

Ordinance No. 77

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ENGINEERING

**REGULATION OF SEWER USE**  
**TOWN OF HUDSON, NEW HAMPSHIRE**

Adopted

September 23, 1985

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ATTACHMENTS:  
    ADMINISTRATIVE PENALTIES  
    NEW SEWER CONNECTION OR CHANGE OF USE, SEWER USE FEE SCHEDULE

## **ORDINANCE NO. 77**

Pursuant to enabling authority in New Hampshire Revised Statutes Annotated 149-I:6, or revisions thereto, the following is an Ordinance regulating the use of public and private sewers, private wastewater disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system(s), and providing a means to issue penalties for violations thereof, in the Town of Hudson, County of Hillsborough, State of New Hampshire.

Be it ordained and enacted by the Board of Selectmen as follows:

### **ARTICLE 1 - GENERAL PROVISIONS**

#### **1.1 Purpose, Policy and Public Participation**

This Ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) of the Town of Hudson and enables the Town to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). Recognizing that significant opportunities exist to reduce or prevent pollution at its source through cost-effective practices, and that such practices can offer savings through reduced purchases of materials and resources, a decreased need for pollution control technologies, and lower liability costs, as well as assisting to protect the environment, the Town of Hudson establishes the following objectives of this Ordinance:

- A. To promote, consistent with the policy of the Federal government:
- The prevention or reduction of pollutants at the source whenever feasible;
  - Recycling in an environmentally safe manner when pollution cannot be prevented;
  - Treatment in an environmentally safe manner of pollution that cannot be prevented or recycled; and
  - Disposal or other release into the environment in an environmentally safe manner only as a last resort.

To encourage the development of these efforts, the Town may:

- Set Town-wide pollution prevention goals;
- Organize an assessment program task force;
- Review data and inspect sites;
- Develop pollution prevention options;
- Conduct a feasibility analysis of selected options; and

- Promote implementation of pollution prevention techniques.
- B. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
  - C. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
  - D. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
  - E. To promote reuse of 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 Intermunicipal Agreement, and any other Federal or State law to which the Town is subject.

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

It is the intent of this Ordinance that the Town, in issuing a permit to discharge certain waste, reserves the right to impose more stringent requirements on any person who discharges waste or wastewater based on the conditions actually encountered either at the point of discharge or at the wastewater treatment facilities. Therefore, the Town issuance of an industrial user wastewater permit, or approval of a discharge, a system of pretreatment, or no pretreatment shall not be construed to mean that changes cannot be required by the Town in the future, even though there may be no change in the nature of discharge.

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.

## **1.2 Administration**

Except as otherwise provided herein, the Town Engineer shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Town Engineer may be delegated by the Town Engineer, Town Administrator or Board of Selectmen to other representatives.

Special Agreements. No statement contained in this Ordinance shall be construed as preventing any special agreement or arrangement between the Town, City and any industrial user, provided that said

agreements do not contravene any requirements of existing Federal or State laws, and/or regulations, and do not waive applicable Federal categorical pretreatment standards. Such an agreement must be reviewed and approved (as appropriate) by the Town Engineer, Sewer Utilities Committee, Selectmen, City of Nashua Board of Public Works and/or City of Nashua Board of Aldermen.

### 1.3 Abbreviations

The following abbreviations, when used in this Ordinance, shall have the following designated meanings:

- ASTM - The American Society for Testing and Materials
- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- DES - New Hampshire Department of Environmental Services
- DPW - Division of Public Works
- EPA - United States Environmental Protection Agency
- ERP - Enforcement Response Plan
- gpd - Gallons per day
- IDP - Industrial Discharge Permit
- mg/l - Milligrams per liter
- NAICS - North American Industrial Classification System
- NHDES (DES) - New Hampshire Department of Environmental Services
- NPDES - National Pollutant Discharge Elimination System
- NSIU - Nonsignificant Industrial User
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- RSA - New Hampshire Revised Statute Annotated
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- SWDA - Solid Waste Disposal Act (42 U.S.C. 67901, et seq.)
- TDS - Total Dissolved Solids
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- USC - United States Code
- WSPCD - Water Supply and Pollution Control Division

### 1.4 Definitions

- A. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

1. Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*
2. Applicant. Any person requesting approval to discharge industrial wastes or domestic wastewaters into facilities of the Town and/or City POTW.
3. Approval Authority. The Regional Administrator of the Environmental Protection Agency, Region 1, or his duly appointed agent.
4. ASTM. The American Society for Testing and Materials.
5. Authorized Agent. Any qualified person designated by the governing person or persons.
6. Authorized Representative of the User.

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 operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- c. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- d. 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.

The individuals described in paragraphs a. through c., above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.

7. Average Concentration. The average of daily discharges over the designated discussion period, calculated as the sum of all daily discharges measured over the discussion period divided by the number of daily discharges measured during the period.

8. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of the wastewater matter under standard laboratory procedures for five (5) days at 20 centigrade, usually expressed as a concentration (e.g., mg/l).
9. Board of Public Works. Nashua's Board of Public Works as established in the Nashua City Charter, or its authorized agents or representatives.
10. Building Drain. That part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer termination.
11. Building Sewer. The extension from the building drain to the public sewer or other place of disposal.
12. Bypass. The intentional diversion of wastestreams from any portion of an Industrial User's wastewater treatment facility.
13. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limitations promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 (Effluent Guidelines and Standards).
14. City. The City of Nashua, New Hampshire or its authorized agents or representatives.
15. Color. The optical density at the visual wavelength of maximum absorption relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero optical density.
16. Combined Sewer. A sewer intended to receive both wastewater and surface runoff.
17. Commercial Use. Any retail store, restaurant, office building, laundry or other private business or service establishment.
18. Commercial Waste. Any and all waste discharged from any commercial establishment, other than domestic wastewater.
19. Commissioner. The Commissioner of the New Hampshire Department of Environmental Services, or the Commissioner's duly appointed agent.
20. Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria.
21. 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.

22. Contamination. The introduction of pathogenic, or potentially pathogenic, organisms or of toxic, or potentially toxic, substances into a watercourse that will render the water hazardous and, therefore, unfit for human consumption or for domestic usage of any kind.
23. Control Authority. The term Control Authority as used in this Ordinance, refers to the City of Nashua Publicly Owned Treatment Works or its authorized representatives.
24. Dilution: Watering down of a discharge.
25. Domestic Wastewater. Normal water-carried household and toilet wastes or waste discharged from any improved property excluding ground, surface, or stormwater.
26. Easement. An acquired legal right for the specific use of land owned by others.
27. Enforcement Response Plan (ERP). A set of procedures indicating how the Town will investigate and respond to instances of industrial discharger noncompliance as referenced in 40 CFR Part 403.8(f)(5).
28. Environmental Protection Agency (EPA). The United States Environmental Protection Agency or, where appropriate, the EPA Regional Water Management Division Director, or other duly authorized official of said agency.
29. Excessive. Amounts or concentrations of any constituent of wastewater which in the judgement of the Town (or City):
  - a. will adversely affect any part or function of the POTW;
  - b. will be present in abnormally high quantities in the sludge produced at the wastewater treatment facility;
  - c. will be harmful to a wastewater treatment process or interfere with the effective operation of the wastewater treatment facility;
  - d. which cannot be removed in the wastewater treatment facility of the City to the degree required to meet the limited stream classification standard of the receiving water, or otherwise affects the ability of the wastewater treatment facility to meet any required effluent or influent parameters;
  - e. which can otherwise endanger life, limb, the environment or public property; or
  - f. which can constitute a nuisance.
30. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment

standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with 33 U.S.C. 1317 of the Act.

31. 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 if it is properly pretreated and the wastewater does not interfere with the collection system.
32. Force Main. A line without access from individual properties, providing a connection from a pumping station to a pumping station, trunk, or sanitary sewer main.
33. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
34. Governmental User. Any legislative, judicial, administrative or regulatory activity of Federal, State or local government.
35. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
36. Grease. The material removed from a grease interceptor (trap) serving a restaurant or other facility requiring such grease interceptors. Also means volatile and non-volatile residual fats, fatty acids, soaps, waxes and other similar materials.
37. Hauler. Those persons, firms, or corporations, who pump, haul, transport, or dispose of septage and who are licensed by the New Hampshire Department of Environmental Services pursuant to RSA 485-A:4, XVI-a and rules adopted to implement said section.
38. Headworks. That portion of a wastewater treatment facility which first receives that total influent flow for initial treatment.
39. Health Officer. The Health Officer of the Community Development Department of the Town or an authorized agent or representative.
40. Human Excrement. Human fecal and urinary discharges and includes any waste containing such material.
41. Improved Property. Any property located within the Town upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure domestic wastewater and/or industrial wastes shall be or may be discharged.
42. Incompatible Pollutant. Any pollutant other than biochemical oxygen demand, suspended solids, coliform bacteria or additional pollutants identified in the Nashua

Wastewater Treatment Facility's National Pollutant Discharge Elimination System Permit, which the treatment works was not designed to treat and/or which it does not remove to a substantial degree.

43. Indirect Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.
44. Individual Sewage Disposal System. A sewer disposal system with the source of wastes limited to sewage originating from or on an individual property, dwelling or premise designed and constructed to receive, treat and dispose of liquid-borne wastes in such a manner as to retain settleable solids in a liquid type tank and to discharge the liquid portion in an approved manner to an adequate disposal area. Examples include, but are not limited to, septic tanks with soil absorption systems, incinerator type toilets and holding tank systems.
45. Industrial Discharge. The introduction of non-domestic pollutants into the POTW from any non-domestic source regulated under 33 U.S.C. 1317 of the Act.
46. Industrial Discharge Permit or IDP. The written permit between the Town and an industrial user that outlines the conditions under which discharge to the POTW will be accepted.
47. Industrial User. Any room, group of rooms, building or other enclosure used or intended for use in the operation of one (1) or more business enterprise for manufacturing, processing, cleaning, laundering, assembling or preparing any produce, commodity or article from which any process waste, as distinct from domestic wastewater, may be discharged. Industrial user shall also include any government nonresidential user of the wastewater system as identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions: Division E-Transportation, Communications, Electric, Gas and Sanitary Services, and Division I-Services.
48. Industrial Wastes. Any and all wastes and pollutants discharged from any industrial establishment, other than domestic wastewater.
49. Inspector. The Building Inspector, Health Officer, Town Engineer or his designee.
50. Instantaneous Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
51. Institutional User. Any social, charitable, religious or educational activity such as schools, churches, hospitals, nursing homes, and similar institutions.
52. Interference. A discharge, which alone or in conjunction with a discharge or discharges by other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, or is a cause of a violation of any requirement of the

Nashua, POTW, NPDES Permit (including an increase in the magnitude or duration of a violation) or a cause of the prevention of sewage sludge disposal in compliance with any of the following statutory or regulatory provisions; 33 U.S.C. 1345 of the Act, the Solid Waste Disposal Act (SWDA), 42 U.S.C. 7401 et. seq.; the Toxic Substances Control Act, 15 U.S.C. 2601 et. seq.; and the Marine Protection Research and Sanctuaries Act, U.S.C. 1431 et. seq., 1447 et. seq. 33 U.S.C. 1401 et. seq. and 2801 et. seq. Code of Federal Regulations, Title 40 Protection of Environment, Chapter 1 – Environmental Protection Agency Subchapter O – Sewage Sludge, Part 503 Standard for the Use or Disposal of Sewage Sludge or any other State or Federal requirement for sludge use and disposal.

53. Local Limits. Numerical limitations on the discharge of pollutants established by the Town, as distinct from State or Federal limitations for non-domestic wastewater discharged to the POTW.
54. Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, as determined by the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
55. May. Means permissive (see "Shall").
56. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, needles, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, chemotherapy wastes, dialysis wastes, and other similar waste.
57. Monthly Average. The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured over a calendar month divided by the number of daily discharges measured during the month.
58. National Pollutant Discharge Elimination System Permit or NPDES Permit. A document by the EPA designed to control all discharges of pollutants from point sources within United States Waterways.
59. Natural Outlet. Any outlet, including, but not limited to, storm sewers and combined sewer overflows, into watercourses, ponds, ditches, lakes, or other bodies or surface water or groundwater.
60. Normal Domestic Wastewater. Wastewater generated by residential users containing not more than 200 mg/l BOD and not more than 250 mg/l suspended solids.

