

**Town of Seabrook, New Hampshire**  
**Municipal Sewer System Ordinance**

**June 2005**

**Revised May 2022**

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**MUNICIPAL SEWER SYSTEM ORDINANCE  
TOWN OF SEABROOK, NEW HAMPSHIRE**

**AUTHORITY**

Pursuant to enabling authority in New Hampshire Revised Statutes Annotated (RSA) 485-A and 149-I, 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 penalties for violations thereof in the Town of Seabrook, County of Rockingham, State of New Hampshire.

Be it ordained and enacted by the Selectmen of the Town of Seabrook, State of New Hampshire as follows:

**ARTICLE I – GENERAL PROVISIONS**

**Section 1.1 Purpose and Policy**

This Ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) of the Town 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). The objectives of this Ordinance are:

- A. To promote the following:
- The prevention or reduction of pollutants at the source whenever feasible;
  - Recycling in an environmentally safe manner when the creation of pollutants 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 a pollution prevention 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 biosolids in the course of their employment and the general public;
- E. To promote reuse of biosolids from the POTW;

- F. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- G. To enable the Town to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, State of New Hampshire Administrative Rules (RSA 485-A, or revisions thereto), and any other Federal or State laws to which the POTW is subject.

This Ordinance shall apply to all users of the POTW. The Ordinance authorizes the issuance of industrial 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. These activities collectively are referred to as the Town's *Industrial Pretreatment Program*, and represent an ongoing administrative element of the Town's activities.

### **Section 1.2 Administration**

Except as otherwise provided herein, the Sewer Superintendent shall administer, implement, and enforce the provisions of this Ordinance. The Board of Selectmen shall promulgate and enact such administrative rules and procedures as he may deem necessary in this regard. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other qualified Town personnel.

### **Section 1.3 Acronyms**

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

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - United States Environmental Protection Agency
- gpd - gallons per day
- mg/L - milligrams per liter
- NHDES - New Hampshire Department of Environmental Services
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RSA - Revised Statutes Annotated
- RV - Recreational Vehicle
- TSS - Total Suspended Solids
- U.S.C. - United States Code

### **Section 1.4 Definitions**

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

#### **A. Authorized Representative of the User.**

- 1. If the user is a corporation, the president, vice-president, or other legally appointed officer of the corporation.

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2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  3. If the user is a Federal, State, or local governmental facility: a director or the highest official appointed or designated to directly oversee the operation and performance of the activities of the government facility.
  4. The individuals described in paragraphs (1) through (3), 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 user, and the written authorization is submitted to the Town.
- B. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/L).
- C. Builder. A person or persons building or constructing a structure or structures that will or could discharge wastewater or industrial waste to the Town's POTW.
- D. 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. The building drain includes the first five (5) linear feet of plumbing outside of the building as measured from the inner face of the building wall.
- E. Building Sewer. The combination of the sewer stub and the building sewer connection, which is the full length of the pipe extending from the building drain to the public sewer, also called house connection.
1. Sewer Stub shall mean that portion of the building sewer that connects to the public sewer and extends to the property line and is available to receive the building sewer connection.
  2. Building Sewer Connection shall mean the pipe installed from the property line to the building drain to receive the wastewater generated by a building or household.
- F. Bypass. The intentional diversion of wastestreams from any portion of a pretreatment or wastewater treatment facility.
- G. Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) that applies to a specific category of industrial users and that are found in 40 CFR, Subchapter N, Parts 405 through 471.
- H. Conservative Pollutant. A pollutant that is presumed not to be destroyed, biodegraded, chemically transformed, or volatilized within the POTW. Conservative pollutants introduced to a POTW ultimately exit the POTW solely through the POTW's effluent and biosolids. Most metals are considered conservative pollutants.
- I. Contractor. The person constructing the building sewer.

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- J. Developer. The person or persons planning a structure or structures that will or could discharge wastewater to the Town's POTW.
- K. Dilution. Any increase in the use of water as a partial or complete substitute for adequate treatment to achieve compliance with a limitation on the discharge of pollutants.
- L. Easement. An acquired legal right for the specific use of land owned by others.
- M. Environmental Protection Agency. The U.S. Environmental Protection Agency or, the Region 1 Water Management Division Director, or other duly authorized official of the agency.
- N. Equalization. The process of combining wastewaters to dampen fluctuations in flow or pollutant discharges prior to release to the sanitary sewer or pretreatment facilities. Equalization is normally accomplished in sumps, holding basins, ponds, or tanks.
- O. Force Main. A pipe or conduit constituting a part of the sewer system where pumping is required; providing a connection from a pump station to a pump station or gravity sewer, with limited access from individual properties.
- P. Garbage. Animal and vegetable food waste resulting from the handling, storage, packaging, sale, preparation, cooking, and serving of foods.
- Q. 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.
- R. Gravity Sewer. Any pipe or conduit constituting a part of the sewer system used or usable for wastewater collection purposes in which wastewater flows by gravity with no pumping required.
- S. Grease. That material removed from a grease interceptor or grease trap serving a restaurant or other facilities requiring such a device. Also means volatile and non-volatile residual fats, fatty acids, soaps, waxes and other similar materials.
- T. Grease Interceptor. An underground vault, usually having two or three compartments, with a minimum rated capacity of 750 gallons or greater that is designed to collect, contain, and/or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.
- U. Grease Trap. A passive device, normally installed in the kitchen, with a rated maximum flow of 50 gpm or less, that is designed to collect, contain, and/or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.
- V. Hauler. Any person, firm, or corporation, that pumps, hauls, transports, or disposes of septage and/or trucked industrial waste. Haulers must be approved by the Superintendent or other authorized representative of the town and, where applicable, properly licensed by the Commissioner of the New Hampshire Department of Environmental Services and conform to the requirements set forth in RSA 485-A, or revisions thereto.
- W. Human Excrement and other Putrescible Material. The liquid or solid matter discharged from the intestinal canal of man or other liquid or solid waste materials that are likely to undergo bacterial



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decomposition; provided, however, that these terms shall not include garbage as defined by RSA 485-A, or revisions thereto.

- X. 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 wastewater will be or may be discharged.
- Y. Industrial Discharge Permit (or Permit). The written permit issued by the Town to an industrial user that discharges wastewater to the POTW, which outlines the conditions under which discharge to the POTW will be accepted.
- Z. Industrial User (or User). A person who discharges industrial wastewater to the sanitary sewer of the Town.
- AA. Industrial Waste. Any liquid, gaseous or solid waste substance from any process or from development of any natural resource by industry, manufacturing, trade, or business.
- BB. Industrial Wastewater. Any wastewater from any non-domestic source that contains industrial waste, as distinct from sanitary sewage or unpolluted water.
- CC. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- DD. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Town's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; and the 40 CFR Part 503 Standards for Sewage Sludge Use and Disposal.
- EE. Local Limits. Specific, enforceable numerical limits on the types and quantities of pollutants that may be discharged to the POTW. Local limits are established by the Town and are distinct from State and Federal limitations on the discharge of industrial wastewater to the POTW.
- FF. May. Is allowed to (permissive); see also "Shall."
- GG. Medical Waste. A waste that is generated or produced as a result of diagnosis, treatment, or immunization of human beings or animals, medical research, or production or testing of bacteria, viruses, spores, discarded live and attenuated vaccines used in human health care or research. Examples include isolation wastes, infectious agents, human blood and blood products, pathological wastes, chemotherapy wastes, sharps, body parts, contaminated bedding, surgical wastes and specimens, potentially contaminated laboratory wastes, trauma scene wastes, sharps waste and dialysis wastes.

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- HH. National Pollutant Discharge Elimination System (NPDES) Permit. A permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342).
- II. Natural Outlet. Any channel for the passage of water into a river, stream, ditch, pond, lake, bay, marsh, ocean, watercourse or other body of surface water or groundwater. This includes the outlets from storm sewers, and the overflows from sewers that carry a combination of wastewater and storm water.
- JJ. Nonconservative Pollutant. A pollutant that is presumed to be destroyed, biodegraded, chemically transformed, or volatilized within the POTW, to some degree.
- KK. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product and is not degraded in quality by mixing with or addition of process waste or other pollutants.
- LL. Notice. Written notice forwarded by a document delivery service postage prepaid to any person's last known address.
- MM. Owner. Any person vested with ownership, legal or equitable, sole or partial, or possession of any improved property.
- NN. Pass Through. A condition that exists when a discharge contains substances or their reaction or degradation products that exit the POTW 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 Town's NPDES permit, including an increase in the magnitude or duration of a violation.
- OO. Person. Any individual, partnership, co-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.
- PP. pH. The logarithm of the reciprocal of the hydrogen-ion concentration of a solution in gram atoms per liter. Solutions with pH values greater than 7 are basic (or alkaline); solutions with pH values less than 7 are acidic.
- QQ. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, garbage, wastewater treatment sludges, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- RR. Pollution Prevention. The use of processes, practices or products that reduce or eliminate the generation of pollutants and wastes or that protect natural resources through 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 "pollution prevention" 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.

