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Chapter 181

Sewers

[HISTORY: Adopted by the Town Council of the Town of Windham 9-9-1986 (Ch. 195 of the 1991 Code). Amendments noted where applicable.]

Article I

General Provisions

§ 181-1 Scope.

The provisions of this chapter shall apply to and govern sanitary facilities, sewers and wastewater treatment; the excavation, construction, installation, usage, maintenance, extension, alteration, repair and/or removal of any building sewer, building drain or sanitary sewer system; the connection of building sewers to sanitary sewer systems; the type of wastewaters prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible.

§ 181-2 Intent and purpose.

- A. It shall be the intent and purpose of this chapter to reduce, to the extent practicable, existing pollution and to prevent further pollution caused by inadequate wastewater disposal and to meet the requirements of the State of Maine and the federal government. This ordinance is enacted to support the health, welfare, comfort and convenience of the inhabitants of the Town.
- B. Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for wastewater treatment, none of the provisions of this chapter shall be construed to repeal or otherwise interfere with the rights, duties and/or powers granted to the Portland Water District pursuant to Chapter 433 of the Private and Special Laws of the State of Maine of 1907, as amended.

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§ 181-3 Enforcing officer.

The Superintendent of Sewers, as appointed by the Town Manager, shall administer and enforce the provisions of this chapter.

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§ 181-4 Protection from damage.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person(s) violating this provision may be prosecuted and subject to, among other relevant civil and criminal charges, arrest under the charge of criminal mischief as set forth in Maine Revised Statutes Annotated, Title 17-A, Chapter 33, § 806.

Article II

Definitions

§ 181-5 Definitions and word usage.

- A. All words not defined herein shall have their normal meaning or such meaning as may be in

Moved down [1]: All words not defined herein shall have their normal meaning or such meaning as may be in common use in the field of sanitation and wastewater treatment. "Shall" is mandatory; "may" is permissive. For the purposes of this article, the following terms shall have the meanings indicated.¶

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common use in the field of sanitation and wastewater treatment. “Shall” is mandatory; “may” is permissive. For the purposes of this article, the following terms shall have the meanings indicated. Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

ACT

The Federal Water Pollution Control Act, also known as the “Clean Water Act,” as amended, 33 U.S.C. § 1251 et. seq., 86 Stat 816, Pub L 92-500 and the regulations promulgated thereunder, as amended from time to time.

AUTHORIZED REPRESENTATIVE

Duly authorized representative appointed by a user who is:

- A. A principal executive officer of at least the level of vice president, if the user is a corporation;
- B. A general partner or proprietor if the user is a partnership or sole proprietorship, respectively;
- C. A member of the governing board or executive officer of a governmental entity, if the user is a governmental facility; or
- D. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the industrial discharge originates, or has overall responsibility for environmental matters for the user; provided, however, that the authorization is made in writing by the individual described above, and the written authorization is submitted to the District.

APPLICANT

Any person requesting approval to discharge industrial or domestic wastewaters into facilities in the Windham/Portland Water District Wastewater System.

BEST MANAGEMENT PRACTICES or BMPS

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND (BOD)

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter / building.

A structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure or support of persons, animals or property of any kind for commercial, residential or industrial uses.

BUILDING DRAIN

That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain extends ten (10) feet outside the inner face of the building wall.

BUILDING SEWER

The extension from the building drain to the public sewer or other place of disposal, also called "house connection."

BUY-IN FEES

Charges assessed to customers requesting new or expanded service by the Windham/Portland Water District sewer system. The fees represent the equity value to the Customer resulting from the new connection to and/or expanded service from the Windham/Portland Water District's sewer system.

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CATEGORICAL STANDARDS

Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. §1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 to 471.

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The intentional diversion of waste streams from any portion of a pretreatment system, sewer, or wastewater treatment facility.¶

Deleted: CATEGORICAL INDUSTRIAL USER¶

An industrial user subject to National Categorical Pretreatment Standards.¶

CAUSTIC ALKALINITY (HYDROXIDE ALKALINITY)

That material which raises the pH of water above 8.3, equivalent to (2 x phenolphthalein alkalinity - total alkalinity), provided the phenolphthalein alkalinity is greater than 1/2 total alkalinity.

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CHEMICAL OXYGEN DEMAND (COD)

The quantity of oxygen utilized in the chemical oxidation of matter under standard laboratory procedure, expressed in milligrams per liter.

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COMBINED SEWER

A sewer intended to receive both wastewater and storm or surface water.

Deleted: CLEAN WATER ACT¶

The Federal Clean Water Act, 33 U.S.C. §§1251 to 1387, as amended.¶

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COMMERCIAL PROPERTY

Premises used for financial gain, including but not limited to businesses, restaurants, shops, bed and breakfasts, motels, hotels, retail shopping malls, professional offices, hospitals, residential property used for short-term rentals, and any other business of similar use. Properties meeting the definition of "Residential Property" or "Multi-Family Residential Property" shall not be considered "Commercial Property."

Deleted: COLLECTOR SEWER¶

A sewer which transmits wastewater from one or more individual service lines to a trunk or interceptor sewer and has no other common sewers tributary to it.¶

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COMMERCIAL WASTES

Any wastes from commercial establishments as distinct from domestic wastewaters or industrial wastes.

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COOLING WATER

The water discharged from cooling devices, such as air-conditioning, cooling, or refrigeration.

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CUSTOMER

Any person, firm corporation, body politic, or organization of any type supplied with water or sewer service by Windham/Portland Water District wastewater system.

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DAILY MAXIMUM LIMIT

The arithmetic average of all effluent samples for a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

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DEP

The Maine Department of Environmental Protection.

DISTRICT

The Portland Water District, a quasi-municipal corporation organized under Maine law, and located at 225 Douglass Street, Portland, Maine 04104.

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DOMESTIC SOURCE

Any residence, building, structure, facility, or installation from which only sanitary sewage will normally be discharged to the facility.

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DOMESTIC WASTES

Liquid wastes and liquid-borne wastes discharged from sanitary conveniences, including but not limited to, toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens and floor drains, free of industrial wastes or toxic materials.

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EASEMENT

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

EPA

The United States Environmental Protection Agency.

EXCESSIVE

Amounts or concentrations of a constituent of a wastewater which, in the judgment of the Windham/Portland Water District sewer system, will cause damage to any sewerage facility, which will be harmful to a wastewater treatment process, which cannot be removed by the wastewater treatment works of the Windham/Portland Water District sewer system required to meet the limiting discharge standards of the Wastewater Treatment Plants (facilities), which can otherwise endanger life, limb or public property, and/or which can constitute a nuisance.

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Deleted: FOOD ESTABLISHMENT¶
Any fixed or mobile restaurant; temporary or permanent food service establishment; coffee shop; cafeteria, bed and breakfast, short order café; luncheonette; grill; roadside stand; industrial feeding establishment; food vending operation, whether attended or unattended; private, public, or nonprofit organization or institution routinely serving food; catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.¶

Deleted: Any sanitary sewer carrying wastewater under pressure as in a pump station discharge or inverted siphon.