61. 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 subsequent to the publication of proposed pretreatment standards under Section 33 U.S.C. 1317 that 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 processes 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, will 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 Paragraph a. (2) or a. (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- c. Construction of a new source 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 that is necessary for the placement, assembly, or installation of facilities or equipment; or
  - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without

substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

62. New Subdivision. A subdivision whose plat or plot plan has been approved after the effective date of this Ordinance.
63. NHDES shall mean the State of New Hampshire Department of Environmental Services.
64. Non-Contact Cooling Water. Water used for cooling that does not directly contact any raw material, intermediate product, waste product, or finished product.
65. North American Industry Classification System. A classification system for establishments, as defined in the North American Industry Classification system handbook as published by the Executive Office of the President of the United States, latest edition.
66. Owner. Any person vested with ownership, legal or equitable; sole or partial, or possession of any improved property.
67. Pass Through. A discharge that exits the POTW into surface waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the wastewater treatment facility's NPDES Permit, or any other legally required standard to which the facility is subject, including an increase in the magnitude or duration of a violation.
68. Person. Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
69. pH. The reciprocal of the logarithm of the hydrogen ion concentration.
70. Photoprocessors. Any industry with discharges resulting from the development or printing of paper prints, slides, negatives, enlargements, movie film or other sensitized materials. A non-photoprocessor is any industry, which does not meet any of the above criteria.
71. Pollutants.
  - a. Dredged soil, solid waste, incinerator residue, filter backwash, garbage, sewage sludge, munitions, medical wastes, chemical waste, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, discharged into any natural outlet;
  - b. Toxic pollutants which are those pollutants or combination of pollutants which are disease-causing agents, or upon assimilation into any organism either directly from

the environment or indirectly by ingestion through food chains, will, as determined by the EPA, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physical deformities, in such organisms or their offspring; or

- c. Any substance which is subject to an effluent limitation, and/or pretreatment standard as established by Federal, State or local authorities, and is discharged in violation of said standards.

- 72. Pollution. Contamination, or other alteration of the physical, chemical or biological properties of any water which will or may create a public health nuisance or render water or land harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, animals, birds, fish or other aquatic life.
- 73. Pollution Prevention. The use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes at the source, or minimize their release to the environment prior to recycling, treatment or disposal. It includes practices that reduce the use of hazardous materials, energy, water or other resources. It also includes practices that protect natural resources and human health through conservation, more efficient use, or effective release minimization.
- 74. Pretreatment. The treatment of wastewater at its source before discharge with the intention to remove or to neutralize substances injurious to the wastewater treatment facilities of the Town or to effect a partial reduction in the load on the wastewater treatment process.
- 75. Pretreatment Coordinator. The Town Engineer or his designee.
- 76. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- 77. Pretreatment Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- 78. Private Sewer. Any sewer which has not been dedicated and accepted for public use and maintenance.
- 79. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances as identified in Article 2.3 of this Ordinance.
- 80. Properly Shredded Garbage. Garbage that has been shredded to such a degree that all particles will be transported freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (0.5) inch (1.27 centimeters) in any dimension.

81. Public Sewer. A sewer which is controlled by public authority and is maintained by the Town or City.
82. Publicly Owned Treatment Works (POTW). A wastewater treatment facility which is owned by a State or municipality, plus any devices or systems used in the collection, storage, treatment, recycling or reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances if they convey wastewater to a wastewater treatment facility.
83. Reactive Pollutants. Substances which, when mixed with certain substances have the potential for chemical transformation which may generate heat, fumes, gases or other byproducts which may be hazardous to life, health or property.
84. Receiving Waters. Any waters receiving discharge of wastewaters.
85. Recreational Vehicle or "RV". A mobile vehicle or trailer used for temporary living, e.g. a camper or wholly self-contained transport and living unit.
86. Refuse. All putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish, trash, ashes, manure, street cleanings or dead animals, but not human excrement.
87. Residential User. Any contributor to the Town's wastewater systems whose lot, parcel, real estate or building is connected to the wastewater system and is used for domestic dwelling purposes only.
88. Sanitary Sewer. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial facilities, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
89. Screening Level. That level of 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 the POTW. To be administered as local limits applicable to a particular discharge, the screening levels must be adjusted to account for conditions at the point of discharge that differ from baseline conditions.
90. Semi-Public Use. Premises of private, non-profit organizations such as schools, hospitals, and religious institutions.
91. Septage. Any liquid, solid, or sludge pumped from chemical toilets, vaults, septic tanks, or cesspools or other holding tanks, that have received only domestic wastewater. Liquid and solid wastes removed from residential septic tanks.
92. Septage Tank Truck. Any watertight vehicle that is used for the collection and hauling of septage as described above and that complies with the rules of the NHDES.

93. Septic Tank. A liquid-tight receptacle which receives raw sewage for storage and digestion, and which has been designed and constructed so as to retain the solids and to allow the liquids to discharge through a secondary system of piping into an approved form of subsurface disposal area.
94. Sewage. Wastes from toilets, baths, sinks, lavatories, washing machines, or other plumbing fixtures in residences, institutions, public or business buildings, mobile homes, water craft or other places of human habitation, employment or recreation.
95. Sewerage System. The pipes or conduits, pumping stations, force mains and all other devices, appurtenances and facilities used for collecting, treating or conducting wastewater to point of final disposal.
96. Sewer. A pipe or conduit that carries wastewater or stormwater.
97. Shall. Means mandatory (see "May").
98. Significant Industrial User.
- a. A user subject to categorical pretreatment standards under 40 CFR 403.8 and 40 CFR Chapter I, Subchapter N; or
  - b. A user that:
    - (1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);
    - (2) Contributes a process wastestream that comprises five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (3) Is designated as such by the Town or City as having a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon determining that a user meeting the criteria in Subsection b. (1) or b. (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

99. Significant Noncompliance or SNC. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:
- a. Chronic violations. A pattern of violating the same pretreatment standard daily maximum or average limit (any magnitude of exceedence) sixty-six percent (66%) or more of the time in a six-month period;
  - b. Technical Review Criteria (TRC violations). Thirty-three percent (33%) or more of the measurements exceed the same pretreatment standard daily maximum limit or average limit by more than the TRC factor in a six-month period. The TRC factor is 1.4 for biochemical oxygen demand (BOD), total suspended solids (TSS), oil & grease and 1.2 for all other pollutants except pH;
  - c. For pH monitoring, excursions shall be considered SNC when:
    - (1) The total time during which the pH values are outside the required range of pH values exceeds 7 hours and 26 minutes in any calendar month; or
    - (2) An individual excursion from the range of pH values exceeds 60 minutes; or
    - (3) An excursion occurs that the Town believes has caused, alone or in combination with other discharges, interference or pass-through; or has endangered the health of the sewage treatment personnel or the general public; or
    - (4) Any pH less than or equal to 2.0 or greater than or equal to 12.5.
  - d. Any other discharge violation that the Town Engineer believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
  - e. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town Engineer's exercise of its emergency authority to halt or prevent such a discharge;
  - f. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - g. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, IDP applications, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- h. Failure to accurately report noncompliance; or
- i. Any other violation(s) that the Town Engineer determines will adversely affect the operation or implementation of the local pretreatment program.

100. Slug. Means:

- a. Any discharge of water, wastewater, sewage, or industrial sewage which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation;
- b. Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Article 2.3 of this Ordinance; or
- c. Any discharge that may adversely affect the collection system and/or performance of the POTW.

101. Source Reduction. Any practice that:

- a. Reduces the amount of any hazardous substance, pollutant, or contaminant entering any wastestream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and
- b. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.
- c. The term includes equipment or technology modifications; process or procedure modifications; reformulation or redesign of products; substitution of raw materials; and improvements in housekeeping, maintenance, training, or inventory control. The term "source reduction" does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity that itself is not integral to and necessary for the production of a product or the providing of a service.

102. Spill. A release, accidental or otherwise, of any material not normally released to the POTW or which by virtue of its volume, concentration or physical or chemical characteristics, creates a hazard to the POTW, any aspect to its operation or its personnel. Such characteristics shall include, but are not limited to, volatile, explosive, toxic, or otherwise unacceptable materials.

103. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

104. Standards. Prohibitive discharge standards, categorical pretreatment standards, and local limits.
105. State. The State of New Hampshire.
106. Storm Drain or Storm Sewer. A pipe or conduit for conveying rain water, stormwater, groundwater, subsurface water, condensate, cooling water or other similar unpolluted water from any source.
107. Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
108. Subdivision. Any lot, tract, or parcel of land which is hereafter divided into two (2) or more parcels.
109. Superintendent. The Superintendent of the wastewater treatment facility of the City of Nashua or any authorized agent or representative.
110. Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering and are referred to as non-filterable residue in the laboratory test prescribed in *Standard Methods for the Examination of Water and Wastewater*.
111. Total Toxic Organics (TTO). The summation of all quantifiable values greater than 0.01 mg/l for the organic compounds as defined under the Metal Finishing Point Source Category, 40 CFR Part 433.11(e), unless otherwise defined for a specific categorical industry.
112. Town. The Town of Hudson, Hillsborough County, New Hampshire, acting by and through its Town Engineer, Board of Selectmen, or in appropriate cases acting by and through its authorized representatives.
113. Town Engineer. The person designated by the Town to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by the Ordinance, or by his duly authorized representatives.
114. Treatment Plant, Treatment Works, or Treatment Facility. Any device or system used in the storage, treatment, equalization, recycling or reclamation of wastewater and/or wastewater sludges as defined herein.
115. Unpolluted Water. Water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge would not cause a violation of receiving water quality standards.

116. User. Any person who discharges wastewater to the POTW.
117. Waste Disposal System. Any system for the disposal of sewage and other wastes, including, but not limited to, public or franchised sewerage systems, individual sewage disposal systems, chemical toilets, privies, waste treatment facilities, sanitary landfill operations, dumps, incinerators and composting operations.
118. Wastewater. The spent water of a community, and may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, together with any groundwater, surface water and stormwater that may be present.
119. Wastewater Treatment Facility. Any arrangement of devices and structures used for treating wastewater.
120. Watercourse. A natural or artificial channel for the passage of water either continuously or intermittently.
121. Waters. All rivers, streams, lakes, ponds, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems, groundwater and all other bodies of accumulated water, surface and underground, natural or artificial, public or private.
122. Wholesale User. A municipality or other municipal corporation which discharges wastewater from a municipal collection system into the Town's wastewater system.

## ARTICLE 2 - GENERAL SEWER USE AND CONNECTION REQUIREMENTS

### 2.1 Use of Public Sewers

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Hudson or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the Town, 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 Ordinance and with State and Federal laws and regulations.
- C. Sewers For Intended Uses Only. No person shall discharge into any public sewer of the Town, or into any fixture that thereafter discharges into any public sewer, any waste or substance other than for which the particular sewer is intended, designed or provided.
- D. Applicable Permits Required. No person shall discharge into any public sewer of the Town, or into any fixture that thereafter discharges into any public sewer, any waste or substance until all applicable Federal, State and local permits have been obtained.
- E. Use Of Sanitary Sewers. Except as specifically provided with reference to some particular sewer, sanitary sewers shall be used only for the conveyance and disposal of domestic wastewater, and for industrial wastes that are not objectionable as hereinafter provided. No sanitary sewer shall be used to receive and convey or dispose of any storm or surface water, subsoil drainage, unpolluted cooling water or unpolluted water.
- F. Use Of Storm Sewers. Stormwater, surface water, groundwater, roof runoff, subsurface drainage and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or a natural outlet approved by the Town Engineer. An NPDES Permit is required prior to discharging industrial cooling water, process waters, or stormwater runoff generated in areas of industrial activity (as defined in 40 CFR Part 122) to a storm sewer or natural outlet.
- G. Use Designation. If the intended or designated use of any particular sewer or drain and allowable discharge thereto is unclear, the Town Engineer will consider the pertinent facts and make a determination. Said determination will be final and binding.
- H. Required Connection.
- Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of

wastewater in any area where a public sewer is available, as described in paragraph (I) below.