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- SS. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- TT. Pretreatment Requirement. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- UU. Pretreatment Standard or Standard. Prohibited discharge standards, categorical pretreatment standards, and local limits.
- VV. Prohibited Discharge Standard or Prohibited Discharge. An absolute prohibition against the discharge of a certain substance. Prohibited discharge standards appear in Section 2.5 of this Ordinance.
- WW. Property Owner. The person owning an improved or unimproved property in the Town.
- XX. Publicly Owned Treatment Works (POTW). A "treatment works," as defined by Section 212 of the Clean Water Act (33 U.S.C. §1292) that is owned by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sanitary sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if these structures convey wastewater to a POTW wastewater treatment facility. The term also means the municipality that has jurisdiction over discharges to and the discharges from such a treatment works.
- YY. Public Sewer. A sewer controlled by a government agency or public utility.
- ZZ. Recreational Vehicle. A mobile vehicle or trailer used for temporary living quarters (e.g., a camper).
- AAA. Sanitary Sewage. Wastewater consisting solely of normal water-carried household and toilet wastes or waste (such as human excrement and gray water) from sanitary conveniences of residences, commercial buildings, and industrial plants, as distinct from industrial wastewater and unpolluted water.
- BBB. Sanitary Sewer. A public 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.
- CCC. Screening Level. A numerical value for a pollutant concentration above which actions are initiated to evaluate, prevent or reduce adverse environmental or health and safety impacts. A screening level may be adjusted upward or downward within a permit to account for site-specific conditions at the point of discharge and administered as a local limit.
- DDD. Septage. Any liquid, solid, or sludge pumped from chemical toilets, vaults, septic tanks, or cesspools or other holding tanks, which have received only sanitary sewage.
- EEE. Septage Tank Truck. Any watertight vehicle that is used for the collection and hauling of septage as described above and that complies with the regulations of the New Hampshire Department of Environmental Services.

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FFF. Sewer. A pipe or conduit that carries wastewater (including industrial and sanitary wastewater, storm water, groundwater, subsurface water, and/or unpolluted water) from any source.

GGG. Shall. Is required to (mandatory). See also "May."

HHH. Significant Noncompliance. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

1. A pattern of violating the same pretreatment standard daily maximum or average limit (any magnitude of exceedance) 66 percent or more of the time in a six (6) month period;
2. One third (1/3) or more of the measurements exceed the same pretreatment standard daily maximum limit or average limit by more than 40 percent for BOD, TSS, or oil & grease, or by more than 20 percent for all other pollutants (except pH), in a six (6) month period;
3. For pH monitoring, excursions shall be considered significant noncompliances when:
  - a. 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
  - b. An individual excursion from the allowable range of pH values exceeds 60 minutes; or
  - c. An excursion occurs that the Town believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the POTW personnel or the general public; or
  - d. Any pH less than or equal to 2.0 or greater than or equal to 12.5.
4. Any other discharge violation that the Superintendent 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;
5. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of emergency authority to halt or prevent such a discharge;
6. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;
7. Failure to provide within thirty (30) days after the due date, any required reports, including permit applications, periodic self-monitoring reports, and reports on compliance with compliance schedules;
8. Failure to accurately report noncompliance; or
9. Any other violation(s) that the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

III. Slug. Means:

1. Any discharge of water or wastewater that, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more

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than five (5) times the average twenty-four (24) hour concentration or flow during normal operation;

2. Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Section 2.5 of this Ordinance; or
3. Any discharge that may adversely affect the collection system and/or performance of the POTW.

JJJ. State. The State of New Hampshire.

KKK. Street Lateral. That portion of a public sewer lying within a public street connecting a building sewer to the main sewer.

LLL. Storm Sewer. A sewer for conveying storm water, groundwater, subsurface water, or unpolluted water from any source.

MMM. Total Suspended Solids (TSS). A measure of the suspended matter present in wastewater, effluent, or water bodies, as determined by an approved test method. Also called Nonfilterable Residue.

NNN. Town. The Town of Seabrook, Rockingham County, a municipality of the State of New Hampshire, acting by and through its Selectmen or, in appropriate cases, acting by and through its authorized representatives, including the Superintendent.

OOO. Unimproved Property. Any property located within the Town that does not satisfy the criteria established in the definition of improved property.

PPP. Unpolluted Water. Water of quality equal to or better than the State Water Quality Standards (Part Env-Ws 432) or water that would not cause a violation of receiving water quality standards and would not be benefited by discharge to the POTW.

QQQ. User (or Industrial User). A person who discharges industrial wastewater to the sanitary sewer of the Town.

RRR. Wastewater. The spent water of a community. Any combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, governmental facilities, and institutions, whether treated or untreated that is contributed to the POTW.

SSS. Wastewater Treatment Facility. That portion of the POTW that is designed to provide treatment of sanitary sewage and industrial wastewater.

TTT. Sewer Superintendent. The person designated by the Town to manage the operation of the POTW and who is charged with certain duties and responsibilities by this Ordinance, or his duly authorized representative.

UUU. Watercourse. A natural or artificial channel in which a flow of water occurs, either continually or intermittently.

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### ARTICLE II – GENERAL SEWER USE REQUIREMENTS

#### Section 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 Seabrook 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 or cause to be discharged into any public sewer of the Town, or into any fixture that thereafter discharges into any public sewer, any waste or substance other than that for which the particular sewer is intended, designed, and 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 approvals and permits have been obtained.
- E. Use Of Sanitary Sewers. Except as specifically designated by the Town with reference to some particular sewer, sanitary sewers shall be used only for the conveyance and disposal of sanitary sewage, 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, or unpolluted water.
- F. Use Of Storm Sewers. Storm water and all other unpolluted drainage shall be discharged only to such sewers as are specifically designed as storm sewers, or to natural outlets approved by the Board of Selectmen. Industrial cooling water, process waters, or storm water runoff generated in areas of industrial activity (as defined in 40 CFR Part 122) require an NPDES permit prior to discharge to a storm sewer or natural outlet.
- G. Use Designation. If the intended or designated use of any particular sewer or drain and allowable discharge thereto is unclear, the Superintendent will consider the pertinent facts and make a determination. This determination shall be final and binding.
- H. Except as hereinafter provided, it shall be unlawful to construct, repair, 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 use of portable chemical toilets is allowed at construction sites and for other temporary purposes provided the wastes are properly disposed off site.
- I. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located a 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, provided that said gravity public sewer is within two hundred (200) feet of the building. An exception to this requirement is provided to any home business operated by a family unit in a separate building, and any other

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building used for recreational purposes, which shall have readily accessible toilet facilities, as approved by the Code Enforcement Officer. The requirement for connection may be waived for certain undeveloped properties when permitted by the Town's Health Officer. The requirement for connection may be waived when permitted by the Superintendent if the building is already connected to a properly functioning septic system; however, such system may not be repaired or replaced, and the owner shall connect directly to the public sewer at such time as the septic system no longer functions properly.

- J. Where a public sanitary sewer is not available under the provisions of paragraph (I) above, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of RSA 485-A, or revisions thereto, of the State of New Hampshire and rules, regulations, standards, and procedures promulgated thereupon. 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, sanitary sewage disposal facility.
- K. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, the owner shall connect to the public sewer, as provided in paragraph (I) 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.
- L. 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.
- M. 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 Superintendent or the Code Enforcement Officer.

### Section 2.2 Building Sewers and Connections

- A. No person(s) shall uncover, make any connections with or opening into, alter, or disturb any public sewer or appurtenance thereof without first obtaining authorization from the Superintendent. Building sewers shall only be installed by contractors when a performance bond for each project is posted payable to the Town for the construction of the sewer. The amount of the performance bond shall be determined by the Town for each project based upon the individual project, but in no case shall the bond be less than \$5,000. No person may open or excavate any street without first obtaining a Street Excavation Permit from the Seabrook Department of Public Works. Street excavation shall comply with all provisions, including bonding and insurance provisions, set forth in the Town of Seabrook Street Excavation Regulations. The performance bond for any sewer project is separate from, and in addition to, the continuing surety bonds required for street excavation.
- B. For residential and commercial services, the owner(s) or his agent shall make application on a special *Application for Sewer Service* form furnished by the Town at least thirty (30) days prior to said service connection. The *Application for Sewer Service* shall be supplemented by any plans, specifications, or other information (including pollution prevention studies) considered pertinent in the judgment of the Superintendent. The town will have the option of denying an application if, in the opinion of the Superintendent, the contractor is not qualified. An application and inspection fee (specific fees are available from the Town as the *Seabrook Sewer Department Schedule of Rates*, as the Town may revise from time to time) shall be paid to the Town at the time the application is filed. A copy of the approved *Application for Sewer Service* signed by the Superintendent and the

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Board of Sewer Commissioners will serve as evidence of approval and is available upon request at the Sewer Department office.

- C. The Town will, at its expense during construction of a new public sewer, construct a sewer stub for a building or proposed building located on a lot of record, if such building or proposed building is located within 200 feet of the existing public sewer, and therefore is required to connect to the public sewer as provided in paragraph 2.1(I), above. All costs and expenses incidental to the installation and connection of the remainder of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property to be connected. If the building or proposed building is located beyond 200 feet of the existing public sewer and the owner desires to connect to the public sewer then all costs associated with an extension of the public sewer to service the building will be the responsibility of the owner. 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. After the initial construction of the building sewer, the owner shall thereafter be obligated to pay all costs of expenses of operation, repair and maintenance and of reconstruction (if needed) of the entire building sewer beginning at the public sewer and ending at the building.
- D. If the owner of any building located within the Town and benefited, improved, served or accommodated by any public sewer, or to which any public sewer is available, after 90 days notice from the Town shall fail to connect such building as required in accordance with paragraph 2.1(I), the owner shall be in violation of this Ordinance. The Town shall have full authority upon the issuance of a court order to enter on owner's property to do whatever is necessary to properly drain the improved property into the public sewer. The Town may make such connection and may collect from such owner the costs and expenses thereof by such legal proceeding as may be permitted by law.
- E. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer, but the Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. Grouping of more than one building on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, but then only after special permission of the Town, in writing, shall have been secured and subject to such rules, regulations and conditions as may be prescribed by the Town.
- F. Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Ordinance.
- G. The size, slope and construction of building sewer or street laterals shall be subject to approval by the Superintendent, but in no event shall the internal diameter be less than six inches (6"), nor shall the slope of the pipe be less than one-eighth inch (1/8") per foot minimum, nor shall velocity of flow in the pipe be less than two feet (2') per second. A six inch (6") service shall be used for no more than three (3) connections into a single sewer service. Force main building sewers will be permitted, subject to approval by the Superintendent, where gravity flow is not feasible. The force main shall be sized to maintain flow velocities of 3 feet per second and shall be furnished with adequate valving to provide shut off capability and protection against reverse flows.
- H. Building sewers shall be polyvinyl chloride sewer pipe conforming to the following: Polyvinyl Chloride Sewer Pipe Material - All polyvinyl chloride pipe and fittings shall be Class SDR-35 and



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shall meet or exceed all of the requirements of ASTM Specification D3034, "Type PSM Polyvinyl Chloride (PVC) Sewer Pipe and Fittings"; or ASTM Specification D2241, "Type PS-46 Poly (Vinyl Chloride)(PVC) Large-Diameter Plastic Gravity Sewer Pipe and Fittings". All pipe shall be suitable for use as a gravity sewer conduit with integral bell and elastomeric gasket joints. The gasket shall meet the requirements of ASTM D3212. The bell shall consist of an integral wall section, which securely locks the solid cross-section elastomeric rubber ring into position. Standard lengths shall be 12'-6" and 20'+. Acceptable manufacturers are Johns-Manville, Certain-Teed, Carlon, or equal.

