calendar days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to waive any ability to request reconsideration.
- B. In its reconsideration petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending resolution of the reconsideration request.
- D. If the Town fails to act within 30 business days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative action for purposes of judicial review.

§ 158-58 Wastewater discharge permit modification.

The Town may modify the wastewater discharge permit for good cause, including but not limited to the following:

- A. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge. This may include the promulgation of new applicable national categorical pretreatment standards.
- B. If new federal, state, and/or local standards are promulgated, the Director shall so notify the industrial discharger in writing. The industrial discharger must submit a proposed schedule for complying with the new standards within 30 days of notification. The modified permit shall contain the new limits and a compliance schedule.

- C. Changes in the requirements of this chapter.
- D. Changes in state, federal or local regulations pertaining to the POTW biosolids or discharge.
- E. Information indicating that the permitted discharge poses a threat to the Town's POTW, Town POTW personnel, or the receiving waters, or a revision of federal or state water quality rules (groundwater or surface water).
- F. To address changes or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance. Changes in operational status may include but not be limited to:
 - a. R&D facility commencing manufacturing activities;
 - b. Manufacturing facility downgrading production and becoming an R&D facility;
 - c. Increasing the concentration of a chemical or the addition of a new chemical which has the potential to impact operations at POTW;
 - d. Addition of new production activities including but not limited to: installation of new processing equipment, increasing manufacturing activities, addition of additional manufacturing capacity.
- G. Changes in available POTW capacity or modifications to the POTW treatment processes which necessitate changes to industrial discharges to the wastewater system.
- H. Changes required as a result of any new information which was discovered or was not available or provided at the time of permit issuance.
- I. Violation of any terms or conditions of the wastewater discharge permit.
- J. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- K. Violation of any terms or conditions of the wastewater discharge permit.
- L. Revisions or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
- M. Correct typographical errors.
- N. Transfer of facility ownership or operation to a new owner.

§ 158-59 Wastewater discharge permit revocation.

A. Wastewater discharge permits may be revoked for the following reasons:

- (1) Failure to notify the Town of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to the Town of changed condition.
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports.
- (5) Tampering with monitoring equipment.
- (6) Refusing to allow the Town timely access to the facility premises and records.
- (7) Failure to meet effluent limitations.
- (8) Failure to pay fines.
- (9) Failure to pay sewer charges.
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Failure to provide advance notice of the transfer of a permitted facility.
- (13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this chapter.

B. Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

C. Upon verification that the industrial user has closed the facility in compliance with all regulations, there is no hazardous waste stored at the facility, and all sewer fees have been paid, the Director may issue a letter which terminates the permit.

§ 158-60 National Categorical Pretreatment Standards.

A. Notification: All industrial users shall comply with the notification requirements per Code of Federal Regulations Title 40 CFR 403.6 - National pretreatment standards: Categorical standards.

B. Compliance date for categorical standards. Compliance with categorical pretreatment standards shall be achieved within three years of the date such standards are effective, unless a shorter compliance time is specified in the standards.

- C. Amendment to industrial user permit (IUP) required. An industrial user subject to categorical pretreatment standards shall not discharge wastewater directly or indirectly to Town wastewater works after the compliance date of such standards unless an amendment to its industrial user permit (IUP) has been issued by the Town.
- D. Application for industrial user permit (IUP) amendment. Within 120 days after the effective date of a categorical pretreatment standard, an industry subject to such standards shall submit an application for an industrial user permit (IUP) amendment.
- E. Categorical compliance schedule reports. Each user subject to a compliance schedule as required under Subsection **G(7)**, or federal regulation Code of Federal Regulations Title 40 CFR 403.12(b)(7), shall report on progress toward meeting compliance with these regulations as follows:
- (1) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Town indicating whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply, the reason for the delay, and the steps being taken by the industrial user to return the progress to the schedule established.
 - (2) The time for any increment in the schedule, or the interval between reports required in Subsection **E(1)**, shall not exceed nine months. An increment is the time between the dates for commencement and completion of major events leading to the construction and operation of pretreatment facilities necessary to achieve compliance with this chapter and National Categorical Pretreatment Standards.
- F. Report on compliance with categorical standard deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new industrial user following introduction of wastewater into the Town POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Town a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and the average and maximum daily flow for these process lines. The report shall state whether the applicable pretreatment standards are being met on a consistent basis. If the new industrial user is unable to meet these applicable pretreatment standards, the industrial user shall then be required to implement and install the necessary operational, maintenance and pretreatment upgrades in order to bring the industrial user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative (see § **158-56D**) and certified by a qualified professional engineer.
- G. Baseline monitoring reports. Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit a report which contains the information listed in Article **VIII**, § **158-56B**, of this chapter. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the