- 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 or may in the future be 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 Ordinance, within ninety (90) days subsequent to the date of official notice to do so, provided that said gravity public sewer is within one hundred (100) feet of the building. This requirement for connection may be waived when permitted by the Selectmen if the household is already connected to a properly functioning, State-approved septic system approved after January 1, 1985.
  - At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, the owner shall connect to the public sewer, as provided above. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with clean mineral soils, and their use shall be discontinued.
- I. Where a public sanitary sewer is not available under the provisions of paragraph (H) above, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of RSA 485-A:29-44 and rules promulgated thereto. 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 shall any quantity of industrial waste be discharged to a private, domestic wastewater disposal facility.
- J. No building permit for new construction shall be issued unless the wastewater from the proposed improvements is discharged into the public sewer or an individual sewage disposal system approved by the NHDES. (Upon approval from the Town Engineer, building permits for non-habitable structures without any water service connection may be issued.)
- K. The design of any system of waste storage, collection, transportation, treatment, composting or disposal shall take into consideration proximity to wells, waters, topography, water table, soil characteristics, available area, residential concentration, and present and future property use and shall provide for adequate handling, treatment and disposal facilities for the amount and nature of public health, safety or welfare.
- L. The Town Engineer, Health Officer or his/her designee shall be permitted to make such inspections of any place, premises, container, process equipment or vehicle used for the collection, storage, transportation, disposal or reclamation of sewage, refuse, human excrement or industrial wastes as are necessary to ensure compliance with statutes, ordinances and regulations.

- M. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment that is part of the POTW. Any person violating this Ordinance shall be subject to immediate arrest and charged accordingly.
- N. Any spill by any user shall be reported immediately and in writing to the Town Engineer. Reporting requirements for all users are as listed in Article 7.7.
- O. The Town of Hudson shall be exempt from the provisions of this Ordinance. This exemption does not allow violations of any Federal, State or local pretreatment standard or requirement.
- P. Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violations.
- Q. No statement contained in the preceding paragraphs of this section shall be construed to interfere with any additional requirements that may be imposed by the Town Engineer.

## **2.2 Building Sewers and Connections**

### **A. General Information.**

1. No 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 Sewer Connection Permit from the Town Engineer.
2. When any building or other structure previously served by a connection to any public sewer or drain is demolished, destroyed, abandoned or altered so that any drain or portion of a plumbing system which is directly or indirectly connected to any public sewer or drain is no longer used and no longer connected to the drainage system of the building or structure, the open end of such drain or plumbing system which discharges, directly or indirectly into the public sewer or drain shall be promptly closed and sealed to the satisfaction of the Town Engineer. The Town Engineer shall be notified prior to closing and sealing the drain(s) to allow Town observation of such work. All work shall be completed by the person or party who demolished the building or structure or who alters the drainage of the premises so as to make such closing and sealing necessary; in the event of failure of such person to do so, work shall be done by the owner of the premises, to the satisfaction of the Town Engineer without expense to the Town.
3. In all cases when an existing septic system is abandoned and the building connected to a public sewer, the building plumbing system shall be brought into conformance with the plumbing code. All abandoned septic tanks shall be cleaned, removed or the covers completely broken in and the tank filled with sand or gravel to ensure that no underground voids remain.

4. No person(s) shall make connection of roof down spouts, interior or exterior foundation drains, area-way drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.
5. No person shall obstruct the free flow of air through any drain or soil pipe.
6. The Town Engineer may obtain the advice of a registered engineer at the applicant's expense.
7. The Town Engineer shall maintain a record of all connections made to public sewers and drains under this Ordinance and all repairs and alterations made to building connections or drains connected to or discharging into public sewers and drains of the Town or intended to so discharge. All persons concerned shall assist the Town Engineer in securing the data needed for such records.
8. All new sewer construction proposed to be part of the public sewer network must acquire a Facilities Plan Review from the Sewer Utilities Committee and approval for the new sewer construction from the Board of Selectmen prior to acquisition of all other local approvals; i.e. Planning Board approval; Sewer Connection Permit issuance; Industrial Discharge Permit issuance. A facilities plan review application is submitted to the Town Engineer.

B. Permits.

1. There shall be two (2) classes of building sewer permits: (a) for residential producing only domestic wastewater, and (b) for service to establishments producing or with potential to produce, commercial and industrial wastes. For residential and commercial services, the owner(s) or his agent shall make application on a special form furnished by the Town at least sixty (60) days prior to said service connection. For an establishment discharging or with potential to produce commercial and/or industrial wastes, the application shall be made at least ninety (90) days prior to said service connection. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Town Engineer. Application processing, review, and inspection fees in accordance with the attached Sewer Use Fee Schedule shall be paid to the Town at the time the application is filed. The Town Engineer is hereby authorized to amend and revise the Sewer Use Fee Schedule from time to time after giving public notice of the proposed adoption of a revised fee schedule, with the advice and consent of the Board of Selectmen.
2. After the applicant has complied with the requirements of this Ordinance, other applicable ordinances, and any rules and regulations as may be established by the Town, the permit shall be issued to the applicant by the Town Engineer. (Issuance of a permit does not ensure that the proposal is in compliance with all Federal, State, and local regulations.)

3. Permits to connect to a sewer issued under this Ordinance may be revoked and annulled by the Board of Selectmen, at any time, for such causes as they determine sufficient, and all parties in interest shall be held to have waived the right to claim damages on account of such revocation, provided that such revocation shall be annulled upon compliance with the provision in this Ordinance and the rules and regulations of the Town.
4. A new permit application is required for any discharge proposing to change tenants, uses, or flow volumes or characteristics.

C. Fees.

1. All costs and expenses incidental to the installation 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 of the building sewer. In addition to the initial construction of the building sewer, the owner is also obligated to pay all costs and expenses of operation, repair, maintenance and reconstruction (if needed) of both the building sewer and building drain.
2. The Town retains the right to levy sewer rentals to provide for the construction, operation, maintenance and replacement of the publicly owned treatment works.
3. Weekend inspection will be allowed with payment of additional fees to cover the cost of overtime wages and expenses to the inspector. This will only be allowed through prior coordination with and approval of the Town Engineer and the inspector.

D. Design Criteria.

1. A separate and independent building sewer shall be provided for all improved properties on an individual lot. Any lot legally containing more than one (1) building may have a private sewer servicing the buildings upon that lot.
2. The Town Engineer may authorize a private sewer servicing more than one (1) lot when in the opinion of the Town Engineer, such an arrangement is in the best interest of the Town and to require separate sewers would result in significant impracticality. Such authorization may be conditioned upon such other reasonable requirements as the Town Engineer and the Board of Selectmen may impose.
3. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Town Engineer to meet all requirements (or if they can be upgraded to meet the current requirements) of this Ordinance.
4. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town and DES rules Env-Ws 700. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and Water Environment Federation (WEF) Manual of Practice No. FD-5 shall apply.

5. A building sewer shall not be extended within a Town right-of-way beyond the projection of the building lot line in order to make connection to a sewer main. Instead the main line sewer shall be extended within the right-of-way to the appropriate property or the building sewer may be extended through a private easement. Sewer lines within a private easement will not be the responsibility of the Town.
6. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage conveyed by such building drain shall be lifted by an approved means and discharged to the building sewer at the owner's expense.
7. The connection of the building sewer into an existing public sewer shall be made at the curb fitting, if provided, or the "Y" branch, if such branch is available at a suitable location. Where no "Y" branch is available, a neat hole may be cut, by machine into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of forty-five degrees (45°), using a mainline repair sleeve as approved by the Town Engineer. Saddle type connections will not be allowed. Such connection shall be made completely watertight.
8. Where a building sewer is to tie in to a sewer main and the elevation difference between the invert of the building sewer and top of sewer main is greater than two (2) feet, a chimney will be used to make the appropriate connection.
9. In all new construction and in all reconstruction and remodeling involving building sanitary facilities, separate piping systems shall be provided for wastewater and for stormwater and shall be extended from the building as separate systems to the public sewer and connected to the appropriate sanitary sewer or storm sewer.
10. The building sewer shall be laid at a uniform grade and in straight alignment. Changes in direction shall be made only at clean-outs or manholes as required by the Town Engineer. Clean-outs shall be provided at a maximum spacing of seventy-five (75) feet on straight runs.
11. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. FD-5. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Town Engineer before installation.
12. Proposed new discharges from residential or commercial sources involving loadings exceeding fifty (50) population equivalents (5,000 gpd), any new industrial discharge, or any alteration in either flow, waste characteristics or concentrations of existing industrial wastes that are being discharged into the POTW must be approved by DES. Such approvals shall be obtained in accordance with Articles 4 and 7 of this Ordinance. (It is understood that absent special circumstances, the Town and NHDES will approve plans for new systems, extensions, or replacement sewers only when designed upon the

separate plan in which rainwater from roofs, streets, and other roads and the groundwater from foundation drains are excluded.)

E. Construction Information.

1. The Town Engineer shall have full authority over the construction, installation and repair of all public sewers, and shall have full authority over private sewer design specifications and methods of construction.
2. During construction of a new sanitary sewer, the Town may construct the service connections for existing buildings to the curb or the property line or the edge of a right-of-way. Construction of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property to be connected; and such owner shall indemnify and save harmless the Town, its officers, and agents from all loss or damage that may result, directly or indirectly, due to the construction of a building sewer on his premises or its connection to the service connection. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed, of the building sewer and service connection.
3. All excavations required for the installation of a building sewer shall be open trench work, unless otherwise approved by the Town Engineer.
4. The applicant for the building sewer permit shall notify the Town Engineer when the building sewer is ready for inspection and connection to the public sewer. Such notice shall be provided not less than forty-eight (48) hours in advance of the time any connection is to be made to any public sewer. The connection and testing shall be made under the supervision of the Town Engineer or his representative. This requirement shall also apply to construction, repairs or alterations to building connections, sewers, drains or pipes discharging to the public sewers or drains.
5. Suitable provisions shall be made at the point of connection for testing, which responsibility shall rest with the holder of the Sewer Connection Permit.
6. No building sewer shall be covered until it has been inspected and approved by the Town Engineer. If any part of building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the public sewer. These requirements shall apply to construction, repairs, or alterations to sewers, drains or pipes discharging to public sewers or drains.
7. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town at the expense of the owner.

## 2.3 Discharge Standards

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be accidentally discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the user's pretreatment facility before connecting to the POTW. Floor drain discharges must be reviewed and approved prior to connection to the POTW.

### Prohibited Discharges

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, gas, solid, or any substance that may generate or form any flammable, combustible or explosive substance, fluid, gas, vapor or liquid when combined with air, water or other substances present in sewers including, but not limited to, wastestreams with closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21;
  2. Wastewater having a pH less than six (6.0) or greater than ten and five tenths (10.5), as measured at the point of connection to the sanitary sewer or other available monitoring location, or otherwise causing corrosive structural damage or hazard to the POTW equipment, or personnel, or with alkalinity in such quantities that the pH of the influent to the POTW is caused to exceed 8.0;
  3. Solid or viscous substances including water or wastes containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per litre (mg/l), or containing substances that may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) (0-65° C);
  4. Any wastewater containing an average concentration BOD in excess of two hundred fifty (250) mg/l or material which cause unusual oxygen demand chemical oxygen demand, or chlorine requirements;
  5. Wastewater having a temperature greater than one hundred fifty degrees Fahrenheit (150°F) (sixty-five and five tenths degrees Celsius (65.5°C)), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the POTW treatment plant to exceed one hundred four degrees Fahrenheit (104°F) (forty degrees Celsius (40°C));

6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through;
7. Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause worker health and safety problems;
8. Trucked or hauled pollutants;
9. Medical wastes except as specifically authorized in an industrial user wastewater permit;
10. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent or sludge to fail a toxicity test;
11. Household hazardous wastes including, but not limited to, paints, stains, thinners, pesticides, herbicides, anti-freeze, transmission and brake fluids, motor oil and battery acid;
12. Wastewater containing an increase in caustic alkalinity calculated as CaCO (calcium carbonate) in excess of seventy-five (75) mg/l or in volumes which may be excessive;
13. Wastewater containing hazardous, toxic or reactive pollutants including, but not limited to, halogenated hydrocarbons, organic solvents and organochlorine insecticides, pesticides, herbicides and fungicides;
14. Wastewater containing solid or viscous substances in such quantity or size to be capable of causing obstruction to the flow in the POTW or other interference with the proper operation of the wastewater treatment facility including, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, manure, hair, fleshings, entrails, paper dishes, cups and milk containers, either whole or ground by garbage grinders;
15. Wastewater containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not;
16. Wastewater containing heavy metals, solvents or similar objectionable or toxic substances to such degree that any such material discharged to the public sewer exceeds the limits established by the Town Engineer, the NHDES or the EPA for such materials;
17. Wastewater containing taste or odor producing substances in such quantity that it inhibits wastewater treatment, causes harm to the POTW, creates a public nuisance, or causes the wastewater facility to fail any State or Federal requirements;