1. Polyvinyl Chloride Building Sewer Force Main Materials - All PVC building sewer force mains shall be in accordance with paragraph 2.2 (H).
  2. Fittings - All fittings and accessories shall be as manufactured and furnished by the pipe supplier, and have bell and/or spigot configurations identical to that of the pipe to which they are connected.
  3. Pipe Stiffness - Minimum pipe stiffness at 5% deflection shall be 46 psi for all sizes when tested in accordance with ASTM Designation D2412, "External Loading Properties of Plastic Pipe by Parallel-Plate Loading".
  4. Installation - Extreme care shall be taken to provide proper pipe foundations and pipe sidefills in accordance with the recommendations of the pipe manufacturer, maintaining accurate alignment of the pipe at all times.
  5. If installed on fill or unstable ground the trench bottom shall be stabilized and compacted to 95% of the maximum dry density as determined by laboratory compaction test ASTM D1577, method 10 prior to pipe installation. Special excavation and filling methods and materials, including the use of porous fabric and/or select material, may be required by the Superintendent. The distance between consecutive joints, as measured along the centerline of the installed pipe, shall not exceed 12'-6" except under abnormal circumstances, in which case this dimension may be exceeded if approved in advance by the Town.
- I. At the point of connection of a building sewer to a public sewer, a standard wye fitting and a one-eighth (45-degree) bend shall be used. No lateral connection shall be made to the main sewer which permits the flow into the sewer from the lateral to enter at right angles.
- J. The wye and one-eighth bend fittings, previously mentioned, shall be inserted in the public sewer at the time of its construction for each proposed lot for either immediate or future development. The location of all lateral connections shall be shown along with at least two dimensional ties on a drawing, and copies of this drawing showing the as-built location of these connections shall be furnished to the Town. No sanitary sewer shall be accepted by the Superintendent until two copies of this record drawing showing lateral locations have been so filed.
- K. When any street lateral is to serve a school, hospital, or similar institutional or public housing, or is to serve a complex of industrial or commercial buildings, or which in the opinion of the Superintendent, will receive sanitary sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer and street lateral is anticipated, then such street lateral shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required, a new manhole shall be installed in the public sewer.

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- L. All excavation required for the installation of a building sewer or street lateral shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill, regardless of pipe material used, shall be performed in general accordance with paragraphs 3 through 6 of ASTM Specification C-12, except that trench width measured at the top of the installed pipe shall not exceed twenty-four inches (24") and except that no backfill shall be placed until the work has been inspected. The depth of cover over the pipe shall be sufficient to afford protection from frost, but in no case shall such depth be less than four feet (4') unless prior approval has been granted by the Superintendent, in writing to permit a lesser depth of cover. In such cases a "rigid 2" insulation board shall be installed over the pipe.
- M. 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. It is the responsibility of the owner to coordinate work with the Town by providing written notification of any proposed work prior to initiation of excavation.
- N. In addition to providing dimensional ties, all house service laterals prior to backfilling shall have their locations marked in the following manner:
1. Two feet (2') above the pipe the installer shall place a six inch (6") wide detectable tracer tape.
  2. Detectable tracer tape shall consist of a continuous aluminum foil core inseparably bonded on both sides with tough high density cross-laminated plastic films, pigmented in green warning colors. Bond strength of the tracer tape must be such as to prevent pitting or degradation after 300 hours of continuous testing per ASTM B-117.
  3. Detectable tracer tape shall be the type that can be located by the inductive method and does not require electrical connection to be made to the tape.
  4. The tape shall be compatible for use with magnetic detectors which are currently in use in the Town. Magnetic locating tape shall be installed on all sewer service pipe and force main installed without exception.
  5. The tape shall be six inches (6") in width and shall have the words "Buried Sewer Line Below" permanently and indelibly printed on it.
- O. An interior clean-out fitting and backwater valve at the discretion of the Superintendent shall be provided for each building lateral at a readily accessible location, preferably just inside the basement wall. The fitting shall contain a forty-five degree (45°) branch with removable watertight plug, and so positioned that sewer cleaning equipment can be inserted therein to clean the building lateral. Buildings and mobile homes without foundations shall have a clean-out installed on the outside.
- P. No structure shall be connected to the sanitary sewer system unless there is a vent pipe extending to a point above the roof and properly vented or otherwise vented as per applicable codes and code enforcement offices in a manner approved by the Superintendent. Vents shall be installed by the owner in all buildings as approved by the Code Enforcement Officer. Grease, oil, and/or sand interceptors shall be installed where the Town or its duly authorized agent shall direct, and shall be maintained at the owner's expense.

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- Q. All new or reconstructed building sewers shall be constructed in accordance with the plumbing code. The clean-out shall be of similar material as the building sewer or as otherwise required by the Superintendent and shall be provided with a secured cap at the ground level. Installation, location, and configuration shall be as required by the Superintendent and sufficient information shall accompany the *Application for Sewer Service*.
- R. 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, sanitary sewage conveyed by such building drain shall be lifted by an approved means and discharged to the building sewer at the owner's expense.
- S. No person(s) shall make connection of roof downspouts, interior or exterior foundation drains, areaway 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.
- T. No person shall allow any floor drain to be connected, or to remain connected, to any building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.
- U. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the Town, and the procedures set forth in appropriate specifications of the ASTM and the Water Environment Federation (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 Superintendent before installation.

All joints and connections shall be made watertight. All joints and installation shall be in accordance with paragraph 2.2(H) of this Ordinance. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast iron pipe and other pipe materials shall be made with special adapters and jointing materials approved by the Superintendent.

- V. No person shall obstruct the free flow of air through any drain or soil pipe.
- W. The owner(s) or their agent shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. Such notice shall be provided not less than 72 hours in advance of the time any connection is to be made to any public sewer. The contractor shall be responsible for satisfying all other notification requirements, including DIGSAFE. The connection and testing shall be made under the supervision of the Superintendent or his representative. No building sewer or repair thereto shall be covered until it has been inspected and approved by the Town. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the building to be connected to a sewer. This requirement shall also apply to repairs or alterations to building connections, drains or pipes thereto. Premature filling of trenches before an inspection is made will subject the owner(s) to a penalty in accordance with this Ordinance.

In the event that such work is not ready for inspection or for any other reason may not be approved by the Superintendent, the property owner, builder, or developer shall be notified that no further inspection of such work will be made until the property owner, builder, or developer has paid a service charge in the amount as established by the Town to cover the extra expense and cost to the Town. In the event of further disapproval of the same work, a further surcharge shall be paid by the

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property owner, builder, or developer in accordance with the above schedule, before a further inspection shall be made.

- X. Suitable provisions shall be made at the point of connection for testing, which responsibility shall rest with the owner(s).
- Y. The Superintendent 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 Superintendent in securing data needed for such records.
- Z. Proposed new discharges from residential or commercial sources involving loadings exceeding fifty (50) population equivalents (5,000 gpd); any new industrial waste, or any alteration in either flow or waste characteristics of greater than 20 percent of existing industrial wastes that are being discharged into the POTW, and that could cause interference with the POTW or have an adverse affect on the receiving water or otherwise endanger life, limb, public property or constitute a nuisance, shall be approved by the NHDES Water Division. Such approvals shall be obtained in accordance with Section 4.3 of this Ordinance.
- AA. If the owner of any building located within the Town shall fail or refuse, upon receipt of a notice of the Town, in writing, to remedy any unsatisfactory condition with respect to a building sewer, within 45 days of receipt of such notice (except this time period may be reduced as necessary to protect the health and safety of the residents of the Town), the Town may remedy any unsatisfactory condition with respect to a building sewer and may collect from the owner the costs and expenses thereof by such legal proceedings as may be provided by law. The Town shall have full authority upon the issuance of a court order to enter on the owner's property to do whatever is necessary to remedy the unsatisfactory condition.
- BB. Every building sewer shall be maintained in a sanitary and safe operating condition by the owner.
- CC. When a building is demolished and not immediately replaced, the owner, having first submitted a *Application for Sewer Service* and received approval from the Superintendent, shall adequately seal off his building sewer where it connects to the public sewer.
- DD. Where the owner wants to excavate within or otherwise disturb public property, then the owner shall give the Town prior notice of the proposed action, shall follow all directions of the Superintendent, and shall promptly and safely and at the owner's own expense, complete the action and restore the public property in a manner satisfactory to the Town.