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The concentration of a pollutant in water which, under equilibrium or other conditions, a confined environment, or interaction with pollutants contained in permitted discharges, would cause the concentration of a pollutant in the air over the water to exceed an exposure limit.¶

Deleted: GRAB SAMPLE A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.¶

Deleted: GREASE¶
The fats, oils, waxes, and other related constituents found in wastewater in accordance with the requirements of RSA 147:34.¶

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The Board appointed according to provisions of Article XI of these rules.¶

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FACILITIES

All structures, pipes, and conduits for the purpose of collecting, treating, neutralizing, stabilizing, or disposing of by means of such structures and conduits including treatment and disposal works, necessary intercepting, outflow and outlet sewers, and pumping stations integral to such facilities with sewers, equipment, furnishings thereof and all other appurtenances connected therewith.

FATS, OIL AND GREASE (FOG)

The measure of fats, wax, grease and oils (other than petroleum-based materials).

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

FORCE MAIN

A line without access from individual properties, providing a connection from a pump station to a pump station, trunk, or sanitary sewer main.

GARBAGE

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

INDIRECT DISCHARGE OR DISCHARGE

The discharge or the introduction into the facility of pollutants from any source, other than a domestic source, regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL DISCHARGE PERMIT or PERMIT

The document issued by the Town of Windham, and the Portland Water District as set forth in these regulations.

INDUSTRIAL USER

A source of indirect discharge or any source which discharges industrial waste to the facility.

INDUSTRIAL WASTES

Any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

INTERCEPTOR

A sewer which serves to collect the flow from the sewage collection system.

INTERFERENCE

A discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the facility, its treatment processes or operations, or its sludge processes, use or disposal, and which is a cause of a violation of any requirement of the Windham/Portland Water District sewer system, MEPDES Permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal by the facility in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 CFR 403.3(i).

INVERT

The bottom inside of the sewer pipe or bottom of a manhole structure.

LOCAL LIMITS

Treatment limits established by the Windham/Portland Water District Sewer System.

MEPDES

Maine Pollutant Discharge Elimination System or permit issued by the State of Maine for discharges from a wastewater treatment facility.

MG/L

Milligrams per liter.

MONTHLY AVERAGE

The sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

MONTHLY AVERAGE LIMIT

The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

MULTI-FAMILY RESIDENTIAL PROPERTY

Properties containing two or more dwelling units provided that none of the dwelling units or rooms therein are available for short-term rental. A Multi-Family Residential Property with a dwelling unit(s) or rooms available for short-term rental will be considered Commercial Property.

NAICS

The North American Industry Classification System. A system of sewers directly controlled by, or which is the responsibility of the municipality.

(NATIONAL) CATEGORICAL PRETREATMENT STANDARD

Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. §1317) that apply to a specific category of industrial users and which are found in the Code of Federal Regulations, 40 CFR, Subchapter N, Parts 405 to 471.

NATURAL OUTLET

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

NEW SOURCE

A. Any building, structure, facility, or installation from which there is (or may be) a discharge of

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The wastewater from industrial processes, trade or business or any source other than those defined in "domestic wastes."¶

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pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
4. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subsection A(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

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B. Construction of a new source as defined under this definition has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:
 - a. Any placement, assembly, or installation of facilities or equipment; or
 - b. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities, which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

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NONCATEGORICAL SIGNIFICANT INDUSTRY

An industry which meets the definition of a significant industrial user but is not a categorical industry.

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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.

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NONSIGNIFICANT INDUSTRY

An industry which does not meet the definition of a significant industrial user but is permitted by the Town because it has a possibility of discharging incompatible pollutants in excess of local discharge limits or is required to have a spill control plan.

OFFICIAL NOTICE

Notice of change of address, violation, billing, or breach of any of these Rules and Regulations, and shall be deemed to have been given if sent by U.S. Mail at the address provided in the permit application.

OPERATION AND MAINTENANCE

Those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing the treatment works and for which such works were designed and constructed. The term "operation and maintenance" includes replacement materials/machinery.

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OTHER WASTE

Any waste delivered by truck that does not satisfy the definition of septage or holding tank wastes. Other wastes may include commercial wastes that include materials other than sanitary wastes.

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OWNER

The owner of record according to the Town Tax Assessor's files.

PASS THROUGH

The discharge of pollutants through the facility into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the District's NPDES permit (including an increase in the magnitude or duration of a violation).

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PERSON

Any individual, firm, company, association, society, for-profit or non-profit corporation, group, partnership, municipality, trust, estate, governmental entity, agency or political subdivision of a municipality, the State of Maine, or the United States, or any other legal entity, or its legal representative, agent, or assign.

Deleted: governmental facility or governmental subdivision of a state, or responsible corporate officer

Deleted: or quasi-municipal agency, state agency, federal agency or other legal entity

pH

The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen-ion concentration of 10^{-7} .

PHENOLIC COMPOUNDS

The following hydroxy derivatives of benzene: 2-chlorophenol; 2,4-dichlorophenol; 2,4-dimethylphenol; 4-6-dinitro-o-cresol; 2,4-dinitrophenol; 2-nitrophenol; 4-nitrophenol; p-chloro-m-cresol; and 2,4,6-trichlorophenol.

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POLLUTANT

Includes but is not limited to dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discharged equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

POLLUTION

The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

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POTW- PUBLICLY OWNED TREATMENT WORKS (FACILITY)

The treatment works operated by the Windham/Portland Water District sewer system. This definition includes any devices and systems used in the storage, treatment, recycling, disposal, and reclamation of wastewater and sewage consisting of domestic, commercial, municipal, and industrial wastes of a liquid nature. It also includes those sewers, pipes, and other conveyances which convey wastewater to the facility. For the purposes of these rules and regulations, POTW shall also include any sewers that convey wastewaters to the treatment works from persons who are, by permit, contract, or agreement

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with the District, users of the facility.

POTW TREATMENT PLANT

That portion of the facility designed to provide treatment (including recycling and reclamation) of wastewater, municipal sewage, industrial waste, septage and holding water.

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PORTLAND WATER DISTRICT or DISTRICT

The Portland Water District, Portland, Maine, and its elected and appointed officials acting in an authorized manner.

PRETREATMENT

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW facility. The reduction or alteration can be achieved by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR 403.6(d).

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PRETREATMENT REQUIREMENTS

Any substantive or procedural requirement related to pretreatment, other than a National Categorical Pretreatment Standard, imposed on a user by the Windham/Portland Water District sewer system, through its permit process as defined in these rules and regulations.

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PRETREATMENT STANDARDS or STANDARDS

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

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PRIVATE SEWER SYSTEM

Any sewer system within the Town not owned by or constructed by a public authority.

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PRIVATE WASTEWATER DISPOSAL SYSTEM

Nonpublic sewage disposal facilities as permitted under the Maine Subsurface Wastewater Disposal Rules, 10-144 CMR Ch. 241, or nonpublic wastewater facilities as licensed by the DEP.

PROPERLY SHREDDED GARBAGE

The wastes from the handling, preparation, cooking and serving of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 10 millimeters (0.39 inch) in any dimension.

PUBLIC SEWER

A common sewer owned, operated and maintained by the Town or the Portland Water District.

READINESS-TO-SERVE FEE

An annual fee assessed to a property which abuts a public sewer having available to it a connection stub.