promulgation of an applicable categorical standard, shall submit a report which contains the information listed in Article VIII, § 158-56B, of this chapter. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users described above shall submit the information set forth below:

- (1) Identifying information. The name and address of the facility, including the name of the operator and owner.
- (2) Environmental permits. A list of any environmental control permits held by or for the facility.
- (3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Code of Federal Regulations Title 40 CFR 403.6(e).
- (5) Measurement of pollutants.
 - (a) The user shall identify the Pretreatment Standards applicable to each regulated process;
 - (b) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Pretreatment Standard or Control Authority) of regulated pollutants the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;
 - (c) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - (d) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of § 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with § 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

(e) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Control Authority determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Control Authority;

(f) The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(g) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW;

- (b) The results of sampling and analysis identifying the nature of the process wastewater, concentration and mass where required by the standard. Instantaneous, daily maximum, and long-term average concentrations or mass where required must be included in the report. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article VII, § 158-46, of this chapter.
- (6) Certification. A statement reviewed by the user's authorized representative and certified by a qualified professional indicating pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and additional pretreatment are required to meet the pretreatment standards and requirements.
- (7) Compliance schedule. If additional pretreatment and O&M are required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subsection must meet the requirements set out in Code of Federal Regulations Title 40 CFR 403.12(b)(7).
- (8) Where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standard to determine compliance.
- (9) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Article VIII, § 158-56E, of this chapter.

§ 158-61 Slug discharge notification.

All industrial users shall notify the Town immediately of all unapproved discharges to the wastewater treatment facilities, including any slug loadings as defined in Article III, § 158-6. Within five days of the unapproved discharge, the industrial user shall provide the Town with a written report fully describing the unapproved discharge and the measures taken to avoid recurrence of the unapproved discharge.

§ 158-62 Reports of potential problems.

- A. In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Article VII, § 158-38B of this chapter), it is the responsibility of the industrial user to immediately telephone and notify the Town of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- B. Within five days following such discharge, the industrial user shall, unless waived by the Town, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial 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 relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this chapter.
- C. Failure to notify the Town of potential problem discharges shall be deemed a separate violation of this chapter.
- D. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subsection A above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

§ 158-63 Notification of discharge of hazardous waste.

In accordance with New Hampshire's Code of Administrative Rules, Env-Wq 305.06, *Prohibited Wastes*, hazardous wastes are prohibited from discharge to the sewer system.

Facilities may obtain a permit from the DES, Hazardous Waste Management Bureau for an elementary neutralization system in accordance with New Hampshire Code of Administrative Rules, Env-Hw 304.04, *Limited Permits*. These systems neutralize the waste which may be discharged to the Town between a pH of 5.0 and 9.5 per Town of Merrimack Code, Chapter §158-38(B)(3)¹. All industrial users shall provide a copy of the Limit Permit within 5 business days of receipt.

§ 158-64 Imminent endangerment.

The Town may, after informal notice to the industrial user discharging wastewater to the public sewer, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of person or any discharge presenting, or which may present, an endangerment to the environment or which threatens to interfere with operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the Town in response to violations of this chapter include ex parte judicial injunctive relief, entry

[¹ Any waters or wastes having pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works are specifically prohibited from discharge.]

on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the industry.