### Section 2.3 New Sewers or Sewer Extensions

- A. New sanitary sewers and all extensions to sanitary sewers owned and maintained by the Town shall be properly designed in accordance with the NHDES Administrative Rules Env-Ws 700 *Standards of Design for Sewerage and Wastewater Treatment Facilities* and in strict conformance with all requirements of the NHDES. Plans and specifications shall be submitted to, and approval obtained from, the Superintendent and the Town and the NHDES before construction may proceed. The design of sewers shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.
- B. When a property owner, builder, or developer proposes to construct sanitary sewers or extensions to sanitary sewers in an area proposed for subdivision, the plans, specifications, and method of

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installation shall be subject to the approval of the Superintendent in accordance with paragraph 2.3(A). Said property owner, builder or developer shall pay for the entire installation, including appropriate share of the cost of treatment plant, intercepting or trunk sewers, pumping stations, force mains and all other Town expenses incidental thereto based on volume and plant capacity, as determined by the Town. Each building sewer shall be installed and inspected pursuant to Section 2.2 and all application and inspection fees shall be paid by the applicant. Design and installation of sewers shall be as specified in and in conformance with paragraphs 3 through 6 of ASTM Specification C-12. Plugged service wye fittings shall be provided along sewer extensions in locations approved by the Superintendent to accommodate future connections from existing unimproved lots. The installation of the sewer shall be subject to periodic inspection by the Superintendent, and the expense for this inspection shall be paid for by the owner, builder, or developer as provided in this local law. The Superintendent's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass an exfiltration test approved by the Town before any building sewer is connected thereto. Plans, specifications, and other required information shall be submitted 45 days in advance of anticipated project start date. The Town shall be notified at least 30 days in advance of the start of construction operations so that such inspection procedures as may be necessary or required may be established. No sanitary sewers will be accepted by the Town until such inspection of construction have been made as will assure the Town of compliance with these regulations and any amendments or additions thereto.

- C. Plans, specifications and methods of installation shall conform to the requirements of this local law. Components and materials of POTW installations not covered in this Ordinance such as pumping stations, lift stations, or force mains shall be designed in accordance with paragraph 2.3(A) and shall be clearly shown and detailed on the plans and specifications submitted for approval. When requested, the owner, builder, or developer of the proposed installation shall submit to the Town all design calculations and other pertinent data to supplement a review of the plans and specifications. Costs associated with the engineer's review of the plans and specifications, and any NHDES design review fees shall be paid by the property owner, builder or developer.

### Section 2.4 Variances

- A. The Superintendent, with the approval of the Board of Selectmen, may allow reasonable variances from the provisions of Sections 2.1 and 2.2 of this Ordinance, which will not result in a violation of State or Federal law, provided:
1. The owner pays a variance fee of twenty-five (25) dollars;
  2. The variance allowed is the least variance that is reasonable to accomplish the lawful purpose;
  3. The variance will not cause undue harm or inconvenience to the Town, the POTW, or the owner's neighbors; and
  4. The variance is justified by substantial reason. As used in this section, the term "substantial reason" means a valid health or safety consideration, a clear and compelling logistical need, or a direct or indirect economic and/or aesthetic benefit to the town, as determined by the Board of Selectmen.
- B. The owner shall apply for the variance in writing to the Superintendent. The application shall identify the name and address of the owner, the property in question, the specific variance sought by

the owner and a substantial reason justifying the variance. The variance fee shall be paid with the application or the variance shall be deemed to have been denied. The variance as issued shall identify any changes, limitations or restrictions on the variance as applied for.

### **Section 2.5 Prohibited Discharge Standards**

- A. **General Prohibitions.** No person 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 person 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 can 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 a 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 6.0 or greater than 11.5, 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 contribute to or cause the POTW influent pH to exceed 8.0. (NOTE: If the lower pH values of the untreated wastewater range between 5.0 and 6.0, the Town may permit a pH range of 5.0 to 11.5 without the requirement for pretreatment, provided the Town determines that the potential for adverse impact to the POTW is reasonably absent.);
  3. Solid or viscous substances including water or wastes containing fats, wax, grease, or oils, whether emulsified or not, or containing substances that can solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0-65 degrees C), in amounts that could cause obstruction of the flow in the POTW resulting in interference;
  4. Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), or chlorine demand requirements released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW, constitute a hazard to humans or animals, create a public nuisance, exceed national categorical pretreatment standards, or cause pass through;
  5. Wastewater containing such concentrations or quantities of pollutants that its introduction to the POTW could cause a treatment process upset and subsequent loss of treatment ability;
  6. Wastewater having a temperature greater than 150°F (65°C), or that will inhibit biological activity in the wastewater treatment facility resulting in interference, but in no case wastewater that causes the temperature at the introduction into the wastewater treatment facility to exceed 104°F (40°C);

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7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  8. 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;
  9. Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Section 4.9 of this Ordinance;
  10. Hazardous wastes including but not limited to paints, stains, thinners, pesticides, herbicides, anti-freeze, transmission and brake fluids, motor oil and battery acid;
  11. Wastewater causing, alone or in conjunction with other sources, the wastewater treatment facility's effluent or sludge to fail a toxicity test.
- 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 Superintendent in a permit:
1. Wastewater that imparts color that might not be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently could impart color to the treatment facility's effluent, thereby violating the Town's NPDES permit;
  2. Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, could be sufficient to create a public nuisance or a hazard to life, or to prevent entry into the public sewers for maintenance or repair;
  3. Wastewater containing any radioactive wastes or isotopes, and then only in compliance with applicable State or Federal regulations;
  4. Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, or otherwise unpolluted wastewater;
  5. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  6. Medical wastes;
  7. Quantities or concentrations of detergents, surface-active agents, or other substances that could be sufficient to cause excessive foaming in the POTW;
  8. Wastewater that could cause 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;
  9. Garbage that has not been shredded to such a degree that all particles will be transported freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch (1/2") in any direction. (Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in

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kitchens for the purpose of consumption on the premises or when served by caterers. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower [0.76 horsepower metric] or greater shall be subject to the review and approval of the Superintendent.);

10. Any quantities of flow, concentrations, or both which constitute a "slug" as defined herein;
  11. Waters or wastes which, by interaction with other water or wastes in the treatment works, release dangerous or noxious gases, form suspended solids that affect the operation of the collection system, or create a condition deleterious to structures and treatment processes; and
  12. 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).
  13. Wastewater containing any pollutant at a concentration that exceeds the local limit or permit limit established for that pollutant by the Town.
- D. Pollutants, substances, or wastewater prohibited by this article shall not be processed or stored in such a manner that they could be discharged to the POTW.

### Section 2.6 Federal Categorical Pretreatment Standards

The Federal categorical pretreatment standards are found at 40 CFR Chapter I, Subchapter N, Parts 405-471. EPA is the control authority for industrial users subject to Federal categorical pretreatment standards. Industrial users are responsible to the EPA for compliance with categorical pretreatment standards and the requirements of 40 CFR Part 403. Categorical industrial users shall provide the Town with copies of any reports to, or correspondence with EPA relative to compliance with the categorical pretreatment standards.

The industrial user is responsible for determining the applicability of categorical pretreatment standards. The industrial user may request that EPA provide written certification on whether the user is subject to the requirements of a particular category.

### Section 2.7 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 amended) in addition to the requirements of this Ordinance.

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

Pollutants of concern are those for which regulatory controls will be administered by the Town. These include any pollutant that might reasonably be expected to be discharged to the POTW in quantities that could pass through or interfere with the POTW, contaminate the biosolids, or adversely impact human health or safety.

If any waters or wastes are discharged or are proposed to be discharged to the POTW that exceed the standards or restrictions established in Sections 2.5, 2.6, and 2.7 of this Ordinance, which in the judgment of the Superintendent may have a deleterious effect upon the POTW, processes, equipment, or receiving



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waters, or that otherwise create a hazard to human safety or health, or constitute a public nuisance, the Superintendent may:

- Reject or prevent any discharge to the POTW after a making a reasonable attempt to serve notice to the user and giving the user a reasonable opportunity to respond;
- Require pretreatment prior to discharge to the POTW (Article III);
- Require control (*e.g.*, equalization) over the quantities and rates of discharge; and/or
- Require payment to cover additional cost of handling and treating the wastes.

If the Superintendent 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 Superintendent and the State (see Article III).

- A. Maximum allowable industrial mass loading limitations. The following mass loading limitations for the Town's wastewater treatment facility are based on the report "Development of Local Limits", prepared for the Town by GZA GeoEnvironmental, Inc. (August 2002; revised March 2004). The Superintendent will not issue permits that, in combination with projected non-industrial and non-itemized industrial loads, collectively authorize headworks loadings in excess of the values in table 2-1.

Table 2-1

POLLUTANT	MAXIMUM ALLOWABLE HEADWORKS LOADING (lbs/day)	POLLUTANT	MAXIMUM ALLOWABLE HEADWORKS LOADING (lbs/day)
Arsenic	0.119	Lead	0.716
Barium	1.96	Mercury	0.017
Boron	11.22	Molybdenum	0.040
Cadmium	0.028	Nickel	0.445
Chromium	0.372	Selenium	0.069
Copper	2.22	Silver	0.114
Cyanide, total	0.277	Zinc	3.80

All mass loading limitations for metals represent total metals, regardless of the valance state, or the physical or chemical form of the metal. To administer these allowable loadings through permits, the Superintendent may impose concentration-based limitations, or mass limitations in accordance with Section 2.10. For industrial discharge applications, the values written into permits for the above pollutants shall apply at the end of the industrial wastestream and prior to dilution with non-industrial wastewaters.

Permit limits will be developed based on the identification of industrial users known to be discharging each pollutant. Unless specifically identified in a permit, an industrial user is not allowed to discharge the locally limited pollutants at concentrations significantly greater than background concentrations. For the purposes of this requirement, significant means 30 percent greater than the background concentrations used for local limits development.