18. Noxious or malodorous liquids, gases, solids, or other materials which, either singly or by interaction with other materials, are sufficient to create a public nuisance, hazard to life or health or a bar to entry into the sewers for maintenance and repair;
19. Wastewater containing an average concentration of suspended solids in excess of three hundred (300) mg/l;
20. Wastewater that imparts color that may not be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently may impart color to the treatment facility's effluent, thereby violating the City's NPDES Permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;
21. Wastewater containing any radioactive wastes or isotopes in excess of such half-life or concentration limits established in applicable State or Federal regulations or by the Town Engineer;
22. Garbage or solids that have not been properly shredded. (Garbage grinders may be connected to sanitary sewer 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);
23. Wastewater in which the concentration of any given constituent or quantity of flow constitutes a slug, or is excessive;
24. Wastewater containing materials which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only by such a limited degree that the POTW effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters;
25. Wastewater containing pollutants which would pass through the wastewater treatment facility or cause interference with the operation or performance of the wastewater treatment facility. This shall apply to any source introducing wastewater containing pollutants, whether or not the source is subject to the categorical pretreatment standards or any other Federal, State or local pretreatment requirements;
26. Wastewater which has a concentration of any pollutant above screening levels. Such screening levels, generated on the basis of standard conditions, shall be adjusted for the particular conditions applicable to the specific discharge as needed. Fume toxicity screening levels shall be adjusted when administered as limits to account for the pH, temperature, dilution, other toxic fumes and ventilation present at the site of the particular discharge; and

27. Any substance the Town Engineer may deem harmful to the treatment process, the POTW, or its personnel.
- C. Additional Prohibitions. No user shall introduce or cause to be introduced into the POTW the following substances, pollutants or wastewater, unless specifically authorized by the Town Engineer in a Wastewater Discharge Permit:
1. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, or otherwise unpolluted industrial wastewater unless specifically authorized by the Town Engineer;
  2. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  3. Detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW;
  4. Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10 percent (10%) of the Lower Explosive Limit of the meter;
  5. Waters or wastes that, by interaction with other water or wastes in the POTW, releases obnoxious gases, form suspended solids which interfere with the collection system, or create a condition detrimental to structures and treatment processes;
  6. Any material that may cause obstruction of flow in a sewer system or injury of the system or a nuisance or prevention of the effective maintenance or operation of the sewer system.
  7. Any materials that exert or cause unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime, slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
- D. The Town Engineer may with written prior approval from the Nashua Wastewater Treatment Facility's superintendent, with discretion, reallocate industrial loadings, establish mass-based discharge limits and establish new limits to meet the needs of the community.
- E. The Town Engineer may with written prior approval from the Superintendent, grant waivers from paragraphs 2.3.B.19 and 2.3.B.4 to nonsignificant users.
- F. No user shall introduce or cause to be introduced into the POTW any substance, pollutant, or wastewater that would otherwise be regulated as industrial process waste pursuant to §2.5,

without first obtaining the required approvals from the Town of Hudson including, but not limited to, an Industrial Discharge Permit (IDP).

## **2.4 Federal Categorical Pretreatment Standards**

The categorical pretreatment standards are found at 40 CFR Chapter I, Subchapter N, Parts 405-471 and are hereby incorporated into the Ordinance.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Town Engineer may impose equivalent concentration or mass limitations in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Town Engineer shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

The Town shall provide timely notification to appropriate permitted industrial users of applicable categorical pretreatment standards. Upon promulgation of the Federal categorical pretreatment standards for a particular industrial subcategory, the Federal standard, if more stringent than limitations imposed under this Ordinance for sources in that subcategory shall, on the compliance date of the categorical pretreatment standards, immediately supersede the limitations imposed under this Ordinance.

Industries shall also independently maintain current knowledge of applicable National Categorical Pretreatment standards.

All industries subject to categorical pretreatment standards shall comply with the standards immediately and at all times; all industries that become subject to any future categorical pretreatment standards that may be promulgated by the EPA at some future time shall comply with those standards within the EPA designated time period, unless a shorter compliance time is specified by the Town Engineer.

Within sixty (60) days after the effective date of a categorical pretreatment standard, an industry subject to such standard shall submit an application for an industrial permit modification. The application shall contain the information noted in Article 4.

Compliance with categorical pretreatment standards shall be achieved within three (3) years of the date such standards are effective, unless a shorter compliance schedule is specified in the standards.

An industrial user subject to categorical pretreatment standards shall not discharge wastewater directly or indirectly to the Town's POTW subsequent to the compliance date of such standards unless an amendment to its IDP has been issued by the Town.

## **2.5 Local Discharge Restrictions**

All persons discharging industrial process wastes into public or private sewers connected to the Town's POTW shall comply with applicable Federal requirements and State standards for pretreatment of wastes as they may be amended from time to time in addition to the requirements of this Ordinance, whichever is more stringent.

Local numerical discharge limitations established by the Town as set forth herein (referred to as "local limits"), and all State pretreatment standards and categorical pretreatment standards shall apply, whichever is most stringent.

In developing the list of pollutants of concern for which local limits are established, the Town has considered the allowable headworks loading at the Nashua Wastewater Treatment Facility. Pollutants that exceed fifty percent (50%) of their allowable headworks loading at the wastewater treatment facility are considered to be of concern and have resulted in development of local limits. Pollutants that exceed twenty percent (20%) of their allowable headworks loading at the wastewater treatment facility are targeted for mandatory pollution prevention action.

If any waters or wastes are discharged or are proposed to be discharged to the POTW that exceed the standards or restrictions established in Articles 2.3, 2.4, and 2.5 of this Ordinance, which in the judgment of the Town Engineer may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or that otherwise create a hazard to worker safety or health, or constitute a public nuisance, the Town Engineer may:

- Reject the wastewater or wastes or prevent any discharge to the POTW;
- Require pretreatment of the wastewater to an acceptable condition for discharge to the public sewers;
- Require control over the quantities and rates of discharge of the wastewater;
- Require payment to cover additional cost of handling and treating the wastes; and/or

If the Town Engineer allows the pretreatment or equalization of waste flows, the design and installation of the systems and equipment shall be subject to the review and approval of the Town Engineer and the State of New Hampshire.

- A. Local Limits. The following numerical pollutant discharge limitations are established to protect against pass-through and interference. No person shall discharge wastewater containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other waste to injure or interfere with any sewage treatment process, constitutes a hazard to humans, animals or the environment, create a public nuisance or create a hazard to the POTW including, but not limited to, constituents at daily concentrations greater than indicated below:

POLLUTANT	CONCENTRATION LIMIT (mg/l)	POLLUTANT	CONCENTRATION LIMIT (mg/l)
Arsenic	0.16	Mercury	0.006
Boron	17.48	Nickel	25.57
Cadmium	0.33	Phenols	0.83
Carbon Disulfide	1.17	Selenium	0.11
Chloroform	1.07	Silver	
Chromium, hexavalent	1.85	♦ Non-Photoprocessors	0.05
Chromium (T)	1.85	♦ Photoprocessors	1.89
Copper	7.53	Sulfates	810
Cyanides (T)	0.19	Toxic Organics	5.0
Hydrogen Sulfide	0.550	Zinc	6.57
Lead	1.20		

For industrial discharge applications, the local limits presented above shall apply at the end of the process train prior to dilution with non-industrial wastewaters.

Daily concentrations are the concentration of a pollutant discharged, determined from the analysis of a flow-composited sample (or other sampling procedure approved by the Town Engineer) representative of the discharge over the duration of a 24-hour day or industrial operating schedule of less than 24 hours.

All concentration limits for metals represent “total” metal unless indicated otherwise. The Town Engineer may impose mass limitations in addition to, or in accordance with Article 2.8, in place of the concentration-based limitations above.

Local limits are developed based on the identification of industrial users known to be discharging each pollutant (industrial contributory flow procedure). Unless specifically identified in an IDP, an industrial user shall not discharge the locally limited pollutants at concentrations twenty percent (20%) greater than the background concentrations used for local limits development.

## **2.6 Town's Right of Revision**

The discharge standards and requirements set forth in Articles 2.3, 2.4, and 2.5 are established for the purpose of preventing discharges to the POTW that would harm the sewers, wastewater treatment process, or equipment; would have an adverse effect on the receiving stream; or would otherwise endanger lives, limb, public property, or constitute a nuisance.

To meet these objectives, the Town Engineer may, from time to time, review and set more stringent standards or requirements than those established in Articles 2.3, 2.4, and 2.5 if, in the Town Engineer's opinion, such more stringent standards or requirements are necessary. At a minimum, this review will be performed at least once every five years. In forming this opinion, the Town Engineer may give consideration to such factors as the quantity of waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment facility, degree of treatability at the wastewater treatment facility, pollution prevention activities, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer shall not be exceeded without the approval of the Town Engineer.

The Town Engineer shall allow affected industrial users reasonable time to comply with any changes to the local limits. The conditions and schedule for compliance shall accompany the written notification of amended local limits.

## **2.7 Dilution**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Town Engineer may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

## **2.8 Mass-Based Limitations**

Users implementing process changes may request that compliance be determined based on mass limitations in lieu of concentration limitations. Such mass-based limitations will be calculated from the permitted concentration-based limitations and flows, and shall be equivalent to or less than the mass discharge in effect at the time of the request. The intent of a mass-based limit is to encourage and allow pollution prevention and/or water conservation measures that might cause a facility to increase pollutant concentrations in its discharge even though the total mass of the pollutant discharged does not increase, and may in fact decrease. Decisions on granting requests for mass-based compliance limitations will be based on user-specific information and current operating conditions of the POTW, and will be at the discretion of the Town Engineer. Implementation of mass-based limitations may not contravene any requirements of Federal or State laws and/or

regulations implemented thereunder, and may not waive applicable categorical pretreatment standards.

## **2.9 Standard Tests**

All measurements, tests and analyses of the characteristics of wastewater shall be determined in accordance with EPA Methods for wastewater and shall be performed at the control manhole on suitable samples taken at the control manhole or at a site designated by the Town Engineer. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the POTW and to determine the existence of hazards to life, health, property and environment.

A twenty-four (24) hour composite of all outfalls is generally appropriate, however, upon request, the Town Engineer will assist in determining whether a grab sample is appropriate. Results may be used for assessment of penalties and payments.

## **ARTICLE 3 - PRETREATMENT OF WASTEWATER**

### **3.1 Pretreatment Facilities**

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, prohibitions, and requirements set out in Articles 2.3, 2.4, and 2.5 of this Ordinance within the time limitations specified by EPA, the State, or the Town Engineer, whichever is more stringent. All facilities required to achieve and maintain compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town Engineer for review, and shall be acceptable to the Town Engineer and the DES before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this Ordinance.

### **3.2 Additional Pretreatment Measures**

- A. Whenever deemed necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance, the Town Engineer may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary.
- B. The Town Engineer may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An IDP may be issued solely for flow equalization.
- C. All users discharging into a public sewer shall perform such monitoring of their discharge as the Town Engineer may require, including installation, use and maintenance of monitoring equipment, keeping records and reporting results of such monitoring to the Town Engineer.
- D. Grease, oil, and sand interceptors shall be provided at the owner's expense when, in the opinion of the Town Engineer, these devices are necessary for the proper handling of liquid waste containing grease, oil, sand or other material which will damage or interfere with the operation of sewers or drains or give rise to hazardous conditions therein. All interception units shall be of a type and capacity approved by the Town Engineer and shall be so located to be easily accessible for cleaning, sampling and inspection. All interceptors shall be vented and equipped with easily removable covers. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. All interceptors shall be continuously and efficiently maintained and operated by the owner at the owner's expense. The owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates and means of disposal, which shall be subject to periodic review by the Town Engineer. Any

removal and hauling of the collected materials not performed by the owner's personnel shall be performed by currently licensed waste disposal firms.

- E. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter and alarm.
- F. Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, these devices shall be maintained continuously to ensure satisfactory and effective operation by the owner at his expense.

### **3.3 Slug Control Plans**

At least once every two (2) years, the Town Engineer shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Town Engineer may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

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

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

Refusal or failure to provide a suitable plan approved by the Town Engineer within the time designated by the Town Engineer shall result in the immediate loss of access to the POTW.