RECEIVING WATERS

Any watercourse, river, pond, ditch, lake, aquifer, or other body of surface or groundwater, including percolating groundwater, receiving discharge of wastewaters.

REPLACEMENT

Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of treatment works to maintain the capacity and performance for which such works were designed and constructed.

RESIDENTIAL PROPERTY

Property containing a single dwelling unit occupied by the property owner and/or not available for short-term rental. A Residential Property available as a single unit or by room for short-term rental shall be considered a Commercial Property.

RESIDUALS MANAGEMENT PROGRAM

Structures, equipment, processes, operators associated with the collection, transportation, treatment or disposal of residues generated by the collection, transportation, treatment or processing of materials introduced to the sewers or treatment facility.

SANITARY SEWAGE

Liquid and water-carried human and domestic wastes from residences, commercial buildings, industrial plants and institutions, exclusive of groundwater, stormwater and surface water and exclusive of industrial wastes.

SANITARY SEWER

A sewer that carries liquid and water-carried wastes from buildings, including but not limited to residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater, stormwater and surface waters that are not admitted intentionally.

SCREENING LEVEL

That concentration of a pollutant which under baseline conditions would cause a threat to personnel exposed to the pollutant or would cause a threat to structures of wastewater facilities. To be administered as limits applicable to a particular discharge, the screening levels must be adjusted to account for conditions at the point of discharge which differ from baseline conditions.

SEPTAGE

The water, sludge, grit and all other solid and liquid substances collecting in septic tanks, cesspools and other similar devices.

SEPTIC TANK

A liquid-tight receptacle which receives raw sewage for storage and digestion, and which has been designed and constructed so as to retain the solids and to allow the liquids to discharge through a secondary system of piping into an approved form of subsurface disposal area.

SEWAGE

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

SEWER

A pipe or conduit that carries wastewater or drainage water.

SEWER USER

The person owning a building connected to or required to be connected to the public sewer.

SHORT-TERM RENTAL

An agreement, whether written or oral, to rent or lease a dwelling unit(s) or rooms therein for a term of less than 6 consecutive months to the same individual.

SIGNIFICANT INDUSTRIAL USER

A. Except as provided in Subsection B of this definition, a "significant industrial user" is:

1. An industrial user subject to categorical pretreatment standards; or
2. An industrial user that:

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Any watertight vehicle which is used for the collection and hauling of septage as described above and which complies with the regulations of the Windham/Portland Water District sewer system.¶

SERVICE AGREEMENT¶

A contract between the Town and any individual, firm, company, association, corporation, trust or government authority, partnership, public or private corporation or authority, association, trust, estate, governmental entity, agency or political subdivision of a municipality, the State of Maine, or the United States, or any other legal entity, or its legal representative, agent, or assign, for the handling and treatment from such party.¶

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- a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
- b. Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity Town of the POTW treatment plant; or
- c. Is designated as such by the Windham/Portland Water District Sewer System on the basis that it has a reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement.

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

SIGNIFICANT NONCOMPLIANCE

- A. Chronic violations of "wastewater discharge limits," defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement;
- B. "Technical review criteria (TRC) violations," defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period is equal to or exceeds the product of the numeric pretreatment standard or requirement limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement that the Windham/Portland Water District Sewer System determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Town's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of best management practices, which the Town determines will adversely affect the operation or implementation of the local pretreatment program.

SLUDGE (BIOSOLIDS)

Waste containing varying amounts of solid contaminants removed from water, sanitary sewage, wastewater or industrial wastes by physical, chemical and biological treatment.

SLUG

Any discharge of water or wastewater which, in concentration of any given constituent or in quantity of

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flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average twenty-four-hour concentration or flow during normal operation and/or adversely affects the public sewer system and/or performance of the wastewater treatment works.

SOLIDS DISPOSAL OPERATIONS

The method or methods the Windham/Portland Water District sewer system employs to utilize or dispose of the by-product solids sludge resulting from the treatment of wastewater.

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SPILL

The release, accidental or otherwise, of any material not normally released to the facilities, which by virtue of its volume, concentration or physical, chemical, radiological, or biological characteristics, creates a hazard to the facilities, their operation or their personnel. Such characteristics shall include, but are not limited to volatile, explosive, toxic or otherwise unacceptable materials.

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STORMWATER

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

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The staff of the Town of Windham.¶

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STORM DRAIN

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

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The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering.¶

SUPERINTENDENT

The Superintendent of Sewers, as appointed by the Town Manager, or his duly authorized representative.

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SUSPENDED SOLIDS (SS)

That suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association.

TOWN

The Town of Windham, Maine, and its elected and appointed officials acting in an authorized manner.

TOXIC POLLUTANT

Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under Section 307(a)(1) of the Act and as listed at 40 CFR 401.15, or other statutes, regulations or ordinances.

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The sum of all Toxic Organics not otherwise prohibited or limited under applicable regulations.¶
¶
TOXIC ORGANICS¶
All substances listed in Tables II and V of 40 CFR Part 122, Appendix D.¶

UNPOLLUTED WATER

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

USEFUL LIFE

The estimated period during which the Wastewater Facilities of the District will be operated.

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USER

Any person or entity who discharges wastewater or industrial wastewater into the sewerage system of the District and any person or entity located in the District.

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USER CHARGE

That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works and or collection system, whether or not the user is connected to the public sewer.

WASTE

Substances in liquid, solid or gaseous form that can be carried in water.

WASTEWATER

Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated.

WASTEWATER FACILITIES

The pipes, structures, equipment and processes required to collect, pump, carry away and treat domestic and industrial wastes and to dispose of the effluent and by-products.

WASTEWATER TREATMENT WORKS

An arrangement of devices and structures for treating wastewater, industrial waste and sludge.

WATERCOURSE

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

WATERS OF THE STATE All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, border upon or are within the jurisdiction of the State of Maine.

Article III

Required Use of Public Sewer

§ 181-6 Unlawful disposal or discharge.

- A. It shall be unlawful for any person to place or deposit or permit to be placed or deposited in any unsanitary manner on public or private property within the Town or in any area under the jurisdiction of said Town any human or animal excrement, garbage or other objectionable waste. This is not intended to restrict the approved spreading of manure, fertilizers or sludge in farming or animal husbandry operations.
- 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 water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and the requirements of the State of Maine.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

§ 181-7 Connection to public sewer required.

[Amended 4-13-2021]

- A. The owner of any building used for human occupancy, employment, recreation or any other purposes, situated within the Town and abutting on any street, alley or right-of-way in which there is now located

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A water volume measuring and recording device, furnished and/or installed by a user and approved by the American Water Works Association.¶

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a public sanitary sewer, excluding force mains, is hereby required, at the owner's expense, to connect any plumbing facilities directly with the public sewer in accordance with the provisions of this chapter within 120 days after the date of notice by the Superintendent to do so.