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

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- B. **Screening Levels.** Screening levels are technically based numerical values above which actions are initiated to evaluate, prevent or reduce adverse impacts on the POTW, the environment, and/or human health and safety. The Town monitors industrial sources of conservative pollutant-bearing discharges against established screening levels, and authorization to discharge at greater concentrations may be granted subject to the administrative procedures for managing mass loading limitations. Screening levels for common conservative pollutants are presented in Table 2-2. Screening levels for additional conservative pollutants may be developed as needed by the Town, independent of this Ordinance, and are available from the Sewer Department.

Table 2-2

POLLUTANT	SCREENING LEVEL (mg/L)	POLLUTANT	SCREENING LEVEL (mg/L)
Arsenic	0.013	Lead	0.28
Barium	0.72	Mercury	0.006
Boron	3.4	Molybdenum	0.013
Cadmium	0.010	Nickel	0.15
Chromium	0.13	Selenium	0.009
Copper	0.50	Silver	0.047
Cyanide, total	0.12	Zinc	0.94

Screening levels for non-conservative pollutants are concentration-based values that, if exceeded, represent a potential to compromise worker safety, create flammability or chemical reactivity conditions in the collection system, or result in operational issues such as excessive organic/solids loadings or obstruction of flow within the POTW. Screening levels for non-conservative pollutants are developed as needed using the methodology of the Town's local limits study (GZA GeoEnvironmental, Inc, 2002, revised 2004). Screening levels for common non-conservative pollutants are presented in Table 2-3. Screening levels for additional non-conservative pollutants may be developed as needed by the Town, independent of this Ordinance, and are available from the Sewer Department.

Table 2-3

POLLUTANT	SCREENING LEVEL (mg/L)	POLLUTANT	SCREENING LEVEL (mg/L)
Acetone	80	Methyl isobutyl ketone	53
Benzene	0.14	Oil & Grease (animal & vegetable origin)	100
Biochemical Oxygen Demand	250	Oil & Grease (total petroleum hydrocarbon)	100
bis-Ethylhexyl phthalate	0.04	Phenols (total)	1.0
Carbon disulfide	0.06	Phenol	50
Chloride	1500	Sulfate	1500
Chlorine (total residual)	0.008	Sulfide	1.0
Chloroform	0.41	Sulfite	280
p-Cresol (4-methylphenol)	0.008	Total Suspended Solids (total nonfilterable residue)	300
1,2-Dichloropropane	3.6	Tetrachloroethylene	0.27
Ethylbenzene	1.58	Tetrahydrofuran	205
Formaldehyde	1.4	Toluene	0.68
Methyl ethyl ketone	249	Xylenes	1.74
Methylene chloride	2.1		

If any of the screening levels are exceeded, repeat analysis may be required by the Town to verify compliance or noncompliance with that screening level. If noncompliance is indicated, then the industrial user may be required, at the discretion of the Superintendent, to conduct an appropriate engineering evaluation to determine the potential impact of the discharge of this pollutant to the Town's POTW or alternatively, to develop a pollution prevention plan specifically addressing the pollutant that exceeds the screening level. This study or plan shall be conducted under the supervision and approval of the Town. Should the evaluation indicate the impact to be unsatisfactory, the industrial user shall reduce the pollutant concentration to a satisfactory level. If the evaluation supports development of an alternate site-specific limitation, then the screening level may, at the discretion of the Superintendent, be adjusted as a special agreement for the industrial user and administered as a permit limitation for the specific discharge.

If an industrial user proposes to discharge at concentrations greater than the concentration-based screening level maintained by the Town, then the industrial user may be required to conduct the evaluations described in the previous paragraph. Should the evaluations support an alternate site-specific limitation, then the screening level may, at the discretion of the Superintendent, be adjusted as a special agreement for the industrial user and administered as a permit limitation for the specific discharge.

- C. Special Agreements. No statement contained in this article except for paragraphs 2.5(A), 2.5(B), and 2.6 shall be construed as preventing any special agreement or arrangement between the Town and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment. The Superintendent, with the approval of the Board of Selectmen, may allow for such agreements provided that the said agreements do not contravene any requirements of existing Federal or State laws, and/or regulations promulgated thereunder, are compatible with any user charge system in effect, and do not waive applicable Federal categorical pretreatment standards. Special agreement requests may require submittal of a pollution prevention plan that specifically addresses the discharge for which a special agreement is requested.

### **Section 2.8 Town's Right of Revision**

The discharge standards and requirements set forth in Sections 2.5, 2.6, and 2.7 are established for the purpose of preventing discharges to the POTW that would harm either the public 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 Superintendent may with the approval of the Board of Selectmen, from time to time, review and set more stringent standards or requirements than those established in Sections 2.5, 2.6, and 2.7 if, in his opinion, such more stringent standards or requirements are necessary to meet the above objectives. At a minimum, this review will be performed at least once every five years. In forming his opinion, the Superintendent 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 Board of Selectmen.

The Superintendent 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.

### **Section 2.9 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 Superintendent 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.

### **Section 2.10 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 their 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 Superintendent. 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 Federal categorical pretreatment standards.

## **ARTICLE III – PRETREATMENT OF WASTEWATER**

### **Section 3.1 Pretreatment Facilities**

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all pretreatment standards, local limits, and the prohibitions set out in Sections 2.5, 2.6, and 2.7 of this Ordinance within the time limitations specified by EPA, the State, or the Superintendent, 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 Superintendent for review, and shall be acceptable to the Superintendent and the NHDES Water Division before such facilities are constructed. Such facilities shall not be connected until said approval is obtained in writing. The review of such plans and operating procedures shall in no way relieve the user of the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this Ordinance. Plans and specifications for a proposed pretreatment facility shall be the result of the design of a professional engineer licensed by the State of New Hampshire.

### **Section 3.2 Additional Pretreatment Measures**

- A. Whenever deemed necessary, the Superintendent 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 sanitary sewage wastestreams from industrial wastestreams, and impose such other conditions as are deemed necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance.
- B. The Superintendent 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. A permit may be issued solely for flow equalization.

- C. Grease, oil, and/or sand interceptors shall be provided at the owner's expense when, in the opinion of the Superintendent, such devices are necessary for the preliminary treatment of wastewater containing excessive amounts of grease, oil, and/or sand; except that such interceptors shall not be required for solely residential users. All interception units shall be of a type and capacity approved by the Superintendent and shall be so located as to be easily accessible for cleaning and inspection by the owner and the Town. Grease traps shall conform to Plumbing and Drainage Institute Standard PDI-G101 and shall be installed in accordance with the manufacturer's instructions. Maintenance of interceptors requires that the owner be responsible for the proper removal and disposal by appropriate means of the captured materials, in accordance with the requirements established by the Superintendent. The owner shall maintain records of the servicing of grease, oil, and/or sand interceptors. The form and content of such records will be determined by the Superintendent and the records shall be subject to periodic review by the Superintendent. The removal and disposal of captured materials from interceptors shall be performed by an approved hauler at a legally licensed facility and proof of such placement shall be provided in writing to the owner who shall maintain such record of disposal for inspection by the town.
- D. The Superintendent shall develop, implement, and enforce such administrative rules, that may be approved by the Board of Selectmen, as he determines to be necessary to manage the discharge of fat, oil, and grease into the municipal sewer system. The rules shall address the generation of grease-laden wastewaters by food producers and food service establishments, the installation and operation of grease removal equipment, and the disposal of grease wastes.
- E. Users with the potential to discharge flammable substances shall, at the discretion of the Superintendent, 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 in satisfactory and effective operation by the owner at his expense.
- G. The owner of any building serviced by a building sewer carrying industrial wastes may, at the discretion of the Superintendent, be required to install a suitable control manhole or approved equivalent structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Town. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. The owner shall perform such monitoring as the Town may reasonably require including installation, use and maintenance of monitoring equipment, maintaining records and reporting the results of such monitoring to the Town. Such records shall be made available upon request of the Town.

### **Section 3.3 Accidental Discharge/Slug Control Plans**

Each user shall provide protection from accidental discharge of prohibited materials and/or their wastes regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. The Superintendent may periodically evaluate whether a user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify his facility as necessary to meet the requirements of this Ordinance. Alternatively, the Superintendent may develop

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such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. A description of discharge practices, including non-routine batch discharges;
- B. A description of all stored chemicals;
- C. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by Section 6.3 of this Ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic pollutants, including solvents, and/or measures and equipment for emergency response.

### Section 3.4 Pollution Prevention Plans

In accordance with the provisions of Sections 2.7, 5.3, and 10.3 of this Ordinance, the Superintendent may require any person discharging wastes into the POTW to develop and implement, at their own expense, a pollution prevention plan. The Superintendent 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 shall be assessed, including estimates of the reduction in the amount and toxicity of waste achieved

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by the identified actions. Opportunities for pollution prevention shall then be assessed for identified processes where raw materials become or generate wastes. Technical information on pollution prevention shall 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 their facilities as necessary to produce a discharge acceptable to the Town in accordance with the provisions of this Ordinance.

### ARTICLE IV – PERMIT APPLICATION

#### Section 4.1 Industrial User Classification System

The Town maintains an industrial user classification system to allow the Superintendent to group users into categories that define the degree of regulatory attention required. The classification system helps to establish priorities for allocation of Town resources, and promotes uniformity and fairness in the application of regulations affecting industrial users. Every user is assigned to one of five user classes.