§ 158-65 Monitoring and surveillance.

The Town shall, as necessary, sample and analyze the wastewater discharges of contributing industrial users and conduct surveillance and inspection activities to identify, independently of information supplied by such industrial users, occasional and continuing noncompliance with industrial pretreatment standards. All industries discharging to the Town system shall allow unrestricted access to Town, New Hampshire Department of Environmental Services (NHDES), and EPA personnel for the purposes of investigating and sampling discharges from the industrial users. Each industrial user will be billed directly for costs incurred for analysis of its wastewater.

§ 158-66 Investigations.

The Town shall investigate instances of noncompliance with industrial pretreatment standards and requirements.

§ 158-67 Public information.

Information and data submitted to the Town under this article relating to wastewater discharge characteristics shall be available to the public without restriction. Other such information shall be available to the public at least to the extent provided by 40 CFR 2.302.

§ 158-68 Public participation.

The Town shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of industrial pretreatment standards and requirements. A list of significant violators shall be published in the local daily newspaper at least annually.

§ 158-69 Confidential information.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge applications, wastewater discharge permits, and monitoring programs, and from Town inspection and sampling activities, shall be available to the public without restriction, unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the Town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial 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 National Pollutant Discharge Elimination System (NPDES) program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Article IX
Powers and Authority of Inspectors

§ 158-70 Right of entry.

The Town or other duly authorized employees and agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, inspection and copying of records and testing pertinent to discharge to the wastewater facilities, in accordance with the provision of this chapter.

§ 158-71 Information regarding industrial processes.

The Town or other duly authorized employees and agents are authorized to obtain information concerning industrial processes which have a bearing on the kind and source of discharge to the wastewater collection system. The industrial user may request that the information in question not be made available to the public if it can establish that revelation to the public might result in an advantage to competitors. (The information in question shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, or the pretreatment program.) The burden of proof that information should be held confidential rests with the industrial user. However, information about wastewater discharged by the industrial user (flow, constituents, concentrations and characteristics) shall be available to the public without restriction.

§ 158-72 Owner to be held harmless.

While performing the necessary work on private properties referred to in § 158-70, duly authorized employees of the Town shall observe all safety rules applicable to the premises, and the owner(s) shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the owner(s) against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the owner(s) and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner(s) to maintain safe conditions as required in Article VII, § 158-44.

§ 158-73 Entry on easements.

Duly authorized employees and agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Article X
Charges for Sewer Service

§ 158-74 Connection charges.

The owner(s) of existing houses, buildings, or other properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley, or right-of-way in which a public sewer has been installed shall be required to connect to the Town sewer and shall be required to pay to the Town a connection charge, provided that said

building or its existing individual on-site sanitary disposal system is within 200 feet of said public sewer. In cases where the building is beyond 200 feet of said public sewer, the owner(s) shall pay to the Town a connection charge when, and if, such structure or its individual on site sanitary disposal system is connected to the public sewer system. The amounts of the connection charges shall be established by the Town Council from time to time.

§ 158-75 Sewer user charges.

Each user connected to the sewerage system shall pay a sewer user charge (sewer rental charge), unless the property owner has received a waiver per Article IV, § 158-11B, of this chapter. The sewer user charge shall be as established by the Town Council from time to time to cover the annual operating, maintenance and capital expenses of the municipal sewerage system. The normal sewer user charges shall be based on water use wherever possible. If records of metered use are not available or do not properly reflect the quantity of waste discharged, the sewer user charge shall be based upon estimated water use or an actual measurement of the volume of waste discharged into the sewerage system. Sewer surcharges shall be levied by the Public Works Department/Wastewater Division. The surcharge shall be based on total monthly flow and a flow-weighted monthly average for biochemical oxygen demand (BOD) and total suspended solids (TSS) to users whose waste characteristics are above normal strength [biochemical oxygen demand (BOD) 250 mg/l; total suspended solids (TSS) 300 mg/l], unless a special agreement as stated in Article VII, § 158-47, has been approved and granted by the Town.