- B. The building owner may request, in writing to the Superintendent, deferral of this connection requirement on the basis of undue hardship if the building has an existing, properly operating, private wastewater disposal system, in which case the owner shall demonstrate the nature and degree of hardship. The need for the owner to pump to the public sewer shall not alone be considered a hardship.
- C. If the building owner can prove, to the satisfaction of the Superintendent, that a suitable private wastewater disposal system is currently in use, the owner shall be exempt from connection for three (3) years to the public sewer but shall be assessed a readiness-to-serve fee until connected. At the end of three (3) years the owner shall be required to connect to the public sewer.
- D. During construction of a public sewer, owners of unimproved lots and land abutting such sewer have the option of having a service stub brought to the edge of the roadway at Town expense, except as provided in Article IX, in which case the property owner will be assessed the readiness-to-serve fee.
- E. The Town shall maintain a map depicting locations where public sanitary sewer is anticipated to be constructed within a five-year period ("sewer expansion areas"). Upon notification from the Superintendent that sewer service is available in any sewer expansion area, all existing commercial and multifamily structures in the sewer expansion area shall connect to the public sewer as set forth in Subsection A, unless exempted under Subsections B or C. Existing single-family residences in designated sewer expansion areas may, at the owner's election and expense, connect to the sewer, but shall not be required to do so except when an existing subsurface system requires replacement or expansion, or the residence is being expanded to include the addition of one or more bedrooms or an accessory dwelling unit. Connection under this subsection may be waived by the Superintendent only if the building is more than 2,000 feet from the sewer line or if connection would pose an undue hardship due to the building's location or other site features.
- F. Any new building to be located within a sewer expansion area shall, at the owner's expense and as a condition of any building permit or plumbing permit, install a service pipe for the eventual connection of the building to the anticipated location of the sewer line within the public way. Installation of the service pipe will not be required if the Superintendent states, in writing, that such an installation is not advisable at the time of building construction. Any building plan, subdivision plan or site plan submitted for building(s) to be located in a sewer expansion area shall include on the plan the location of any service pipe to be installed in accordance with this section. Subdivisions shall further comply with the provisions of § 181-45. **Notwithstanding 1 M.R.S.A. § 302, this section shall be applicable to any proposed building, site plan or subdivision for which no building permit(s) has been issued as of April 13, 2021.

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Article IV Private Wastewater Disposal Systems

§ 181-8 Public sewer not available.

Where a public sanitary sewer is not available under the provisions of § 181-7, the building shall be connected to a private wastewater disposal system complying with the provisions of this article and the Maine Subsurface Wastewater Disposal Rules, 10-144 CMR Ch. 241, or to nonpublic wastewater facilities licensed by the DEP.

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A. Disposal of septage at the POTW shall be performed only by haulers who have obtained a permit to haul pursuant to Town of Windham

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B. Such hauler may discharge septage to the facility provided at the Windham Wastewater Treatment Plant

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only after the billing information has been established with the Windham/Portland District Office and after providing documentation that the septage to be disposed of originated from one of the locations approved by the Town of Windham.

C. Septic tank wastes will only be accepted from towns or cities listed on a first come, first serve basis providing adequate capacity of the Town is available at the POTW.

D. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

§ 181-9 Permit required.

A. Before commencement of construction of a private wastewater disposal system or nonpublic wastewater facilities licensed by the DEP, the owner shall first obtain a written permit signed by the Town Plumbing Inspector. The application for a subsurface wastewater disposal permit shall be made on a form furnished by the Division of Environmental and Community Health, Maine Department of Health and Human Services, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the Plumbing Inspector. A permit and inspection fee as established by the Town Council shall be paid to the Code Enforcement Officer at the time the application is filed. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

B. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector and Wastewater Treatment Facility Superintendent. The Plumbing Inspector shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Plumbing Inspector.

§ 181-10 Compliance with state regulations.

The type, capacity, location and layout of a private wastewater disposal system shall comply with the Maine Subsurface Wastewater Disposal Rules, 10-144 CMR Ch. 241, and the Minimum Lot Size Law, Maine Revised Statutes Annotated, Title 12, Chapter 423-A, or as approved and licensed by the DEP, as may be amended. No private wastewater disposal system shall be permitted to discharge to any natural outlet unless approved and licensed by the DEP.

§ 181-11 Procedure upon connection to public sewer.

At such time as a building with an existing private wastewater disposal system is connected to the public sewer as provided in § 181-7, any septic tanks, cesspools and similar private wastewater disposal facilities shall no longer be used and shall be cleaned of sludge and filled with clean bank-run gravel or completely removed within 120 days from connection.

§ 181-12 Private system operation.

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. The contents from private wastewater disposal systems shall not be discharged to the public sewer.

§ 181-13 Imposition of additional requirements.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Town's Health Officer, Code Enforcement Officer, or State or Federal law.

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Article V

Building Sewers and Connections

§ 181-14 Permit required.

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
- B. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Superintendent at least 45 days prior to the proposed change or connection. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

D. There shall be three (3) classes of building sewer permits:

1. For residential service;
2. For commercial users producing only domestic wastewater or 50 population units (5,000 gallons/day); and
3. For industrial users.

E. In all cases, the owner or the owner's agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Town. A permit and inspection fee for a residential, commercial, or industrial permit under this Article shall be paid to the Town at the time the application is filed. Permits shall not be transferred or reassigned.

§ 181-15 Owner responsible for costs.

All costs and expenses incident to the installation and connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

§ 181-16 Separate building sewer required.

A separate and independent building sewer shall be provided for every building requiring a sewer connection, except that, where one building stands at the rear of another on an interior lot and no private sewer system is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, then the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

§ 181-17 Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found to meet all requirements of this chapter and such use is authorized by the Superintendent.

§ 181-18 Methods of construction.

[Amended 4-13-2021]

The size, slope, alignment and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the State of Maine Plumbing Code and other applicable rules and regulations of the Town. 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 carried by such building drain shall be lifted by an approved means and discharged to the building sewer. If it is determined by the Superintendent that a clogged street sewer could cause sewage backflow in the service line and result in damage to the building and/or contents, the Superintendent may

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require the installation of a backflow preventer valve at the owner's expense.

§ 181-19 Inspection.

- A. The Superintendent, Plumbing Inspector and/or Code Enforcement Officer shall be allowed to inspect all building sewers installed pursuant to this article at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent or Plumbing Inspector when the work is ready for inspection and before any underground portions are covered. A timely inspection shall be made by the Superintendent or Plumbing Inspector within two business days whenever possible.
- B. No building sewer installation constructed pursuant to this article can be approved if such sewer is covered prior to inspection.
- C. The owner will be held in violation of this section if the Superintendent or Plumbing Inspector has not inspected and approved the installation.
- D. The connection of the building sewer into the public sewer shall conform to the latest editions of the requirements of the building and plumbing code. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.
- E. The Applicant for the building sewer permit shall notify the Town when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under supervision of the Town.
- F. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. 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 owner's expense when the owner(s) or their agents perform such work.
- G. Any person proposing a new discharge into the system or an increase in the volume, beyond limits previously permitted, or in the strength or character of pollutants that are discharged into the system, shall make application to the District for a modification of their permit at least sixty (60) days prior to the proposed change or connection. No person shall operate with such an increase or change without first having applied for and received a modification to their permit.
- H. Proposed new discharges from residential or commercial sources involving loading exceeding 50 population equivalents (5,000 gpd), any new industrial discharge or any alteration in either flow or waste characteristics in industrial discharge shall require prior approval by the District.

§ 181-20 Connection by Town.