- A. Class 1: Dischargers of large volumes of industrial wastewater (greater than 25,000 gpd, excluding sanitary sewage, non-contact cooling water, and boiler blowdown), high loadings (greater than five [5] percent of the average dry weather hydraulic or organic capacity of the POTW wastewater treatment facility), and/or chemical constituents warranting a high degree of control and monitoring. Also included in this class are all users that are subject to categorical pretreatment standards, and users with pretreatment systems that employ automatic controls for sensing, pumping, dosing, and/or other treatment functions occurring without the manual intervention of an operator. A user may also be designated Class 1 if the Superintendent determines that the user has a reasonable potential for adversely affecting POTW operation, if the user has violated any pretreatment standard or requirement, or at the discretion of the Superintendent.
- B. Class 2: Users that do not fit the criteria for Class 1, but discharge between 1000 and 25,000 gpd of process wastewater, except that restaurants, commercial food processing operations, and laundromats are not included in class 2 unless flows exceed 5000 gpd. Also included are dischargers of more than 100 gpd with a moderate level of pretreatment (*i.e.*, one that requires an operator to manually operate equipment, add chemicals, etc.).
- C. Class 3: Dischargers of up to 1000 gpd of untreated process wastewater or up to 5000 gpd for restaurants, commercial food processing operations, and laundromats. Certain users may be exempted from this class at the discretion of the Superintendent, and are identified in Table 4-1. Class 3 also includes relatively small dischargers that require basic pretreatment procedures (*e.g.*, batch pH adjustment, grease, oil, and/or sand interceptors, silver recovery units) and have process flows of less than 100 gpd, or as otherwise directed by the Superintendent.

Table 4-1

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User Type	Flow Level (gpd)
Funeral homes. Most boiler blowdown.	100
Retail food preparation (e.g., bakeries). Beauty salons.	500
Restaurants. Self-service laundromats.	1000

- D. Class 4: Dischargers of industrial wastewater that are not otherwise classified and are not required to have a permit because:
- pollutants of concern are not detectable in the user's effluent, or
  - pollutants of concern are present in only trace amounts and are neither causing nor likely to cause pass-through or interference, or
  - pollutants of concern are present in amounts too small to be effectively reduced by known treatment technologies, or
  - the user's wastestream contains only pollutants compatible with the POTW
- E. Class 5: Non-domestic users that discharge only sanitary sewage to the POTW.

### Section 4.2 Permit Requirement

- A. When requested by the Superintendent, any user must submit information on the nature and characteristics of its wastewater discharge within thirty (30) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.
- B. No industrial user shall discharge wastewater into the POTW without first obtaining a permit from the Superintendent with the following exceptions:
1. A user who has filed a timely and complete application pursuant to Section 4.4 of this Ordinance may continue to discharge for the time period specified therein.
  2. A user who has received written notification from the Superintendent of their designation as a Class 4 or Class 5 user does not need a permit, but shall promptly notify the Town of any alteration in either flow or waste characteristics of the wastewater being discharged into the POTW.
- C. Any violation of the terms and conditions of a permit shall be deemed a violation of this Ordinance and subjects the industrial discharge permittee to the enforcement actions set out in Article X of this Ordinance. Obtaining a permit 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.

### Section 4.3 State Discharge Request Requirement

Any new industrial waste, or any alteration in either flow or waste characteristics of greater than 20 percent of a user's existing industrial wastewater that is being discharged into the POTW, and that the Superintendent believes could cause interference with the POTW or have an adverse affect on the receiving water or otherwise endanger life, limb, public property or constitute a nuisance, shall be approved by the NHDES Water Division. Such approvals shall be obtained in accordance with Section 6.2 of this Ordinance.



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

Any user required to obtain a permit who was discharging wastewater into the POTW prior to the effective date of this Ordinance, and is not currently covered by a valid permit, and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Superintendent for a permit in accordance with Section 4.2 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 a permit issued by the Superintendent.

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

Any user who proposes to begin or recommence discharging into the POTW must obtain either a permit or a Class 4 or Class 5 exemption prior to the beginning or recommencing of such discharge. An application for this permit, in accordance with Section 4.2 of this Ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

**Section 4.6 Industrial Discharge Permitting: Federal Categorical Pretreatment Standards**

Within 120 days subsequent to the effective date of a Federal categorical pretreatment standard, an industrial user subject to such standards shall submit an application for a permit amendment. The application shall contain the information noted under Section 4.7.

**Section 4.7 Permit Application Contents**

All users required to obtain a permit, and other users subject to these rules, as required by the Superintendent, must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:

- A. Description of activities, facilities, and production processes on the premises, including a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the POTW;
- B. Number and type of employees, and proposed or actual hours of operation;
- C. Each product produced by type, amount, process or processes, and rate of production;
- D. Type and amount of raw materials processed (average and maximum per day);
- E. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- F. Time, duration, and rate of discharges;
- G. Copies of existing pollution prevention plans and/or a description of all pollution prevention opportunities that may exist at the facility;
- H. An indication of whether the conditions referenced in the application are existing or proposed; and
- I. Any other information as may be deemed necessary by the Superintendent to evaluate the permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

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

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

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

#### **Section 4.9 Hauled Wastewater, Industrial and Septage**

- 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 XII of this Ordinance.
- B. The Superintendent shall require generators of hauled industrial waste to obtain permits. The Superintendent may require haulers of industrial waste to obtain permits. The Superintendent may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent shall collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent shall require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must 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).
- E. Fees for dumping septage will be established as part of the user charge system. The Superintendent shall have the authority to limit the disposal of such wastes, if in his opinion such disposal could interfere with the wastewater treatment facility operation. Procedures for the disposal of such wastes shall be in conformance with the operating policy of the Board of Selectmen, and disposal shall be accomplished under the supervision of the Superintendent unless specifically permitted otherwise.

### **ARTICLE V – PERMIT ISSUANCE PROCESS**

#### **Section 5.1 Permit Decisions**

The Superintendent will evaluate the data provided by the industrial user and may require additional information. Within thirty (30) days of receipt of a complete permit application [or ninety (90) days in the case of an application for a new or increased discharge requiring review and approval by the NHDES Water Division], the Superintendent will determine whether or not to issue a permit. The Superintendent may deny any application for a permit.

### **Section 5.2 Permit Duration**

A permit shall be issued for a specified time period, not to exceed three (3) years [five (5) years in the case of Class 3 users] from the effective date of the permit. A permit may be issued for a period less than these intervals at the discretion of the Superintendent. Each permit will indicate a specific date upon which it will expire.

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

### **Section 5.3 Permit Contents**

A permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the wastewater treatment facility's effluent, protect human health and safety, facilitate biosolids management and disposal, and protect against damage to the POTW.

#### **A. Permits must contain:**

1. A statement that indicates permit duration, which in no event shall exceed five (5) years;
2. A statement that the permit is nontransferable without prior notification to the Town in accordance with Section 5.6 of this Ordinance, and provisions for providing the new owner or operator with a copy of the existing permit;
3. Effluent limits based on the requirements of this Ordinance;
4. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants requiring pollution prevention reports. For pollutants to be monitored, these requirements shall include sampling locations, sampling frequencies, and sample types based on this Ordinance, and State and Federal laws, rules and regulations; and
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 the permit 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, identification of additional operation and maintenance practices and/or pretreatment systems that are necessary; and

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- c. Submittal of any monitoring results performed in addition to the requirements of the permit using procedures prescribed in the permit.
    - d. Appropriate supporting documentation for items 5.3.A.5.a through 5.3.A.5.c.
  - 6. A description of identified pollution prevention opportunities at the facility;
  - 7. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements; and
  - 8. 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.
- B. Permits 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 or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine 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;
  - 7. A statement that compliance with the permit 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 permit; and
  - 8. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

### Section 5.4 Permit Appeals

Any person, including the user, may petition the Superintendent to reconsider the terms of a permit within thirty (30) days of notice of its issuance.

- A. Failure to submit a timely appeal petition for review shall be deemed to be a waiver of the administrative appeal.

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- B. In its petition, the appealing user must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the permit.
- C. The effectiveness of the permit shall not be stayed pending the appeal.
- D. If the Superintendent fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied.
- E. If its petition is denied by the Superintendent, then the aggrieved party shall have the right to appeal to the Board of Selectmen in accordance with Section 14.2 of this Ordinance, provided that said appeal is entered within 30 calendar days from the issuance of the decision of the Superintendent.
- F. Decisions by the Board of Selectmen not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final administrative actions for purposes of judicial review.

### **Section 5.5 Permit Modification**

The Superintendent may modify a permit 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 permit 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 POTW, Town personnel, or the water quality in the receiving waters;
- E. Violation of any terms or conditions of the permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the permit 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 permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

### **Section 5.6 Permit Transfer**

Permits may be transferred to a new owner or operator only if the permittee provides at least sixty (60) days advance notice to the Superintendent and the Superintendent approves the permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator that:

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- 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 permit.

Failure to provide the required advance notice of a transfer renders the permit void as of the date of facility transfer.

### **Section 5.7 Permit Revocation**

The Superintendent may revoke a permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 6.2 of this Ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Superintendent timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer rental charges or surcharges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any applicable pretreatment standard or requirement, or any terms of the permit or this Ordinance.

### **Section 5.8 Permit Reissuance**

A user with an expiring permit shall apply for reissuance of the permit by submitting a complete permit application, in accordance with Section 4.7 of this Ordinance, a minimum of sixty (60) days prior to the expiration of the user's existing permit. 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:

- A. 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
- B. The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

**Section 5.9 Regulation of Waste Received from Other Jurisdictions**

- A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Town shall enter into an intermunicipal agreement with the contributing municipality in accordance with RSA 53-A.
- B. Prior to entering into an agreement required by paragraph (A), above, the Superintendent shall obtain the following information from the contributing municipality:
  - 1. A description of the nature, quality and volume of wastewater to be discharged to the POTW by the contributing municipality;
  - 2. An inventory of all users located within the contributing municipality that will be discharging to the POTW; and
  - 3. Such other information as the Superintendent may deem necessary.
- C. In addition to the requirements of RSA 53-A, 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 must 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 permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Superintendent;
  - 4. A requirement for the contributing municipality to provide the Superintendent 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 Superintendent 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 Superintendent; and
  8. A provision specifying remedies available for breach of the terms contained within the intermunicipal agreement.
- D. In addition to the requirements of RSA 53-A, an intermunicipal agreement as required by paragraph (A) above shall receive NHDES Water Division approval prior to its entry into force.