**Article XI
User Fees**

§ 158-76 Schedule of payment.

All affected property owners will be charged customary sewer user fees (sewer rental charge) commencing 180 days after notice that the public sewer is available to them or upon connection to the public sewer, whichever occurs earlier. Any prior notice, including the first sewer billing from the Public Works Department/Wastewater Division, given to property owners shall be used in the calculation of the one-hundred-eighty-day notice requirement, unless the property owner has received a waiver per Article IV, § 158-11B, of this chapter. [

§ 158-77 Payment not to remove obligation to connect.

Payment of the sewer user fee will not relieve a property owner of his obligation to connect to the public sewer as required by this chapter.

**Article XII
Conflict of Ordinances**

§ 158-78 Most restrictive requirements to govern.

When, in any specific case, different provisions of this chapter shall conflict with other ordinances or state or federal laws, the most restrictive requirements shall govern.

Article XIII
Violations and Enforcement

§ 158-79 Continuing violations.

Any person, firm, partnership or corporation found to be violating, or in violation of, any provision of this chapter may be served by the Town of Merrimack with a written notice stating the nature of the violation as determined by the Town, for the satisfactory correction thereof. Follow-up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule. Additional enforcement responses available to the Town are consent orders, show cause hearing, compliance order, cease and desist order, administrative fines, and civil or criminal prosecution.

§ 158-80 Notice to Department of Environmental Services.

In accordance with RSA 149-I:6, the Public Works Department/Wastewater Division, Town Manager or duly authorized agent shall give notice of the alleged violation to the New Hampshire Department of Environmental Services (NHDES) within 10 days of commencement of any action under this article.

§ 158-81 Responsibility for enforcement.

The Town shall be responsible for the enforcement of this chapter.

Article XIV
Administrative Actions and Fines

§ 158-82 Notice of violation.

Any person found to be violating any provision of this chapter may be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The Town may, after informal notice to the person discharging wastewater to the POTW, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of the public or any discharge presenting, or which may present, an endangerment to the environment or which threatens to interfere with the operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the Town in response to violations of this chapter include ex parte judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the person.

§ 158-83 Violations and penalties.

Any person found to be violating any provisions of this chapter may be fined in the amount not to exceed \$10,000 per day of such violation. Each day in which any such violation shall continue shall be deemed a separate offense. In addition civil and criminal penalties, and injunctive relief, for noncompliance with pretreatment conditions by Industrial Users may consist of a fine of up to \$10,000 per day of such violations, or by imprisonment, or both. The permittee may also be subject to additional enforcement actions under State and/or Federal law.

§ 158-84 Enforcement Response Guide.

Violations of this chapter shall be enforced as outlined in the Enforcement Response Guide (Attachment A). As required, the Enforcement Response Guide may be revised in accordance with EPA or New Hampshire Department of Environmental Services (NHDES) regulation modification or guidance policy.

**Article XV
Liability**

§ 158-85 Liability for expense, loss or damage.

Any person, firm, partnership or corporation violating any of the provisions of this chapter shall become liable to the Town of Merrimack for any expense, loss, or damage occasioned by the Town by reason of such violation, including reasonable attorneys' fees and costs.

§ 158-86 Public participation.

The Town, pursuant to Code of Federal Regulations Title 40 CFR 403.8(f)(2)(viii), shall comply with the public participation requirements of Code of Federal Regulations Title 40 CFR Part 25, including provision for at least annually providing public notification of industrial users which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards or other pretreatment requirements. For the purpose of this section, a significant noncompliance violation (SNC) is described in Article VII, § 158-39M.

**Article XVI
Date of Enactment**

§ 158-87 When effective.

This chapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

Attachments:

Enforcement Response Guide

Authenticated:

Finlay C. Rothhaus, Town Council Chairman

Date

Diane Trippett, Town Clerk / Tax Collector

Date