If an existing entrance or connection to the public sewer is not available for a new building sewer connection, the owner shall notify the Code Enforcement Office and/or Plumbing Inspector two business days before the expected time of connection. All such connections at the public sewer shall be made by the Town or its agent at the owner's expense.

§ 181-21 Storm drain connection prohibited.

No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer unless such connection is approved by the Superintendent and/or Plumbing Inspector for purposes of disposal of polluted surface drainage.

§ 181-22 Building demolition.

In the case of buildings being removed or demolished, the building sewer shall be capped at the street right-of-way line to the satisfaction of the Superintendent and/or Plumbing Inspector.

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§ 181-23 Street openings.

All street openings or installations in a public right-of-way shall be performed in strict accordance with Town regulations and approved by the Director of Public Works.

§ 181-24 Connection to force main prohibited.

No person shall make connection of a building sewer or pipe of any type to a force main or inverted siphon which is part of the public sewer system.

Article VI Use of Public Sewers

§ 181-25 Stormwater and unpolluted drainage.

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to storm drains or to natural outlets approved by the Superintendent [and/or Plumbing Inspector](#). Unpolluted industrial cooling water or process waters may be discharged, on approval of the Superintendent [and/or Plumbing Inspector](#), to a storm sewer, combined sewer or natural outlet, and the discharge shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subsection 413.

§ 181-26 Prohibited discharges.

No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- A. Any pollutants which create a fire or explosive hazard in the sewer system or treatment facility; including but not limited to: gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

Any petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

Any sludges or deposited solids resulting from an industrial pretreatment process.

- B. Any waters or pollutants containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant, including but not limited to those which exceed the limitations set forth in a National Categorical Pretreatment Standard found in 40 CFR Chapter I, Subchapter N, Parts 405 to 471, the local discharge permit issued pursuant to those as defined in standards issued from time to time under Section 307(a) of the Federal Water Pollution Control Act, Amendments of 1972, Public Law 92-500. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act and as listed at 40 CFR 401.15. Any slug of wastes as defined in Maine law.

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C. Any water or pollutants having a pH lower than 6.0 or higher than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater facilities.

**** (The Town or its designee may authorize discharge of wastes with a pH greater than 10.0 provided that the caustic (hydroxide) alkalinity of the sample does not exceed 1000 mg/L.)**

Any waste which, either singly or by interaction with other wastes, may result in the presence of toxic vapors, gases, or fumes within the POTW in a quantity that may cause worker health or safety problems, or is sufficient to prevent entry into the sewers for maintenance and repair.

Any substance which may cause the facility's effluent or any other product of the facility, such as biosolids, sludges, or scums, to be unsuitable for disposal in a permitted landfill or for reclamation and reuse, or to interfere with the reclamation and reuse process. In no case shall a substance discharged to the facility cause the facility to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or Maine DEP Rules for Agronomic Utilization of Residuals, 06-096 CMR Chapter 419, 38 M.R.S.A. § 1304.

D. Any solid or viscous substances in such quantities or of such size as capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities, such as but not limited to ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, disposable diapers, wood, unground garbage, seafood shells, whole blood, paunch manure, hair and fleshings, entrails and paper or plastic dishes, cups, milk containers, floor waxes, chemical paint and finish removers, etc., either whole or ground by garbage grinders.

E. Any waters or pollutants, including oxygen-demanding pollutants (BOD, etc.), which, released in a discharge at a flow rate and/or pollutant concentration which will cause interference to the facility or pass through to the waters of the state.

F. Any heated waters or pollutants in amounts which will inhibit or interfere with biological activity in the wastewater treatment works, but in no case heated waters or pollutants in such quantities that the temperature at the wastewater treatment works influent exceeds 30° C. (86° F.)

Any waste which may create a fire explosion hazard in the facility, including, but not limited to, waste streams with a closed cup flash point of less than 140° F. (60° C.) using the test methods specified in 40 CFR 261.21.

G. In addition to the prohibitions listed above, all other the discharge limitations indicated in this ordinance also apply.

§ 181-27 Limited discharges.

The following described substances, materials, waters or pollutants shall be limited in discharges to the public sewer to concentrations or quantities which will not harm either the sewers, the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, or public property or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. The limitations or restrictions of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

A. Wastewater having a temperature higher than 60° C. (140° F.).

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- | <u>Parameter</u> | <u>Limit</u> |
|--------------------------------|---------------------|
| <u>Arsenic</u> | <u>0.93 mg/l</u> |
| <u>Ammonia</u> | <u>400 mg/l</u> |
| <u>BOD</u> | <u>600 mg/l</u> |
| <u>Boron</u> | <u>5.0 mg/l</u> |
| <u>Cadmium</u> | <u>0.06 mg/l</u> |
| <u>Chloride</u> | <u>1200 mg/l</u> |
| <u>Chromium</u> | <u>0.32 mg/l</u> |
| <u>COD</u> | <u>1320 mg/l</u> |
| <u>Cyanide</u> | <u>0.03 mg/l</u> |
| <u>Effluent Acute Toxicity</u> | <u>LC 50 = 100%</u> |
| <u>Iron</u> | <u>100 mg/l</u> |
| <u>Lead</u> | <u>0.04 mg/l</u> |
| <u>Mercury</u> | <u>0.002 mg/l</u> |
| <u>Nickel</u> | <u>1.5 mg/l</u> |

<u>Parameter</u>	<u>Limit</u>
<u>Arsenic</u>	<u>0.93 mg/l</u>
<u>Ammonia</u>	<u>400 mg/l</u>
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<u>Effluent Acute Toxicity</u>	<u>LC 50 = 100%</u>
<u>Iron</u>	<u>100 mg/l</u>
<u>Lead</u>	<u>0.04 mg/l</u>
<u>Mercury</u>	<u>0.002 mg/l</u>
<u>Nickel</u>	<u>1.5 mg/l</u>

[illegible]

<u>PFAS (total)</u>	<u>50 mg/l</u>
<u>Phenolic Compounds</u>	<u>550 mg/l</u>
<u>Phosphorus</u>	<u>45 mg/l</u>
<u>Selenium</u>	<u>1.0 mg/l</u>
<u>Silver</u>	<u>0.10 mg/l</u>
<u>Sulfide</u>	<u>2.5 mg/l</u>
<u>TKN</u>	<u>450 mg/l</u>
<u>Total Toxic Organics</u>	<u>5 mg/l</u>
<u>TSS</u>	<u>300 mg/l</u>
<u>Zinc</u>	<u>3.7 mg/l</u>

Notes: All metals to be reported as total recoverable.