## **ARTICLE VI – REPORTING REQUIREMENTS**

### **Section 6.1 Periodic Compliance Reports**

- A. All users holding permits shall, at a frequency determined by the Superintendent, submit a report as specified on their permit. This report shall include the results of the analysis of wastewater samples indicating the nature and concentration of pollutants in their wastewater that are limited by this Ordinance, and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.8 of this Ordinance.
- B. All wastewater samples must be representative of the user's typical discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and orderly, and maintained in good working order at all times. The failure of a user to maintain its monitoring facility in satisfactory working condition 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 article monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Sections 6.8 and 6.9 of this Ordinance, the results of this monitoring shall be included in the report.

### **Section 6.2 Reports of Changed Conditions**

Each user must notify the Superintendent 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 Superintendent may require the user to submit such information as he deems necessary to evaluate the changed condition, including the submittal of a permit application under Section 4.7 of this Ordinance.
- B. Upon approval of the request by the Town, a Discharge Permit Request may be submitted by the Town to the NHDES Water Division based on information submitted by the user. All applicable NHDES Water Division review fees shall be provided by the user.



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- C. Upon approval of the Discharge Permit Request by the NHDES Water Division, the Superintendent may issue a permit under Section 5.3 of this Ordinance or modify an existing permit under Section 5.5 of this Ordinance in response to changed conditions or anticipated changed conditions.
- D. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

### **Section 6.3 Reports of Slugs or Potentially Adverse Discharges**

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug, that may adversely impact the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions conducted by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be initiated 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. This report must be signed and certified in accordance with Section 4.8 of this Ordinance.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent location advising employees whom to call in the event of a discharge described in paragraph (A) of this section. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.

### **Section 6.4 Reports from Non-Permit Holders**

A user that is not required to obtain an Industrial Wastewater Discharge Permit under this ordinance shall nonetheless provide such information as the Superintendent may from time to time request.

### **Section 6.5 Notice of Violation / Repeat Sampling and Reporting**

If the results of sampling performed by a user indicate an exceedance of the established limit, permit limit, or screening level for a pollutant, or the presence of a previously unreported pollutant, the user must notify the Superintendent 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 Superintendent within thirty (30) days subsequent to becoming aware of the violation. The user is not required to resample if the Superintendent monitors for that pollutant at the user's facility at least once a month, or if the Superintendent samples for that pollutant between the user's initial sampling and when the user receives the results of this sampling.

### **Section 6.6 Discharge of Hazardous Waste**

Any discharge into the POTW of a substance that, if otherwise disposed would be a hazardous waste under 40 CFR Part 261 or are hazardous wastes as defined in the NHDES Hazardous Waste Rules, is prohibited.

### **Section 6.7 Analytical Requirements**

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

A laboratory that is currently certified by the State of New Hampshire to perform the requested tests shall perform all analyses. Original laboratory reports, including all relevant quality control data, shall be submitted as part of each permit application or report. If, for whatever reason, any part of a laboratory report is deleted, augmented, or otherwise changed following its original issuance by the laboratory, then any permit application or report making use of that laboratory data shall clearly and completely identify the original report content and the nature of the change that was made.

Any overt attempt to suppress relevant wastewater data, or any failure to report data that could result in a violation of Section 2.5 of this Ordinance, whether or not the reporting of such data is specifically required by the user's permit, shall constitute falsification of data and may be grounds for termination of the user's wastewater discharge permit.

### **Section 6.8 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 not feasible, the Superintendent 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 maximum allowable 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 Superintendent when:
1. 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;
  2. Sampling is at a facility where the Superintendent determines that a statistical relationship can be established between previous grab samples and composite data; and
  3. The waste conditions are relatively constant (i.e., are completely mixed and homogeneous) over the period of the discharge.
- B. Samples for temperature, pH, phenols, sulfides, and volatile organic compounds shall be obtained using proper grab collection techniques in accordance with 40 CFR 403 Appendix E, where possible.
- C. Samples shall only be collected by individuals who are properly qualified, through verifiable training and experience, to perform the type of sampling required. The integrity of all samples shall be ensured by following established chain-of-custody practices for evidentiary samples. Sampling and chain-of-custody records shall be maintained in accordance with the permit. Original sampling and chain-of-custody records shall be submitted as part of each permit application or report.

### **Section 6.9 Timing**

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

### **Section 6.10 Recordkeeping**

Users subject to the reporting requirements of this Ordinance shall create, retain, and make available for inspection and copying, records of all 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 Superintendent.

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

### **Section 7.1 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 the sampling and analysis of its wastewater.

### **Section 7.2 Right of Entry: Inspection and Sampling**

All industrial users discharging to the Town's POTW shall allow unrestricted access by Town, State and EPA personnel for the purpose of determining whether the user is complying with all requirements of this Ordinance, and any permit or order issued hereunder. Users shall allow the Superintendent and other duly authorized employees of the Town bearing proper identification 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. Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make and maintain all necessary arrangements so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Superintendent 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 Superintendent 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 in accordance with the manufacturer's recommendations (but at least annually) to ensure their accuracy. Calibration records shall be maintained.

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- 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 Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.
- E. Unreasonable delays in allowing the Superintendent access to the user's premises, sampling or inspection sites, or pretreatment records shall be a violation of this Ordinance.
- F. The Superintendent or other duly authorized employee(s) is authorized to obtain information concerning all industrial processes that have a bearing on the kind or source of discharge to the public sewer. In accordance with the provisions of Article VIII of this Ordinance, the industrial user may request that the information in question not be disclosed to the public if it can establish that revelation to the public might result in an advantage to competitors.
- G. While performing the necessary work on private properties referred to in this article, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the user. The user shall be held harmless for injury or death to the Town employees, 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 Superintendent and other duly authorized employees of the Town bearing proper identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the 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 Superintendent and other duly authorized employees of the Town bearing proper identification shall inspect the premises of any consumer for leakage or 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 and discovered by inspection of the Town upon request.

### Section 7.3 Search Warrants

If the Superintendent 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 Superintendent may seek issuance of a search warrant or administrative search warrant, as applicable, from the District or Superior Court having jurisdiction.

ARTICLE VIII – CONFIDENTIAL INFORMATION / PUBLIC PARTICIPATION

Information and data about a user obtained from reports, surveys, permit applications, permits, monitoring programs, and from the Superintendent'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 Superintendent, 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 submittal 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 this Ordinance, the NPDES program or pretreatment program, and in enforcement proceedings involving the person providing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

ARTICLE IX – PUBLICATION OF POLLUTION PREVENTION ACHIEVEMENTS

The Superintendent may publish annually or more often, in the daily newspaper having the largest circulation in the Town, a list of users whom during the previous twelve (12) months, demonstrated a commitment to reducing the volume and toxicity of waste discharges. All pollution prevention efforts, not just those that affect wastewater discharges, may be subject to recognition. The following criteria may be used to identify published users:

- A. Innovative ideas the facility has used to implement process changes that eliminate or reduce the volume or toxicity of waste generated;
- B. The percentage of the facility's process water reused within the system or process;
- C. The percentage of the facility's potential waste reused within the system or process;
- D. Implementation of employee pollution prevention training and communication programs;
- E. Voluntary performance of pollution prevention audits;
- F. Spill control procedures/devices (e.g., secondary containment) the facility initiates to prevent accidental chemical spills from entering the POTW; and
- G. The environmental and/or economic benefits or successes derived from implementing pollution prevention methods.

The intent of the publication is to notify local consumers of the environmental responsiveness of local businesses, and to encourage industrial users to identify and implement opportunities for preventing pollution. As part of this publication, the Town may provide an evaluation of the impact of these changes to the POTW, and summarize the current status of pollutant loadings to the POTW and goals established by the POTW for pollution prevention efforts.

ARTICLE X – ENFORCEMENT REMEDIES

### **Section 10.1 Notification of Violation**

When the Superintendent determines that a user has violated, or continues to violate, any provision of this Ordinance, a permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation. Within the time period specified in the violation notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submittal of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this article shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### **Section 10.2 Compliance Schedule Development**

The Superintendent may require any user that has violated, or continues to violate, any provision of this Ordinance, a permit or order issued hereunder, or any other pretreatment standard or requirement, to develop a compliance schedule. A compliance schedule pursuant to this section shall comply with the following conditions:

- 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 (such events include, but are not limited to, retaining an engineer, completing preliminary and final design plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed ninety (90) days;
- C. The user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the action being taken by the user to return to the established schedule; and
- D. In no event shall more than ninety (90) days elapse between such progress reports to the Superintendent.

### **Section 10.3 Pollution Prevention Plan Development**

The Superintendent may require any user that has violated or continues to violate any provision of this Ordinance, a permit, or order issued hereunder, or any other pretreatment standard or requirement, to develop a pollution prevention plan in accordance with Section 3.4 of 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 Superintendent no later than sixty (60) days after the user was notified of this requirement.

### **Section 10.4 Publication of Users in Significant Noncompliance**

The Superintendent shall publish annually, in the daily newspaper having the largest circulation in the Town, a list of the users that, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

**Section 10.5 Show Cause Orders**

The Superintendent may order a user that has violated, or continues to violate, any provision of this Ordinance, a permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent 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.

**Section 10.6 Cease and Desist Orders**

When the Superintendent determines that a user has violated, or continues to violate, any provision of this Ordinance, a permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent shall 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.

**Section 10.7 Consent Orders**

The Superintendent 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 will include specific action to be taken by the user to correct the noncompliance within a time period 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 the administrative orders issued pursuant to Sections 10.5 and 10.6 of this Ordinance and shall be judicially enforceable.