Any damages experienced by the Town as a result of a bypass, spill, slug or excessive discharge are considered a violation of the Ordinance and costs for repair, replacement, other associated costs, or any costs incurred by the Town due to imposition of fines or penalties pursuant to an administrative order or judicial decree are recoverable from the user.

### 3.4 Tenant Responsibility

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user either or both may be held responsible for compliance with the provisions of this Ordinance.

### 3.5 Pollution Prevention Plans

In accordance with the provisions of this Ordinance, the Town Engineer may require any person discharging wastes into the POTW to develop and implement, at that person's own expense, a pollution prevention plan. The Town Engineer may require users to submit as part of the pollution prevention plan information that demonstrates adherence to the following elements:

- A. Management Support. For changes to be effective, the visible support of top management is required. Management's support should be explicitly stated and include designation of a pollution prevention coordinator, goals, and time frames for reductions in volume and toxicity of wastestreams, and procedures for employee training and involvement.
- B. Process Characterization. A detailed process waste diagram shall be developed that identifies and characterizes the input of raw materials, the outflow of products, and the generation of wastes.
- C. Waste Assessment. Estimates shall be developed for the amount of wastes generated by each process. This may include establishing and maintaining waste accounting systems to track sources, the rates and dates of generation, and the presence of hazardous constituents.
- D. Analysis of Waste Management Economics. Waste management economic returns shall be determined based on the consideration of:
  - 1. Reduced raw material purchases;
  - 2. Avoidance of waste treatment, monitoring and disposal costs;
  - 3. Reductions in operations and maintenance expenses;
  - 4. Elimination of permitting fees and compliance costs; and
  - 5. Reduced liabilities for employee/public exposure to hazardous chemicals and cleanup of waste disposal sites.
- E. Development of Pollution Prevention Alternatives. Current and past pollution prevention activities should be assessed, including estimates of the reduction in the amount and toxicity of waste achieved by the identified actions. Opportunities for pollution prevention must then be assessed for identified processes where raw materials become or generate wastes.

Technical information on pollution prevention should be solicited and exchanged, both from inside the organization and out.

- F. Evaluation and Implementation. Technically and economically feasible pollution prevention opportunities shall be identified and an implementation timetable with interim and final milestones shall be developed. The recommendations that are implemented shall be periodically reviewed for effectiveness.

The review and approval of such pollution prevention plans by the Town shall in no way relieve the user from the responsibilities of modifying facilities as necessary to produce a discharge acceptable to the Town in accordance with the provisions of this Ordinance.

## **ARTICLE 4 - INDUSTRIAL DISCHARGE PERMIT APPLICATION**

Any industrial user proposing a new discharge into the POTW or an existing discharger proposing a change in the volume or character of its existing discharge, a change in location of discharge, change of tenants producing discharge, or a significant change in production shall submit an application for an IDP. The industrial user shall submit an application to the Town Engineer no later than ninety (90) days prior to the proposed change or connection.

### **4.1 Wastewater Characterization**

When requested by the Town Engineer, a user must submit information on the nature and characteristics of its wastewater within sixty (60) days of the request. The Town Engineer is authorized to prepare a form for this purpose and may periodically require users to update this information.

### **4.2 Industrial Discharge Permit Requirement**

- A. No industrial user shall discharge wastewater into the public sewer without first obtaining an IDP from the Town Engineer, except that a significant industrial user that has filed a timely and complete application pursuant to Article 4.4 of this Ordinance may continue to discharge for the time period specified therein.
- B. The Town Engineer may require other users to obtain IDP, or submit an application for an IDP, as necessary to execute the purposes of this Ordinance.
- C. Any violation of the terms and conditions of an IDP shall be deemed a violation of this Ordinance and shall subject the industrial discharge permittee to the enforcement actions set out in Articles 10 through 12 of this Ordinance. Obtaining an IDP does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

### **4.3 Discharge Permit Request Requirement**

All industrial users must receive DES approval for any new industrial discharge, or any significant alteration in either flow or waste characteristics, in accordance with the City of Nashua's NPDES Permit, NHDES Pretreatment Regulations and the Nashua-Hudson Intermunicipal Agreement.

### **4.4 Industrial Discharge Permitting: Existing Connections**

Any user required to obtain an IDP who was discharging wastewater into the POTW prior to the effective date of this Ordinance, and is not currently covered by a valid IDP, and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Town Engineer for an IDP in accordance with Article 4.7 of this Ordinance, and shall not cause or allow

discharges to the POTW to continue after one hundred twenty (120) days of the effective date of this Ordinance except in accordance with an IDP issued by the Town Engineer.

#### **4.5 Industrial Discharge Permitting: New Connections**

Any user required to obtain an IDP who proposes to begin or recommence discharging into the POTW shall obtain an IDP prior to the beginning or recommencing of such discharge. An application for this IDP, in accordance with Article 4.7 of this Ordinance, shall be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

#### **4.6 Industrial Discharge Permitting: Categorical Standards**

Within one hundred twenty (120) days subsequent to the effective date of a categorical pretreatment standard, an industrial user subject to such standards shall submit an application for an IDP amendment. The application shall contain the information noted under Article 4.7.

#### **4.7 Industrial Discharge Permit**

##### **Application Contents**

All users required to obtain an IDP, and other users subject to these rules, as required by the Town Engineer, shall submit a permit application. The application shall be filed on forms furnished by the Town Engineer.

The Town Engineer may require all users to submit as part of an application the following information:

- A. All information required by 40 CFR 403.12;
- B. Name and address of facility, including the name(s) and telephone numbers of the operators and owners;
- C. Descriptions and process sketches of activities, facilities, and production processes on the premises, including SIC Code(s);
- D. An identification of the categorical pretreatment standards applicable to each regulated process, if any;
- E. A list of all raw materials and chemicals used or stored at the facility that are, or could accidentally be, discharged to the POTW;
- F. A list of all environmental permits held by or for the facility.
- G. An analysis identifying the nature and concentration of pollutants in the discharge or data illustrating the expected levels of pollutants in proposed wastewater discharge;

- H. Information on the toxicity and treatability of the particular pollutants proposed to be discharged;
- I. Each product produced by type, amount, process or processes, and rate of production;
- J. A list of all process chemicals, chemical products and treatment substances;
- K. Type and amount of raw materials processed (average and maximum per day);
- L. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge and sampling locations;
- M. A plan showing the essential characteristics of all wastewater outlets and analysis of existing and expected average and maximum wastewater flows at each location;
- N. A plan showing the location within the municipality;
- O. The measured (if available or estimated) average, maximum and total daily flow in gallons per day for each discharge, and the expected peak rate in gallons per minute to the public sewer from regulated process streams and other streams (including domestic) and the time and duration of discharges;
- P. Copies of existing pollution prevention plans and/or a description of all known pollution prevention opportunities that may exist at the facility;
- Q. Requirements for the design and installation of pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate or prevent introduction of pollutants into the POTW;
- R. A brief narrative describing those measures taken or planned to reduce water usage and implement pollution prevention techniques;
- S. Any other information required to meet the baseline monitoring requirements applicable to users subject to National Categorical Pretreatment Standards;
- T. Notification to the Town of any proposed or existing discharge of listed or characteristic hazardous waste as required by 40 CFR 403.12(p) as well as any proposed or ongoing shipments of hazardous waste to outside disposal facilities;
- U. In those instances in which the industrial user provides notification of the discharge of hazardous waste, the industrial user shall also provide the following certification: "I certify that (the company) has a program in place to reduce the volume and toxicity of hazardous wastes generated";
- V. An indication of whether the conditions referenced in the application are existing or proposed;
- W. A schedule of actions to be taken to comply with discharge limits, if necessary;

- X. An agreement stating that the applicant agrees to abide by all ordinances and rules of the Town, that a bond sufficient to cover the costs to the Town of any violation of this chapter will be supplied upon demand of the Town Engineer or the Board of Selectmen, that the applicant will provide works for the pretreatment of the wastewater as may be required by the Town Engineer, and the applicant will permit duly authorized representatives of the Town to enter the premises of the applicant to inspect and sample wastewater;
- Y. An emergency 24-hour facility contact number;
- Z. A property owner's acknowledgement;
- AA. Certification as described in Article 4.8;
- AB. An executed consent to entry; and
- AC. Any other information requested by the Town Engineer.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. Any application without activity for 90 days is considered void unless a written request to extend the time is received and approved by the Town Engineer.

Fees for administration and review of the application shall be established by the Hudson Town Code. From these fees, an escrow account will be established to pay for the Town's costs associated with the review of, design of, or installation of the sewer connection.

The Town shall keep appropriate records of actual costs incurred and draw against the account.

During review of the applicant's permit application(s), should the Town Engineer determine that additional funds will be required to complete the process, the applicant will be required to deposit such additional funds into the escrow account.

The final fee shall be determined upon completion of all work and is limited to the actual costs incurred. The Town shall thereafter return any unused interim fees (greater than five (5) dollars) to the applicant.

#### **4.8 Signatories and Certification**

All IDP applications and user reports shall be signed by an authorized representative of the user and shall contain the following certification statement:

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

that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I further certify that any changes to the process or in the materials used or in the wastewater discharge of this facility will be brought to the attention of the Town Engineer immediately.”

If prior written authorization specifying an alternate authorized representative of the user 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 requirements under “authorized representative” must be submitted to the Town Engineer prior or together with the required reports and certification.

#### **4.9 Hauled Wastewater Permits**

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Transport and discharge of such waste shall comply with Article 14.0 of this Ordinance.
- B. The Superintendent may require generators of hauled industrial waste to obtain IDPs. The Superintendent may require haulers of industrial waste to obtain IDPs. The Superintendent may also prohibit the disposal of hauled industrial waste. All other requirements of this Ordinance apply to the discharge of hauled industrial waste.
- C. Industrial waste haulers may discharge loads only at locations designated by the Intermunicipal Agreement. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and a certification that the wastes are not hazardous wastes as defined in the State's Hazardous Waste Rules (Env-Wm 110, 211-216, 351-353, 400-1000).

## **ARTICLE 5 - INDUSTRIAL DISCHARGE PERMIT ISSUANCE PROCESS**

### **5.1 Industrial Discharge Permit Decisions**

The Town Engineer will evaluate the data provided by the industrial user and may require additional information. Within sixty (60) days of receipt of a complete IDP application or ninety (90) days in the case of an application for a new or increased discharge requiring review and approval by DES, the Town Engineer will determine whether or not to issue an IDP. The Town Engineer may deny any application for an IDP, with just cause. Approval of an IDP Application automatically initiates participation in the Industrial Pretreatment Program.

### **5.2 Industrial Discharge Permit Duration**

An IDP shall be issued for a specified time period, not to exceed five (5) years or three (3) years in the case of a significant industrial user from the effective date of the permit. An IDP may be issued for a period less than these intervals at the discretion of the Town Engineer. Each IDP will indicate a specific date upon which it will expire.

IDPs shall be terminated upon cessation of operations or transfer of business ownership, unless notification of such transfer is provided in accordance with Article 5.6 of this Ordinance. All IDPs issued to a particular user are void upon the issuance of a new IDP to that user.

### **5.3 Industrial Discharge Permit Contents**

An IDP will outline the general and specific conditions which industrial wastewater will be accepted from that industrial user for collection/treatment at the POTW.

The permit shall include such conditions as are deemed reasonably necessary by the Town Engineer to prevent pass-through or interference, protect the quality of the water body receiving the treatment facility's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Specifically included in the IDP is the following:
1. A statement that indicates IDP duration, which in no event shall exceed five (5) years;
  2. A statement that the IDP is nontransferable without prior notification to the Town in accordance with this Ordinance, and provisions for providing the new owner or operator with a copy of the existing IDP;
  3. Effluent limitations based on applicable pretreatment standards and requirements;

4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored and the following: sampling location, sampling frequency, and sample type based on this Ordinance, and State and Federal laws, rules and regulations;
5. For users with reporting requirements, such reports at a minimum shall require:
  - a. Periodic monitoring results indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment requirements and the average and maximum daily flow for these process units;
  - b. A statement as to whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, than what additional O&M practices and/or pretreatment systems are necessary;
  - c. Submittal of any monitoring results performed in addition to the requirements of the IDP using procedures prescribed in the permit;

(5) The report shall be reviewed by an authorized representative of the industrial user and certified by a qualified industry professional. Due dates are as specified in the permit;

(6) Any industrial facility which is subject to EPA categorical pretreatment standards, shall comply with reporting requirements as outlined in Article 7 of this Ordinance; and

(7) Additional requirements for such reports may be imposed at the discretion of the Town Engineer.
6. Compliance schedules (if applicable) as outlined in Article 7.2; [40 CFR 403.8(f)(1)(iv)];
7. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. This schedule may not extend the time for compliance beyond that required by this Ordinance, applicable State and Federal laws, rules and regulations;
8. A statement that compliance with the IDP does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those that become effective during the term of the IDP; and
9. Penalties for noncompliance, including but not limited to denial of access to POTW;

10. Standard notification requirements for noncompliance with any of the permit conditions or any provisions of this Ordinance including, but not limited to, a slug discharge, bypass or excessive situation by an industrial user as well as notification of any prior noncompliance.