- J. Any radioactive wastes or isotopes which exceed limits established by applicable state or federal regulations or standards.
- J. Wastewater containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- K. Any water or wastes which are reactive or, by interaction with other water or wastes in the public sewer system, release toxic, flammable, or explosive gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures, treatment process, and residuals management.
- L. Any pathogenic or infectious or physically dangerous medical or biological waste or any wastewater which results from the management or treatment of such wastes.
- M. Any hazardous waste or any wastewater which results from the management or treatment of hazardous waste.
- N. Any filter backwash not specifically authorized to be discharged by a permit issued to the discharger by the District; any filter backwash that is not treated to meet the requirements established herein, unless specifically permitted by the District.
- O. Any wastewaters which contain PCBs, dioxins, Phenanthrene chlorinated naphthalenes; Fluoranthene, Hexachlorobutadiene or pesticides, including, but not limited to, Dieldrin, Chlordane, 1,1,1-Trichloro-2,2-bis (p-chlorophenol)-ethane (4-4 DDT), Demeton, Endosulfan I, Endosulfan II, Endrin, Guthion, Heptachlor, Malathion, Methoxychlor, Mirex, Parathion, Acrolein, Aldrin, Tetrachlorodiphenylethane (TDE), 1,1-Dichloro-2,2-bis (p-chlorophenol) ethane (DDE), Hexachlorocyclo-hexane, Lindane, Benzene-cis-hexachloride and benzene-trans-hexachloride (BHC), Hexachlorocyclo-pentadiene, and Toxaphene, unless specifically permitted by the District.

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P. Detergents, surface-active agents, or other substances that cause excessive foaming in sewers, the wastewater treatment process or associated facilities.

Q. Phosphorus containing products or wastes which contain greater than .5% phosphorus by weight. Common examples of prohibited phosphorus containing compounds include (but shall not be limited to) floor treatment and cleaning agents.

R. Wastewater which, by interaction with other water or pollutants in the public sewer system, releases obnoxious gases, forms suspended solids which interfere with the public sewer system or creates a condition deleterious to the wastewater facilities.

S. Any wastes having color not removable by the treatment works.

T. Any wastes having average BOD in excess of 400 milligrams per liter per day.

U. Any wastes having average COD in excess of 600 milligrams per liter per day.

V. Any wastes having average SS in excess of 400 milligrams per liter per day.

W. Any wastes having dissolved solids in such quantity and character as incompatible with the wastewater treatment works.

§ 181-28 Town options for prohibited wastes.

If any waters or pollutants are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 181-26 or 181-27 of this chapter, and which, in the judgment of the Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- Reject the waters or pollutants;
- Require pretreatment to an acceptable condition for discharge to the public sewers;
- Require control over the quantities and rates of discharge; and/or
- Require payment to cover the added costs of handling and treating the wastes.

§ 181-29 Pretreatment or flow equalization.

If the Superintendent requires or permits the pretreatment or equalization of waste flows, the design and installation of the pretreatment or equalization plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, laws and the municipal discharge permit. All such pretreatment or flow-equalization facilities shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

§ 181-30 Grease and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in § 181-27C or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located outdoors as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall

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Commented [KN32]: In other municipalities, we allocate BOD and TSS in lbs/day to each industry based on their processes and what our plants can handle. Language to accommodate this should be included in local limits attachment I mentioned above and would include de minimis values for BOD and TSS.

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¶ Upon the promulgation of National Categorical Pretreatment Standards for a particular industrial subcategory found in 40 CFR, Chapter I, Subchapter N, Parts 405 to 471, and hereby incorporated in these rules and regulations, such standards shall immediately supersede, for users in that subcategory, the limitations imposed under these rules and regulations. The City shall notify all affected users of the applicable requirements under the Act and Subtitles C and D of the Resource Conservation and Recovery Act.¶

maintain records of the dates and means of disposal which shall be relayed to the Superintendent for review. Any removal and hauling of the collected materials not performed by the owner must be performed by currently licensed waste disposal firms.

An external grease interceptor (min 1,000 gallons for 50 or less seating capacity and 250 gallons for every 25 seats thereafter) shall be required to receive the drainage from fixtures and equipment with grease-laden waste. In all fixed food service establishment kitchens, the required mop sink, floor drains in the food preparation areas, and prewash and wash compartments of the pot sink shall be connected to the grease interceptor. Food waste and dishwasher grinders shall not discharge into the building drainage system through a grease interceptor. Compliance with all applicable codes established by Building Official and Code Administrators (BOCA) shall be required.

§ 181-31 Industrial waste permit required.

All discharges of industrial wastewater are required to obtain a permit from the Superintendent. All permits and applications for permits shall be in a form determined by the Superintendent and shall include an application fee established by the Town Council. In cases where the Town incurs administrative or outside professional costs in preparing such applications, such costs shall be charged directly to the applicant. Each permit shall have an annual expiration date. Such permits shall require compliance with all federal and state pretreatment standards and may include other requirements imposed by the Superintendent.

§ 181-32 Industrial waste monitoring.

- A. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial pollutants shall install a suitable structure, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessible, safely located and constructed in accordance with plans approved by the Superintendent. The structure 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.
- B. All measurements, tests and analyses of the characteristics of waters and pollutants to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the structure as required in Subsection A of this section, or upon suitable samples taken at said structure. In the event that no special structure has been required, suitable samples shall be taken at the upstream and downstream manholes in the public sewer nearest to the point at which the building sewer is connected.
- C. All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be retained by the owner for a minimum of three years and made available upon request by the Superintendent to the Portland Water District, DEP or EPA.
- D. All sampling and testing shall be carried out by the qualified person at the owner's expense. The method and location of sampling and quality of testing is subject to approval of the Superintendent. Any users of public sewers discharging or causing to be discharged into such public sewers any industrial wastes shall provide the Superintendent with samples, when requested.

§ 181-33 Industrial waste monitoring.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Town shall develop, and the Superintendent and/or Plumbing Inspector shall enforce pretreatment regulations for existing and new sources of pollution that are discharged or proposed to be discharged into the municipality-owned wastewater treatment facilities as set forth in the rules of the United States

Commented [GP33]: I suggest we consider integrating language to the effect that we'd discussed - requiring annual inspections. We'd discussed inspections being able to be performed by certified companies, and the customers being able to submit documentation.

Commented [KN34R33]: I would recommend that Windham look at Portland's FOG program language. They may not want or need all of it but it would be a good place to start.

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Environmental Protection Agency in 40 CFR Parts 129 and 403.

§ 181-34 Exclusion of industrial waste.

The Superintendent, with approval of the Town Manager, shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the municipal sewers whenever, in his or her opinion, such actions necessary for the purpose of determining the effects of such wastes upon the public sewers or wastewater facilities. The Superintendent shall notify the affected user prior to taking such actions and shall afford the user a reasonable time for response. The Superintendent shall have the authority to take actions necessary to halt the discharge of pollutants from any user to the POTW which reasonably appears to present an imminent endangerment to the wastewater facility or to the health or welfare of persons. Such actions shall be preceded by a notification, oral or written, to the user.

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§ 181-35 Additional information required.

The Superintendent may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

- A. Wastewater discharge rates and volumes (average, minimum, peak) over a specified time period.
- B. Chemical analyses of wastewaters.
- C. Information on new materials, processes and products affecting wastewater volume and quality.
- D. Quantity and disposition of specified liquids, sludge, oil, solvent or other materials important to sewer to sewer use control.
- E. An engineering drawing, by a licensed professional engineer of sewers, of the user's property, showing sewer and pretreatment facility location and details of wastewater pretreatment facilities.
- F. Details of systems to prevent and control the losses of materials through spills to the public sewer.

§ 181-36 Special arrangements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial sewer user whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial sewer user, provided that such agreements do not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder and are compatible with any user charge system in effect.