**Section 10.8 Permit Termination**

The Superintendent may terminate a user's permit upon a finding of:

- 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 volume, constituents, and/or characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;

- E. Violation of the pretreatment standards in Article III of this Ordinance
- F. Falsifying self-monitoring reports;
- G. Tampering with monitoring equipment;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey;
- L. Failure to provide advance notice of the transfer of a permitted facility;
- M. Discharging wastewater that presents an imminent hazard to the public health, safety or welfare, or to the local environment; or
- N. Violation of any pretreatment standard or requirement, or this Ordinance or order issued hereunder, or any applicable State or Federal law.

#### **Section 10.9 Termination of Discharge**

In addition, any user who violates the provisions in Section 10.8 of this Ordinance, or who fails to cease and desist from any discharge of wastewater upon termination of the permit for that discharge, is subject to discharge termination.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.5 of this Ordinance why the proposed action should not be taken. Termination of discharge may be achieved by termination of water service to the building, or by such other means as the Superintendent deems appropriate. The Superintendent shall notify the Town's Health Officer and/or the Board of Health upon termination of discharge to any building. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

#### **Section 10.10 Emergency Suspensions**

The Superintendent 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 Superintendent 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 voluntarily with the suspension order, the Superintendent 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 Superintendent may allow the user to



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recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 10.9 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 Superintendent prior to the date of any *show cause* hearing or termination hearing under Sections 10.5 or 10.9 of this Ordinance.

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

### **Section 10.11 Recovery of Expenses**

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. Employers shall be held jointly liable to the Town for any expense, loss, or damage occasioned by the Town through the actions of their employees. Property owners shall be held jointly liable to the Town for any expense, loss, or damage occasioned by the Town through the actions of their tenants.

If the Superintendent or Board of Selectmen implemented the discontinuance of water service to a building, or the disconnection of a building sewer from a public sewer, then the Town may collect the expenses associated with completing that discontinuance or disconnection from any person responsible for, or willfully concerned in, or who profited by such violation. The Town may thereafter refuse to permit the resumption of water service, or the restoration of the former sewer 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 discontinuance or disconnection shall have been paid in full plus interest and the reasonable cost of any legal expenses incurred by the Town in connection therewith.

### **Section 10.12 Harm To Town Property**

No person shall maliciously, willfully, or negligently damage, discharge prohibited pollutants to any sewer, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct pursuant to the local Ordinances and State and Federal statutes.

### **Section 10.13 Injunctive Relief**

When the Superintendent determines that any person or user has violated, or continues to violate, any provision of this Ordinance, a permit, or order issued thereunder, or any other pretreatment standard or requirement, the Superintendent may, after notifying the Town Manager and the Board of Selectmen, petition the Rockingham County Superior Court through Town Counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order, or other requirement imposed by this Ordinance on activities of the user. The Superintendent 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.

### **Section 10.14 Civil Penalties**

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- A. A user who has violated, or continues to violate, any provision of this Ordinance, a permit, 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. REF: RSA 149-I:6
- B. The Superintendent 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 Board of Selectmen, or the Town Manager or Superintendent if directed by the Board, shall petition the Court to impose, assess, and recover such sums.
- C. In determining the amount of civil liability, the Court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions implemented by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, implementing any other action against a user.

### Section 10.15 Criminal Prosecution

Any person who willfully or negligently violates any provision of this Ordinance, a permit, or order issued hereunder, or any other pretreatment standard or requirement 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 149-I:6.

### Section 10.16 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. 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.

## ARTICLE XI – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

### Section 11.1 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.

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- 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 of the upset, the facility was being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  3. The user has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submittal must be provided within three (3) 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 anticipated 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.

A user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fail

### Section 11.2 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. The user shall provide the following notifications for bypass events:

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1. If a user is aware in advance of the need for a bypass, the user shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass, if possible.
  2. A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the user becomes aware of the bypass. A written submittal shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submittal shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps implemented or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. Bypass is prohibited, and the Superintendent may initiate enforcement action against a user for a bypass, unless
1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
  3. The user submitted notices as required under paragraph (C) of this section.
- E. The Superintendent may approve an anticipated bypass, subsequent to considering its adverse effects, if the Superintendent determines that it will satisfy the three conditions listed in paragraph (D) of this section.

### ARTICLE XII – SEPTAGE DISPOSAL

RSA 485-A, or revisions thereto, of the State rules, regulations, standards, and procedures promulgated thereupon require that "any person, firm, corporation, municipal subdivision or institution who removes, transports, or disposes, or intends to remove, transport or dispose of any human excrement or other putrescible material by portable or mobile container shall hold an unrevoked permit for that purpose from the NHDES." Therefore, the holding of such a permit shall be a condition precedent to the privileges to dispose such material at the Town's wastewater treatment facility.

Such permit, as required by RSA 485-A, shall be on file with the Town. Upon renewal or revocation of such permit, the hauler shall be responsible for notification of such renewal or revocation to the Town.

#### Section 12.1 Septage Hauler Requirements

- 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.
- B. Such hauler may discharge septage to the facilities provided at the Town's wastewater treatment facility only after paying the charges as set forth in Section 12.4 of this Ordinance.

- C. Those persons, firms, corporations, municipal subdivisions or institutions that conform to RSA 485-A and the definition of "RVs" shall dispose of such septage as human excrement or other putrescible materials at the dates, times, and locations designated by the Superintendent.
- D. No person, firm, corporation, municipal subdivision or institution shall discharge any toxic, poisonous, or radioactive solids, liquids or gases; the contents of grease, gas, oil and/or sand interceptors; or industrial wastes via septage tank truck into the Town's wastewater treatment facility without specific authorization of the Superintendent.

### **Section 12.2 Temporary Septage Permits**

The Superintendent shall have the right to issue a temporary permit to allow the discharge of septage at a point of discharge other than the wastewater treatment facility in a situation where such temporary discharge point is necessary to protect the health and welfare of the Town. The Superintendent shall issue such permit upon such terms and conditions as the Superintendent deems to be in the best interests of the Town. The temporary permit shall not be valid for a period exceeding twelve (12) months. The Superintendent shall have the right to revoke or suspend the temporary permit in the event that the terms and conditions are not met.

### **Section 12.3 Septage Permits**

- A. Any person, firm, corporation, municipal subdivision, institution or hauler who conforms to RSA 485-A and intends to dispose of septage, human excrement or other putrescible material within the limits of the Town shall first obtain a permit therefore from the Town.
- B. Such permit as issued by the Town shall identify:
  - 1. The motor vehicle;
  - 2. The capacity of the tank;
  - 3. The NHDES Permit Number; and
  - 4. Any other details of compliance with the regulations of the NHDES.
- C. The following conditions shall constitute conditions precedent to the issuance of each permit by the Town:
  - 1. Each septic tank truck shall have installed thereon, a sight level by which the quantity of the contents of each tank may be ascertained by visual observation; or
  - 2. Each septic tank truck shall have an access port in which the quantity of the contents of each truck may be ascertained by depth measurements.
  - 3. Before the time of disposal, the hauler shall enter the following information into the logbook located in the office of the wastewater treatment facility:
    - a. The hauler's name;
    - b. Date;
    - c. Time of disposal;
    - d. Volume disposed;

- e. Origin of load (property owner's name, address, and telephone number); and
  - f. Nature of the waste (i.e., grease or septage) being disposed.
4. Owners of "RVs" who intend to discharge the contents of holding tanks are exempt from the permitting process.

#### **Section 12.4 Septage Disposal Charge**

There shall be a Septage Disposal Charge as established by a *Schedule of Charges for Sewer Services*, as the Town may adopt from time to time, for the receipt of septage into the Town's wastewater treatment facility for treatment. In the event that the permittee has either a defective sight level, no sight level attached to the track, and/or no access to the contents of the truck for depth measurement, the permittee shall be charged according to the full tank capacity at the time of discharge or by other method determined by the Superintendent.

### **ARTICLE XIII – VALIDITY**

- A. If a provision of this Ordinance is found to be in conflict with any provision of zoning, building, safety or health or other Ordinance or code of the Town, the State of New Hampshire, or the Federal government existing on or subsequent to the effective date of this Ordinance, that provision which in the judgment of the Town establishes the higher standard of safety and protection shall prevail.
- B. The validity of any article, 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 XIV – INTERPRETATION OF REQUIREMENTS**

#### **14.1 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 installing or constructing connections to sewers or drains, and other technical matters shall be interpreted and administered by the Superintendent acting in and for the Town of Seabrook, New Hampshire through the Board of Selectmen.

#### **Section 14.2 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 30 calendar days of said decision to the Superintendent, who shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by the Superintendent, then the aggrieved party shall have the right to appeal to the Board of Selectmen, provided that said appeal is entered within 30 calendar days from the issuance of the decision of the Superintendent.

### **ARTICLE XV – MODIFICATIONS**

## SEABROOK MUNICIPAL SEWER SYSTEM ORDINANCE

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The Town reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be a part of these regulations.

### ARTICLE XVI – ORDINANCE IN EFFECT

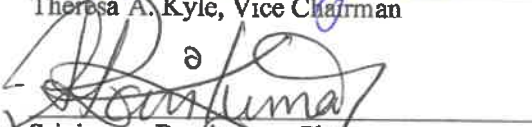
This Ordinance repeals all prior Municipal Sewer System Ordinances and shall be in full force and effect immediately following its passage by the Board of Selectmen, as provided by law.

Duly enacted and ordained this 22<sup>nd</sup> day of June 2005 and revised on May 16<sup>th</sup> 2022 by the Board of Selectmen of the Town of Seabrook, Rockingham County, State of New Hampshire, at a duly noticed and duly held session of the said Board of Selectmen.

BY:

  
Aboul B. Khan, Chairman

  
Theresa A. Kyle, Vice Chairman

  
(RAVI) Srinivasan Ravikumar, Clerk

Board of Selectmen