B. IDPs may contain, but need not be limited to, the following conditions:

1. Limitations on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
3. Requirements for the development and implementation of spill control plans, toxic organic management plans, or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
4. Development and implementation of pollution prevention plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment; and
7. Other conditions as deemed appropriate by the Town Engineer to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

#### **5.4 Industrial Discharge Permit Appeals**

Any person, including the user, may petition the Town Engineer to reconsider the terms of an IDP within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appellant user must indicate the IDP provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the IDP.
- C. The effectiveness of the IDP shall not be stayed pending the appeal.

- D. If the Town Engineer fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied.
- E. Aggrieved parties may appeal the conditions of the IDP in accordance with Article 17.2 of this Ordinance.

### **5.5 Industrial Discharge Permit Modification**

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

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

The filing of a request by the permittee for a Wastewater Discharge Permit modification does not stay any Wastewater Discharge Permit condition.

### **5.6 Industrial Discharge Permit Transfer**

IDPs may be transferred to a new owner or operator only if the permittee provides at least sixty (60) days advance notice to the Town Engineer, and the Town Engineer approves the IDP transfer. The notice to the Town Engineer shall include a written certification by the new owner or operator that:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes that generate wastewater to be discharged to the POTW;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing IDP.

Failure to provide advance notice of a transfer may, upon review by the Town Engineer, render the IDP void as of the date of facility transfer.

### **5.7 Wastewater Discharge Permit Revocation**

Wastewater Discharge Permits may be revoked for the following reasons:

- A. Failure to notify the Town of significant changes to the wastewater prior to the changed discharge.
- B. Failure to provide notification to the Town of changed condition, pursuant to Article 7.6.
- C. Misrepresentation or failure to fully disclose all relevant facts in the Wastewater Discharge Permit Application.
- D. Falsifying self-monitoring reports.
- E. Tampering with Town (or Town Authorized) equipment.
- F. Refusing to allow the Town timely access to the facility premises and records.
- G. Failure to meet effluent limitations.
- H. Failure to pay fines.
- I. Failure to pay sewer or Industrial Pretreatment Program charges.
- J. Failure to meet compliance schedules.
- K. Failure to reapply as required.
- L. Failure to provide advance notice of the transfer of a permitted facility.
- M. Violation of any pretreatment standard or requirement, or any terms of the Wastewater Discharge Permit or the Ordinance.

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.

### **5.8 Industrial Discharge Permit Reissuance**

A user with an expiring IDP shall apply for re-issuance of the IDP by submitting a complete permit application, in accordance with Article 4.7 of this Ordinance, a minimum of sixty (60) days prior to

the expiration of the user's existing IDP. Under no circumstances shall the permittee continue to discharge without an effective permit. An expired permit will continue to be effective and enforceable until the permit is reissued if:

- The industrial user has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and
- 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 industrial user.

### **5.9 Industrial Discharge Permit Additional Conditions**

Granting of a permit shall not create any expectations of vested rights to any future permit. An industrial user who has committed any violation of the Ordinance shall not be granted a new permit until such conditions and mechanisms as the Town Engineer deems necessary are included to ensure that no future violation shall occur.

The permit is non-transferable and may be revoked for noncompliance with the Ordinance or modified so as to conform to discharge limitation requirements that are enacted by Federal, State or local rules or regulations at any time.

All industries discharging into the POTW shall perform such monitoring of their discharges as the Town Engineer and other duly authorized designees of the Town may reasonably require.

All industries discharging into the POTW shall maintain appropriate flow-metering devices.

Industrial users shall be assessed fees by the Town to defray the costs of the Industrial Pretreatment Program.

### **5.10 Regulation of Waste Received from Other Jurisdictions**

- A. If another municipality, or user located within another municipality, contributes wastewater to the POTW within Hudson, the Selectmen shall enter into an Intermunicipal Agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph (A), above, the Town shall request the following information from the contributing municipality:
  - 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - 2. An inventory of all users located within the contributing municipality that are discharging to the POTW; and

3. Such other information as the Town may deem necessary.
- C. An Intermunicipal Agreement, as required by paragraph (A), above, shall contain the following conditions:
1. A requirement for the contributing municipality to adopt a sewer use ordinance that is at least as stringent as this Ordinance, and local limits that ensure that the pollutant loadings allocated to the contributing municipality are not exceeded. The requirement shall specify that such Ordinance and local limits shall be revised as necessary to reflect changes made to the Town's Ordinance or revisions to the loadings allocated to the contributing municipality;
  2. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  3. A provision specifying which pretreatment implementation activities, including IDP issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Town; and which of these activities will be conducted jointly by the contributing municipality and the Town;
  4. A requirement for the contributing municipality to provide the Town with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  5. Limitations on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
  6. Requirements for monitoring the contributing municipality's discharge;
  7. A provision ensuring the Town's access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Town Engineer; and
  8. A provision specifying remedies available for breach of the terms contained within the agreement.
- D. Intermunicipal Agreements shall be subject to approval by DES.

## **ARTICLE 6 – INDUSTRIAL PRETREATMENT PROGRAM**

### **6.1 Required Participants**

All industrial, commercial, and institutional users of the POTW may be required to participate in the Industrial Pretreatment Program. Participation requirements are determined based upon Federal and State regulations and/or the facilities potential for adversely affecting the POTW, health and safety regulations, potential for adversely affecting the Intermunicipal Agreement, or potential environmental impacts. Other users, including residential users with non-typical discharges (including home photoprocessors) may, at the discretion of the Town Engineer, also be required to participate in the program.

### **6.2 Program Requirements**

Specific program requirements for each user are outlined in the user's permit as issued by the Town. These requirements are based upon documents submitted to the EPA. Individual requirements are intended to be at least as stringent as requirements imposed by the City of Nashua.

### **6.3 Program Scope**

The scope of the Industrial Pretreatment Program shall be evaluated on an annual basis by the Town Engineer. If necessary, the Town Engineer will expand program requirements to ensure that program objectives are met.

## ARTICLE 7 - REPORTING REQUIREMENTS

All industrial users shall regularly monitor their discharges in accordance with the terms of their permit, and submit reports to the Town Engineer as indicated in the permit. Submission of said reports does not relieve the industrial user of any other report required by Federal, State, or local statute, regulation or ordinance including, but not limited to, the Annual Report.

### 7.1 Baseline Monitoring Reports

- A. Any industrial facility which is subject to EPA categorical standards shall, within either one hundred eighty (180) days subsequent to the effective date of either a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to, or scheduled to discharge to the POTW, shall submit to the Town Engineer a report that contains the information listed in paragraph (B), below. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Town Engineer a report that contains the information listed in paragraph (B), below. If necessary, a new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall provide estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. 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 all permits issued under any law or rule implemented by EPA or DES that are held or are required by law to be held by or for the facility.
  3. Description of Operations. A brief description of the nature, average rate of production, and SICs of the operation(s) conducted by such user. This description should include a schematic process diagram that indicates the point(s) 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 wastestream formula set out in 40 CFR 403.6(e).

5. Measurement of Pollutants.
  - a. Identify the categorical pretreatment standards applicable to each regulated process.
  - b. Submit the results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Town Engineer, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article 7.11 of this Ordinance.
  - c. Sampling shall be performed in accordance with procedures set out in Article 7.12 of this Ordinance.
6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment systems are required to attain consistent compliance with the pretreatment standards and requirements.
7. Compliance Schedule. If additional pretreatment and/or O&M is required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or 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 section shall meet the requirements specified in Article 7.2 of this Ordinance.
8. Signature and Certification. All baseline monitoring reports shall be signed and certified in accordance with Article 4.8 of this Ordinance.

## **7.2 Compliance Schedules/Progress Reports**

The following conditions shall apply to the compliance schedules required by Articles 7.1(B)(7) and 10.3 of this Ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards, including, but not limited to, retaining an engineer, completing preliminary and final design plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;

- B. No increment referred to in 7.2.A shall exceed nine (9) months;
- C. The user shall submit a progress report to the Town Engineer no later than fourteen (14) days following each date in the schedule and the final date of compliance which identifies, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the action being taken by the user to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Town Engineer.

### **7.3 Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Town Engineer a report containing the information described in Article 7.1(B)(1-8) of this Ordinance. For users subject to equivalent mass or concentration limitations established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports shall be signed and certified in accordance with Article 4.8 of this Ordinance.

### **7.4 Periodic Compliance Reports**

- A. All significant industrial users shall, at a frequency determined by the Town Engineer but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports shall be signed and certified in accordance with Article 4.8 of this Ordinance.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to maintain its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Town Engineer, using the procedures approved by the EPA, the results of this monitoring shall be included in the report.

- D. All permitted nonsignificant industrial users shall submit an Annual Report at a time designated by the Town Engineer. The report shall contain all relevant monitoring records and reports as well as any additional information the Town Engineer may request. All reports shall be signed and certified in accordance with Article 4.8 of this Ordinance.

### **7.5 Monitoring Records**

Industrial users subject to reporting requirements shall maintain records of information resulting from monitoring activities. Such records shall include for each sample:

- The date, time, exact location and method of sampling and the names of person or persons taking the sample;
- The dates analyses were performed;
- The name of the laboratory performing the analyses;
- The analytical techniques and methods used;
- The results of such analyses;
- The chain-of-custody for the records;
- The flows during the monitoring period;
- Production figures for the monitoring period.

Monitoring records shall be maintained for a minimum of five (5) years, or longer in the case of unresolved litigation or when requested by the Town Engineer. Such records shall be made available for inspection and copying by the Town Engineer at any time.

### **7.6 Reports of Changed Conditions**

Each industrial user shall notify the Town Engineer of any planned significant changes to the user's operations or system that might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

- A. The Town Engineer may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submittal of an IDP application under Article 4.7 of this Ordinance.
- B. Upon approval of the request by the Town, a Discharge Permit Request will be submitted by the Town to DES on behalf of the user. All applicable DES review fees shall be provided by the user.

- C. Upon approval of the Discharge Permit Request by the NHDES, the Town Engineer may issue an IDP under Article 5.1 of this Ordinance or modify an existing IDP under Article 5.5 of this Ordinance in response to changed conditions or anticipated changed conditions.
- D. No industrial user shall implement the planned changed condition(s) until and unless the Town/NHDES have responded to the industrial user's notice.

### **7.7 Reports of Slug/Potentially Adverse Discharges**

- A. In the case of any discharge including, but not limited to, spills, slugs, excessive discharges, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, the user shall immediately telephone and notify the Town Engineer and the Superintendent of the incident. This notification shall include identifying the location of the discharge, type of waste, concentration and volume, if known, cause of spill, and corrective actions conducted by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the Town Engineer, submit a detailed written report describing the cause(s) of the discharge and the measures to be conducted by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that 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 user of any fines, penalties, or other liability that may be imposed pursuant to this Ordinance.
- C. Failure to notify the Town of potential problem discharges shall be deemed a separate violation of this Ordinance.
- D. A notice shall be permanently posted on the user's employee bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees, who may cause such a discharge to occur or who may be present when a discharge occurs, are advised of the emergency notification procedure.

### **7.8 Reports from Unpermitted Users**

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

### **7.9 Notice of Violation/Repeat Sampling and Reporting**

If the results of sampling performed by a user indicates a violation, the user shall notify the Town Engineer immediately, but not later than within twenty-four (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 Engineer on a schedule determined by the Town Engineer, but in no event longer than thirty (30) days after becoming aware of the violation. The user is not required to

resample if the Town monitors at the user's facility at least once a month, or if the Town Engineer samples between the user's initial sampling and when the user receives the results of this sampling or the Town Engineer performs sampling within thirty (30) days of the user's becoming aware of the violation.