Article VII

Power and Authority of Superintendent

§ 181-37 Right of entry.

The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the public sewer system in accordance with the provisions of this chapter.

§ 181-38 Industrial process information.

The Superintendent and/or other duly authorized employees or agents are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the public sewer system. The industry may request that such information be kept confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

§ 181-39 Private property inspection, safety and responsibility.

While performing the necessary work on private properties referred to in § 181-37, the Superintendent or duly authorized employees or agents of the Town shall observe all safety rules applicable to the premises established by the owner, and the owner shall be held harmless for injury or death to the Superintendent and/or his employees or agents and the Town shall indemnify the owner against loss or damage to his property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.

§ 181-40 Easement entry.

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

§ 181-41 Written notice of violation.

Any person found to be violating any provision of this chapter, except §§ 181-4 and 181-34, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The written notice shall include language explaining the violator's right to appeal.

§ 181-42 Violations and penalties.

Any person who shall continue any violation beyond the time limit provided for in § 181-41 shall be subject to a civil penalty of \$100, for each violation, and shall reimburse the Town its costs of enforcement, including attorney's fees. Each day in which any such violation shall continue shall be deemed a separate offense.

Deleted: shall be guilty of a misdemeanor and, on conviction thereof, ...

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§ 181-43 Liability for public expense.

Any person violating any of the provisions of this chapter shall become liable to the Town for any expense, loss or damage occasioned the Town or the Portland Water District by reason of such offense, including:

- A. Any physical impairment of the wastewater facilities.
- B. Any fines which the Town or the Portland Water District may be required to pay as a result of such offense.

§ 181-44 Injunctive relief.

Notwithstanding any of the foregoing provisions, the Town or the Portland Water District may institute any appropriate action, including injunction or other proceedings, to prevent, restrain or abate violations hereof.

Article VIII Sewer Extensions

§ 181-45 New subdivisions.

[Amended 4-13-2021]

Any person who subdivides land within the Town, of which any part either is located within 1,500 feet of a

public sanitary sewer or is located so that it can be connected to such a public sanitary sewer without undue hardship, as determined by the Planning Board, shall, if such subdivision has not been finally approved before the effective date of this chapter, and assuming capacity exists in the sewer system as determined by the Town Council, at his own expense, construct, for dedication to the Town, a sanitary sewer extension to serve all structures within such subdivision which will require the disposal of wastewater. Such sanitary sewer shall be designed by a licensed professional engineer, its design shall be approved by the Town, and its design, construction and acceptance shall be in accordance with the provisions of §§ 181-48 and 181-49.

§ 181-46 Existing buildings.

Any one or more property owners, builders or developers may propose the extension of any sanitary sewer within the Town by presenting to the Town Council a petition therefor signed by the owners of at least 2/3 of the buildings and properties which would be required to connect to such sewer or be assessed a readiness-to-serve charge under the provisions of Article IX. If the Council does allow the construction of such extension, it may permit the petitioners to construct the same for dedication to the Town upon a determination that such extension is consistent with Town plans for public sewers, is properly located and sized and may lawfully be so constructed. The Council may also elect to participate in the cost of extending the sanitary sewer if circumstances deem it to be in the best interest of the Town. Such sanitary sewer shall be designed by a licensed professional engineer; its design shall be approved by the Town, and its design, construction and acceptance shall be in accordance with the provisions of §§ 181-47, 181-48 and 181-49. Any sewer extension shall be of adequate size and depth to permit further extensions of sewer service.

§ 181-47 Procedural requirements.

- A. Any person constructing a sanitary sewer extension in accordance with §§ 181-45 and 181-46 shall pay for the entire installation, including all expenses incidental thereto, including design review by a licensed professional engineer. Each building sewer must be installed and inspected as required by Article V, and all connections shall be made as required under Article V. Permit and inspection fees shall be paid for each building sewer connection to the sanitary sewer extension in accordance with Article V. The installation of the sewer extensions must be subject to periodic inspection by the Superintendent, and the expenses for this inspection shall be paid for by the owner, builder or developer. The Superintendent's decision shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the testing required in the sewer design specifications as adopted by the Town before it is to be used. The cost of sewer extension thus made shall be absorbed by the developers or the property owners, including all building sewers.
- B. The Superintendent shall approve any sanitary sewer extension construction under §§ 181-37 and 181-38, and he shall be given a complete plan and profile thereof, as constructed, before acceptance thereof and before final acceptance of the subdivision street in which it is located by the Town. All sewer extensions, including pump stations, constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Superintendent, shall become the property of the Town and shall thereafter be maintained by the Town within a time period of six months if accepted. Said sewers or pump stations, after their acceptance by the Town, shall be guaranteed by the property owner, builder or developer against defects in materials or workmanship for 12 months. The guaranty shall be in the form of a maintenance guaranty bond in an amount not less than 10% of the engineer's estimate of the cost of the sewer extension or pump station.

§ 181-48 Pump station design.

All sewer pump stations to be added to the Town's sewer system shall be designed and constructed per the District's design standards, in coordination with the District. The District will require full design review. It will also require construction inspection. Town permitting and coordination during all phases of construction including testing and startup.

§ 181-49 Building permit requirement.

No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary

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facilities within the Town, unless a suitable and approved method of sewage disposal is proposed and approved by the [Superintendent or Plumbing Inspector](#).

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Article IX Sewer User Fees

§ 181-50 Charge system established.

- A. The Town Council shall establish the user charge system in accordance with appropriate federal and state laws, rules and regulations and shall further the equitable allocations of the capital and operating costs of the public sewerage system among municipal use and the general public benefit, private use and the availability of use to properties not connected to the system. Subject to these requirements, such charges and any classification thereof shall be fair and reasonable, bearing a substantial relationship to the cost of providing sewage facilities and services to the Town. Such charges shall be at a rate sufficient to approximate 100% of the total annual cost of providing sewage facilities and services to the Town unless the Town Council elects to offset some capital costs from general Town funds. Such charges shall include adequate revenues for renewal and replacement of the wastewater facilities.
- B. The user charge system shall include a financial management system which accounts for sewer system revenues and expenditures.

§ 181-51 User fees established.

- A. The Town Council is hereby authorized to establish, alter from time to time and levy, upon persons owning land abutting on or served by an existing or future public sewer, sewer user fees and industrial waste surcharge fees for the use of and for the services furnished by such sewers or available to such land, whether or not such land is connected to the public sewer. Such fees shall be established by the Town Council on an annual basis after public hearing.
- B. Sewer user fees shall be based on the amount of water, estimated or measured, as shown on the records of the Portland Water District, provided to the sewer user during the previous billing period; provided, however, that where water is obtained from a source or sources other than the Portland Water District, whether or not the Portland Water District also supplies water, the computation shall include the amount of water obtained from all such other sources, unless the user established that the water from such other sources is not entering the sewer system. The Town may require, or the user may opt for, additional metering, either of water sources or of the sewer outflow, to be installed and maintained at the owner's expense where such metering is required to accurately measure the volume of wastewater entering the sewer system.
- C. Each sewer user shall pay a minimum fee regardless of actual water usage. Such minimum fee shall be established by the Town Council on an annual basis.
- D. Industrial waste surcharge fees shall be charged to users which have or may have industrial wastes discharging to the public sewer system. Such fees may be based on measured or estimated quantities of material exceeding the limits listed in Article VI and on Town costs for administering and monitoring the provisions in Article VI related to industrial wastes.
- E. Readiness-to-serve fees shall be charged to properties which abut a public sewer having available to it a connection stub. Such fees can be used only for payment of fixed costs that are not related to flow.