#### **7.10 Notification of the Discharge of Hazardous Waste**

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the Town Engineer, the EPA Regional Waste Management Division Director, and DES hazardous waste authorities, in writing, of any discharge into the POTW of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges in excess of one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications shall occur no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph shall be submitted only once for each hazardous waste discharged. However, notifications of changed conditions shall be submitted under Article 7.6 of this Ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Articles 7.1, 7.3, and 7.4 of this Ordinance.
  
- B. Dischargers are exempt from the requirements of paragraph (A), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in the Code of Federal Regulations, Title 40 – Protection of the Environment, Part 261, Identification and Listing of Hazardous Waste Subpart D Lists of Hazardous Waste .30 – General and .33 – Discarded commercial chemical products, off specification species, container residues, and spill residues thereof [40 CFR 261.30(d) and 261.33(e)]. Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a notification in accordance with paragraph A, above. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
  
- C. In the case of any new regulations under 42 USC 6921 (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user shall notify the Town Engineer, the EPA Regional Waste Management Waste Division Director, and the State DES hazardous waste authorities of the discharge of such

substance within ninety (90) days of the effective date of such regulations, and include the same information as required in paragraph A, above.

- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable Federal and State laws, rules and regulations.
- F. All industries permitted by the Town shall make at a minimum one time notification to the Town via letter form or on the Town's Hazardous Waste Notification Form stating if the company is subject to the reporting conditions of 7.10(A)(B).

### **7.11 Analytical Requirements**

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

### **7.12 Sample Collection**

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

- B. Samples for temperature, pH, cyanide (total), phenols, sulfides, oil and grease, and volatile organic compounds shall be obtained using grab collection techniques.
- C. Samples should be taken for Federal 40 CFR limits of the Act, and for Categorical Industries immediately down stream 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 in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated, this adjusted limit along with supporting data shall be submitted to the Town.

### **7.13 Compliance Sampling**

The Town may use a grab sample or a series of grab samples to determine noncompliance with pretreatment standards.

### **7.14 Timing**

Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, the date of receipt of the report by the person designated in the IDP shall govern.

### **7.15 Record Keeping**

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact location, method, and time of sampling, and the name of the person(s) obtaining the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five (5) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the Town Engineer. Before destroying the records, the industrial user shall request and receive permission from the Town.

## **ARTICLE 8 - POWERS AND AUTHORITIES OF INSPECTORS**

### **8.1 Compliance Monitoring**

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

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

### **8.2 Right of Entry: Inspection and Sampling**

When requested by the Town Engineer, the owner of any property discharging industrial waste to a public sewer shall install a suitable control manhole or sampling site together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, measurement and flow control of the waste. The control manhole or site approved by the Town Engineer shall convey all of the industrial wastewater generated at an industrial facility (excluding domestic wastes) unless other agreements are made with the Town Engineer.

All industrial users discharging to the Town's POTW shall allow unrestricted access by Town, its agents, State personnel and EPA personnel ("Inspector(s)") for the purposes of investigating and sampling discharges from industries, for determining whether the user is complying with all requirements of this Ordinance, and any IDP or order issued hereunder. Users shall allow the Inspector(s) ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. If a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Inspector(s) will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Inspector(s) shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Inspector(s) may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal

request of the Inspector(s) and shall not be replaced. The costs of clearing such access shall be borne by the user.

- E. Unreasonable delays in allowing the Inspector(s) access to the user's premises shall be a violation of this Ordinance.
- F. The Inspector(s) is authorized to obtain information concerning industrial processes that have a bearing on the kind or source of discharge to the public sewer. The industrial user may request that the information in question not be disclosed to the public in accordance with Article 8 of this Ordinance. The information in question shall be made available upon written request to governmental agencies for uses related to this Ordinance, the NPDES permit, or the pretreatment program. The burden of proof that information should be held confidential rests with the user. However, information regarding wastewater discharge by the user (flow, constituents, concentrations, and characteristics) shall be available to the public without restriction.
- G. While performing the necessary work on private properties referred to in this section, the Inspector(s) shall observe all safety rules applicable to the premises established by the industrial user. The user shall be held harmless for injury or death to the Inspector(s), and the Town shall indemnify the user 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 user and growing out of the monitoring activities, except as such may be caused by negligence or failure of the user to maintain safe conditions.
- H. The Inspector(s) 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 POTW 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.
- I. The Town Engineer and other duly employees of the Town bearing proper credentials and identification shall inspect the premises of any consumer for leakage or other wastes of metered water upon the request of the consumer. Such a request may be required in writing by the Town. The Town shall not be held liable for any condition that may prevail or exist that is discovered by inspection of the Town.
- J. Denying access to any facility to a properly identified inspector is a violation of this ordinance.

### **8.3 Search Warrants**

If the Town Engineer has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this

Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town Engineer may seek issuance of a search warrant from the Nashua District Court.

## **ARTICLE 9 - CONFIDENTIAL INFORMATION**

### **9.1 Confidential Information**

Information and data on a user obtained from reports, surveys, Industrial Discharge Permit Applications, Industrial Discharge Permits, and monitoring programs, and from the Town Engineer's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Town Engineer, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person providing the report. Wastewater constituents and characteristics and other "effluent data" as defined by the Code of Federal Regulations, Title 40 – Protection of Environment, Chapter 1 – Environmental Protection Agency, Part 2 – Public Information, Subpart B – Confidentiality of Business information, .302 – Special Rules Governing Certain Information Obtained Under the Clean Water Act [40 CFR 2.302] will not be recognized as confidential information and will be available to the public without restriction.

## **ARTICLE 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES**

Nothing in this Ordinance shall limit the authority of the Town Engineer or Board of Selectmen to take any action. The actions listed in this section are not exclusive. Any enforcement action undertaken by the Town Engineer or Board of Selectmen may be in addition to the suspension or revocation of any permit.

### **10.1 Investigations**

The Town shall investigate instances of noncompliance with any provision of this Ordinance or any permit requirements. Any violation of a pretreatment standard may be referred to NHDES or EPA irrespective of any action taken under this Ordinance.

### **10.2 Notification of Violation**

When the Town Engineer determines that a user has violated, or continues to violate, any provision of this Ordinance, an IDP or order issued hereunder, or any other pretreatment standard or requirement, the Town Engineer may serve a verbal or written Notice of Violation to the user. Within the time period specified in the violation notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required (remedial and preventative) actions, shall be submitted by the user to the Town Engineer unless otherwise directed in the notice. Submittal of this plan in no way relieves the user of liability for any violations occurring before or subsequent to receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Town Engineer to take any action, including emergency actions or any other enforcement action, without initially issuing a Notice of Violation.

### **10.3 Compliance Order**

The Town Engineer may require any user that has violated or continues to violate any provision of this Ordinance, an IDP, or order issued hereunder, or any other pretreatment standard or requirement, to develop a compliance schedule. A compliance schedule pursuant to this section shall meet the requirements set out in Article 7.2 of this Ordinance. If a user does not come into compliance within the time provided, sewer service may be discontinued. Compliance orders may also contain other requirements to address noncompliance including, but not limited to, additional self-monitoring and management practices designed to minimize the amounts of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including continuing violations. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user.

### **10.4 Pollution Prevention Plan Development**

The Town Engineer may require any user that has violated or continues to violate any provision of this Ordinance, an IDP, or order issued hereunder, or any other pretreatment standard or requirement,

to develop a Pollution Prevention Plan in accordance with this Ordinance. The Pollution Prevention Plan must specifically address violation(s) for which this action was undertaken. The Pollution Prevention Plan shall be developed using good engineering judgment and shall be submitted to the Town Engineer no later than sixty (60) days after the user was notified of this requirement.

### **10.5 Publication of Users in Significant Noncompliance**

The Town Engineer shall publish annually, in the largest daily newspaper circulated in the Town where the POTW is located, a list of the users that, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

### **10.6 Enforcement Response Plan (ERP)**

The Town shall prepare for passage an ERP to ensure that the requirements of 40 CFR Part 403 of the Clean Water Act will be met. The ERP shall outline various administrative actions the Town may take for various pretreatment-related violations. The ERP shall refer to the attached Administrative Penalties table. The Town shall review and update on an annual basis any changes needed to ensure compliance with the Federal, State, and local pretreatment regulations as listed in the Act and this Ordinance. The Town Engineer is authorized to amend and revise the Administrative Penalties table from time to time after giving public notice of the proposed adoption of a revised penalties schedule, with the advice and consent of the Board of Selectmen.

### **10.7 Show Cause Orders**

The Town Engineer may order a user that has violated, or continues to violate, any provision of this Ordinance, an IDP or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Town Engineer and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, executing any other action against the user.

### **10.8 Cease and Desist Orders**

When the Town Engineer determines that a user has violated, or continues to violate, any provision of this Ordinance, an IDP or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Town Engineer may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and

- B. Implement such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

### **10.9 Consent Orders**

The Town Engineer is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment systems, additional self-monitoring, and management practices. Such orders shall have the same force and effect as administrative orders issued pursuant to Articles 10.7 and 10.8 of this Ordinance and shall be judicially enforceable.

### **10.10 Industrial Discharge Permit Termination**

Any industrial user who violates the following conditions of this Ordinance or a Wastewater Discharge Permit or order, or any applicable State or Federal law, is subject to permit termination:

- A. Violation of permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater constituents and characteristics; or
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Article 10.7 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Town Engineer shall not be a bar to, or a prerequisite for, taking any other action against the user.

### **10.11 Termination of Discharge**

In addition to the provisions in Article 10.10 of this Ordinance, any user who violates the following conditions is subject to discharge termination:

- A. Violation of IDP conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in Article 2 of this Ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Article 10.7 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Town Engineer shall not be a bar to, or a prerequisite for, taking any other action against the user.

### **10.12 Appeals**

- A. Any user affected by any decision, action or determination, including cease and desist orders made by the Town, interpreting or implementing the provisions of this Ordinance, may file with the Town Engineer a written request for reconsideration within ten (10) days of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- B. If the ruling made by the Town Engineer is unsatisfactory to the person requesting reconsideration, he may, within ten (10) days after notification of action, file a written appeal to the Board of Selectmen. The Board shall hear the written appeal within thirty (30) days from the date of filing. The Board shall make a final ruling on the appeal within thirty (30) days of the close of the meeting. The Town Engineer's decision, action or determination shall remain in effect during such period of reconsideration.

### **10.13 Emergency Suspensions**

The Town Engineer may immediately suspend a user's discharge, subsequent to informal notice to the user, whenever such suspension is necessary to terminate an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of POTW personnel or the public. The Town Engineer may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or that presents, or may present, an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately terminate or eliminate its wastewater discharge. In the event of a user's failure to immediately comply with the suspension order, the Town Engineer may implement such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Town Engineer may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town Engineer that the period of endangerment has passed, unless the

termination proceedings in Article 10.10 or 10.11 of this Ordinance are initiated against the user.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures implemented to prevent any future occurrence, to the Town Engineer prior to the date of any show cause or termination hearing under Articles 10.7, 10.10 or 10.11 of this Ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

#### **10.14 Discharge Prevention**

- A. Whenever it reasonably appears to the Town Engineer, Superintendent or Board of Selectmen that the discharge of pollutants by any user:
- Imminently endangers the health or welfare of persons;
  - Interferes with the operation of the POTW;
  - Endangers the environment;
  - Violates the water quality limits for receiving waters;
  - Violates any effluent limit of any Federal, State or local authority, or any provisions of their Industrial User Wastewater Permit;
  - Constitutes an interference, pass-through, slug, spill or excessive discharge;
  - Bypasses the user's treatment system;
  - Causes an action prohibited under Article 2.3; or
  - Violates any Town ordinance;

The Town Engineer or Board of Selectmen shall have the authority, after taking reasonable action to inform the user, to immediately halt or prevent such discharge and discontinue collection/treatment services. A facsimile transmission during business hours or a phone call to an emergency number during non-business hours shall be deemed to be reasonable notice pursuant to the section.

- B. Whenever the Town Engineer acts to prevent discharge and discontinue collection/treatment services, such action shall be reviewed by the Board of Selectmen as soon as possible. The Town Engineer or Board of Selectmen shall notify the user of the time and place of the meeting. The Town Engineer and the user may submit a report to the Board setting forth the action and reasons for the response. Upon review, the Board may reinstitute collection/treatment services in full, in part or upon condition. The Board may withhold

collection/treatment services for a definite period of time or until the occurrence of any event or condition or they may revoke the Industrial User's Wastewater Permit. The user shall not have a right to any damages on account of termination of service under this section.

- C. The Town Engineer or Board of Selectmen shall have the authority to take such action necessary to halt or prevent such discharges including, but not limited to, criminal prosecution, suspension of sewer permits, referral to State or Federal authorities, termination of water and/or sewer services and imposition of penalties as provided for in NH RSA 149-I:6.

### **10.15 Recovery of Expenses**

Any person or industrial user violating any of the provisions of this Ordinance shall be liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violation. If the Town Engineer or Board of Selectmen shall have caused the disconnection of a drain from a public sewer, the Town may collect the expenses associated with completing the disconnection from any person or user responsible for, or willfully concerned in, or who profited by such violation. The Town may thereafter refuse to permit the restoration of the former connection or of any new connection to the property concerned in the violation until the claim of the Town for the cost of completing such disconnection shall have been paid in full plus interest and the reasonable cost of any legal expenses incurred by the Town in connection therewith.

### **10.16 Harm To Town Property**

No person shall maliciously, willfully, or negligently damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is part of the public sewerage system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct pursuant to the local ordinances, and shall also be subject to penalties under State and Federal statutes.

## ARTICLE 11 - JUDICIAL ENFORCEMENT REMEDIES

### 11.1 Injunctive Relief

When the Town determines that a user has violated, or continues to violate, any provision of this Ordinance, an IDP, or order issued hereunder, or any other pretreatment standard or requirement, the Town may petition the Hillsborough County Superior Court through the Town's Attorney for the issuance of a temporary or permanent injunction, as appropriate, that restrains or compels the specific performance of the IDP, order, or other requirement imposed by this Ordinance on activities of the user. The Town may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, implementing any other action against a user.

### 11.2 Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this Ordinance, an IDP, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town for a maximum civil penalty of \$10,000 per violation, per day, plus actual damages incurred by the POTW. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. All charges and penalties shall be collected as provided in NH RSA 149-I.
- C. The Town may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town. The Town shall petition the Court to impose, assess, and recover such sums.
- D. In determining the amount of civil liability, the Court shall consider all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- E. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, implementing any other action against a user.
- F. The Board of Selectmen may adopt a schedule of fines as appropriate from time to time.
- G. Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation.

### **11.3 Criminal Prosecution**

Any person or industrial user who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a violation, punishable by a fine not-to-exceed \$10,000 for each violation. Every separate provision violated shall constitute a separate violation. Every day that a violation occurs shall be deemed a separate violation. Ref. RSA 47:17, I, RSA 149-I:6, RSA 31:39, III.

### **11.4 Nonexclusive Remedies**

The remedies provided for in this Ordinance are not exclusive. The Town may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Town may pursue other action against any user without limitation, including *ex parte* temporary judicial relief to prevent a violation of this Ordinance. Further, the Town is empowered to pursue more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

## **ARTICLE 12 - SUPPLEMENTAL ENFORCEMENT ACTION**

### **12.1 Performance Bonds**

The Town Engineer may decline to issue or reissue an IDP to any user who has failed to comply with any provision of this Ordinance, a previous IDP, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Town, in a sum not to exceed a value determined by the Town Engineer to be necessary to achieve consistent compliance.

### **12.2 Other Financial Assurances**

The Town Engineer may decline to issue or reissue an IDP to any user who has failed to comply with any provision of this Ordinance, a previous IDP, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

### **12.3 Water Supply Severance**

Whenever a user has violated or continues to violate any provision of this Ordinance, an IDP, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, subsequent to satisfactory demonstration of its ability to comply.

## ARTICLE 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

### 13.1 Upset

- A. For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards due to factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of paragraph (C), below, are met.
- C. A user who intends to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - 1. An upset occurred and the user can identify the cause(s) of the upset;
  - 2. At the time being of the upset, the facility was operated in a prudent and workman-like manner and in compliance with applicable O&M procedures; and
  - 3. The user has submitted the following information to the Town Engineer within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
    - a. A description of the discharge and cause of noncompliance;
    - b. The period of noncompliance, including exact dates and times or, if not corrected, the amount of time the noncompliance is expected to continue; and
    - c. Action being implemented and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with pretreatment standards.
- F. Users shall control all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

### 13.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Article 2.3 of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

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

### 13.3 Bypass

- A. For the purposes of this section:
  - 1. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
  - 2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C.
  - 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town Engineer, at least ten (10) days before the date of the bypass, if possible.
  - 2. A user shall submit oral notice to the Town Engineer of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible, but not later than within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the amount of time it is expected to

continue; and steps implemented or planned to reduce, eliminate, and prevent reoccurrence of the bypass. Upon written request, the Town Engineer may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- D. 1. Bypass is prohibited, and the Town Engineer may initiate enforcement action against a user for a bypass, unless:
  - a. Bypass was required to prevent loss of life, personal injury, or severe property damage;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The user submitted notices as required under paragraph (C) of this section.
- 2. Bypasses shall not exempt the user from any fines, administrative actions or prohibitions of this Ordinance, however, the Town Engineer may approve an anticipated bypass, subsequent to considering its adverse effects, if the Town Engineer determines that it will meet the three conditions listed in paragraph D.1. of this section.

## **ARTICLE 14 - SEPTAGE DISPOSAL**

No person shall discharge hauled septage at the City's wastewater POTW who does not hold a septage hauler permit issued pursuant to RSA 485-A:4, XVI-a.

A copy of such permit shall be filed by the permit holder with the City. Upon renewal or revocation of such permit, the hauler shall be responsible for notification of such renewal or revocation to the City.

All septage disposal practices shall conform with regulations and policies as established and enforced by the City of Nashua.

## **ARTICLE 15 – CONSTRUCTION OF SEWERS**

### **15.1 Construction by Licensee**

To insure compliance with the foregoing Articles and sections of this Ordinance and to facilitate the supervision of the construction, operation and repair of sewers and drains and the keeping of records thereof, no person other than those described in this Article shall construct, repair, alter or remove any sewer, building sewer or drain connected to or with, or discharging directly or indirectly to or into, any sewer or drain of the Town or intended to discharge thus, at some future time, regardless of whether said work is located in a public street or in a public or private land.

### **15.2 Authorized Persons**

- A. The following may, as indicated, construct, repair, alter or remove sewers and drains, except building sewers, subject to supervision and approval by the Town Engineer.
1. Regular forces of a contractor employed by the Town operating under orders of the Town Engineer and in the performance of work for the Town.
  2. Regular forces of the Town or the New Hampshire Department of Transportation operating under and subject to permit for the particular job issued by the Town Engineer and engaged in the regular operations of the Department of Transportation or in performance of work for the Town.
  3. Regular forces of any public utility corporation authorized by State law to construct, maintain and operate pipes or ducts within the public highways within the Town, while engaged in work incidental to the regular structures of said utility company and operating under and subject to the conditions of the permit for the particular job issued by the Town Engineer.
  4. Any contractor or person who shall have been duly licensed by the Board of Selectmen to perform work of the type in question during the period provided in such license and when operating under and subject to the conditions of a permit for the particular job issued therefore by the Town Engineer.
- B. Building sewers must be constructed by a contractor, licensed in the Town of Hudson.

### **15.3 Performance of Work**

Each contractor or person shall be responsible for the faithful performance of all work and all materials furnished on work by his employees or agents. No work shall be sublet by a contractor or person under any permit and/or licensed in any manner to a contractor or person divest of full control and responsibility for all parts of said work. Only competent persons shall be employed on work performed under such permit and/or license, and only suitable material conforming to the standard established by the Town Engineer shall be furnished or used on such work.

#### **15.4 Conformance With Requirements**

Should the Town Engineer find that any contractor or person has failed to conform to the requirements of this Ordinance and to the conditions of any permit issued thereunder, or that such contractor has not been faithful in the performance of work or furnishing of materials under his license, the Town Engineer may suspend, cancel or revoke such license and/or permit and may extend the suspension of such license and/or permit for such period or limit the activities of such contractor or person in such manner as may appear to be in the public interest after a duly conducted hearing before the Board of Selectmen and upon their direction. Suspension, cancellation or termination of a permit shall not entitle the permittee to any compensation or reimbursement from the Town or its agents for any alleged loss or expense incurred thereby, and licenses and permits shall be issued only on this condition.

#### **15.5 Permits**

Each permit to construct, alter or repair any sewer, building sewer or drain under this section shall be issued only after an application as hereinbefore provided has been made. It shall state the limit of time within which the work for construction under the permit shall terminate, unless such time limit shall have been extended in writing by the Town Engineer. Permits shall not be transferable or assignable by the permittee.

## **ARTICLE 16 - VALIDITY**

- A. If a provision of this Ordinance is found to be in conflict with any provision of any zoning, building, safety, health or other ordinance or code of the Town, the ordinance or provision which, in the judgement of the Town Engineer, establishes the higher standard of safety and protection of health shall prevail.
  
- B. The validity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.

## **ARTICLE 17 - INTERPRETATION OF REQUIREMENTS**

### **17.1 Interpretation**

The provisions of this Ordinance with respect to the meaning of technical terms and phrases, the classification of different types of sewers, the regulations with respect to making connections to sewers or drains, and other technical matters shall be interpreted and administered by the Town Engineer acting in and for the Town of Hudson, New Hampshire through the Board of Selectmen.

### **17.2 Appeals**

Any party aggrieved by any decision, regulation or provision under this Ordinance, as amended, from time to time, shall have the right of appeal within thirty (30) calendar days of said decision to the Board of Selectmen sitting as Sewer Commissioners, who shall issue a decision within thirty (30) calendar days. If said appeal is denied by the Board of Selectmen, then the aggrieved party shall have the right to appeal to the Hillsborough County Superior Court by way of Writ of Certiorari, provided that said appeal is entered within thirty (30) calendar days from the issuance of the decision of the Board of Selectmen.

**ARTICLE 18 - EFFECTIVE DATE**

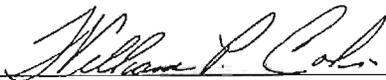
This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

Duly enacted and ordained this 28th day of May 2002 by the Board of Selectmen of the Town of Hudson in Hillsborough County, State of New Hampshire, at a duly noticed and duly held session of the said Board of Selectmen. This Ordinance is hereby authenticated as required by the Town Charter.

Hudson, New Hampshire

By:

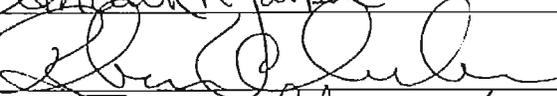
Board of Selectmen:



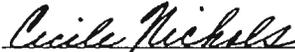
Chairman









Attest: 

Title: TOWN CLERK  
Town of Hudson

5/28/02

## ADMINISTRATIVE PENALTIES

**Town of Hudson  
Community Development Department  
Engineering Division  
Industrial Pretreatment Program  
5/28/02**

<b>Nature of Non-compliance</b>	<b>Penalty (Not to Exceed):</b>
Un-permitted Discharge	\$10,000/day
pH violation	
0.0 - 2.0	\$5,000
2.1 – 3.0	\$4,000
3.1 – 4.0	\$2,500
4.1 – 5.0	\$1,500
5.1 – 5.9	\$500
10.6 – 11.0	\$100
11.1 – 12.0	\$1,000
12.1 – 13.0	\$2,500
13.1 – 14.0	\$4,000
Metals violation*	\$1,000/day
Cyanide/Phenol*	\$1,000/day
Sulfates or Hydrogen Sulfide*	\$1,000/day
TTO (Total Toxic Organics)*	\$1,000/day
Permit Limit violation(s) triggering SNC	\$1,000/each parameter
Permit Limit violation(s) causing NPDES violation	\$10,000/day/violation
Permit Limit violation(s) causing endangerment	\$10,000/day
Failure to report Slug Discharge	\$10,000/day
Violation of Compliance Order Conditions/Limits	\$10,000/violation
Failure to meet milestone in Compliance Order	\$10,000/violation
Intentional Falsification	\$10,000 & Criminal Prosecution

\* An additional administrative fine for each multiple of the limit (i.e. copper result is 9.0 and limit is 3.0, then the fine is three times normal amount not to exceed \$10,000).

**NEW SEWER CONNECTION OR CHANGE OF USE  
SEWER USE FEE SCHEDULE**

**Town of Hudson  
Community Development Department  
Engineering Division  
Industrial Pretreatment Program  
5/28/02**

Processing Fee	\$25.00
Review/Inspection Fee	\$1,000.00