F. Buy-in fees shall be established by the Town Council. Buy-in fees are charged per unit to any new installation after January 1, 2026, and shall be \$5,000/unit (i.e., apt.) or based on design flow calculated by the Superintendent. On or before to December 31, 2025, Superintendent shall have the authority to adjust this fee to proportional reflect the appropriate charge.

G. User charges: Each user connected or unconnected to the sewerage system shall pay a sewer charge to

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Commented [MB37]: Is this somehow different from "sewer user fees" in Sec. 181-51? The multiple different terms - sewer user fee, user charge, sewer charge, surcharges - are somewhat confusing.

cover the costs of management, maintenance, operation and repair, including replacement of the wastewater system. Sewer user charges shall be based on water use. The applicable charge shall be established by the Town Council.

1. Sewer surcharges may be levied upon users who discharge wastewaters to the system that are above normal strength. The discharge of septage is an example of assigning a surcharge for operation and maintenance. For the purpose of determining the surcharge, normal domestic wastewater shall be considered to each have a BOD and suspended solids concentration of 250 mg/l.

2. Any user contributing more than 5,000 gallons per day to the system and whose discharge strength is greater than 600 mg/l BOD or 300 mg/l TSS shall prepare and file with the District a report that shall include pertinent data relating to the wastewater characteristics, including the methods of sampling and measurement to obtain this data, and these data shall be used to calculate the user charge for that user. The District shall have the right to gain access to the waste stream and take its own samples.

§ 181-52 Billing.

- A. Bills for all charges under this article are payable by the owner but may be sent to other persons on request, including the occupant or persons requesting water service if mutually agreeable to the owner and the Town.
- B. Bills shall be sent periodically, at such intervals as the Town Council may determine, and are due and payable within thirty (30) days of the billing date. An interest charge will be added to each delinquent bill for each thirty (30) days or portion thereof of delinquency. When any bill is more than seventy-four (74) days in default, service to such premises may be discontinued, in accordance with all applicable statutes and regulations, until such bill is paid.
- C. The Town may use the service, procedures and personnel of the District for the purpose of billing and collection of charges under this article. All such charges billed by the District are payable to the District as an agent of the Town.
- D. The Town will review the user charges at least annually and revise the rates as necessary to ensure that adequate revenues are generated to pay the cost of operation and maintenance, including replacement, and that the system continues to provide for the proportional distribution of operation and maintenance costs, including replacement costs, among users and user classes.
- E. All fees and user charges are contained in the current Rate Schedule as established by the Town Council.

§ 181-53 Late payments; liens.

- A. Interest at the same rate as that established for unpaid property taxes shall be added to all unpaid bills beginning 30 days after the date of the bill.
- B. There shall be a lien on the property served or to which service is available to secure payment of the charges and fees established herein, which shall take precedence over all other claims on such real estate, excepting only claims for taxes.
- C. All delinquent unpaid sewer charges will be turned over to the Treasurer of the Town. The Treasurer of the Town shall have the same authority and power to collect such service charges as is granted by 38 M.R.S.A. § 1208, and as it may be amended, to treasurers of sanitary sewer districts. In addition to the lien established hereby, the Town may maintain a civil action against the party so charged for the amount of said sewer charge in any court competent to try the same, and in such action may recover the amount of such charge with legal interest on the same from the date of said charge and costs.

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Article X Appeals

§ 181-54 Initial notice to Superintendent.

Any person aggrieved by a determination made under the provisions of this chapter or any person questioning the amount of or the validity of any charge or fee hereunder shall first contact the Superintendent, who may make such adjustments as he deems appropriate within the limits of his authorization in this chapter.

§ 181-55 Appeal to Board.

Any person dissatisfied with the action of the Superintendent may appeal, in writing, within 10 days to the Sewer Appeals Board, which shall, within 30 days, hold a hearing on the appeal. The Sewer Appeals Board may affirm or amend the Superintendent's action, and it may permit exceptions to or variances from the specific provisions of this chapter to prevent undue hardship. The Sewer Appeals Board may impose such conditions as it deems necessary in furtherance of the intent and purposes of this chapter, including but not limited to a requirement for added water or sewerage flow metering and reporting. All Sewer Appeals Board adjustments or decisions will be provided in writing and dated.

§ 181-56 Appeal to Court.

An aggrieved party may appeal the decision of the Sewer Appeals Board to the Superior Court [pursuant to Rule 80B of the Maine Rules of Civil Procedure](#).

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Article XI Sewer Appeals Board

§ 181-57 Creation; appointment.

[The Sewer Appeals Board is hereby established under this section.](#) The members of the Board shall be appointed by the Town Council. They shall be residents of the Town and shall serve without compensation. In accordance with the laws of the State of Maine, the following provisions shall apply:

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- A. The [Sewer Appeals](#) Board shall consist of five members. A quorum shall consist of three members.
- B. The term of office of members shall be three years, except that initial appointment of members shall be one for one year, two for two years and two for three years.
- C. No municipal officer shall be a member of the [Sewer Appeals](#) Board.
- D. The Town Council may remove a member of the [Sewer Appeals](#) Board of Sewer Appeals. Unexcused absence of any member from three consecutive meetings of the Board shall be considered cause for such removal.
- E. When there is a permanent vacancy, whether caused by death, resignation, removal or loss of eligibility, the Town Council may appoint a person to serve for the unexpired term.
- F. The [Sewer Appeals](#) Board shall elect a Chair and a Secretary from its own membership annually.

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§ 181-58 Jurisdiction.

The [Sewer Appeals](#) Board shall have the following powers and duties, to be exercised only upon written appeal by a party aggrieved by a decision of the Superintendent, the Health Officer and/or the Plumbing Inspector insofar as such decision arises from requirements of this chapter:

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- A. To determine whether the decisions of said officers are in conformity with the provisions of this chapter and to interpret the meaning of this chapter in cases of uncertainty.

- B. To grant variances from the terms of this chapter where there is no substantial departure from the intent of this chapter and/or where necessary to avoid undue hardship. A projected expenditure of an amount exceeding 15% of the assessed value of the buildings on the land to be served by the public sewer shall be considered as prima facie evidence of undue hardship.

§ 181-59 Hearings.

- A. The Sewer Appeals Board shall annually determine a regular monthly meeting date. All appeals or other matters to come before the Board requiring a notice as prescribed herein shall be filed with the Town Clerk at least 15 days prior to said next monthly meeting day, who shall cause to be advertised in a newspaper of general circulation in the Town of Windham a notice of such appeal, identifying the property involved and the nature of the appeal and stating the time and place of a public hearing of such appeal, which shall not be earlier than 10 days after the date of such publication.
- B. The Sewer Appeals Board shall not continue hearings on an appeal to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and to the officer concerned forthwith. Failure of the Board to issue such notice within 30 days of the date of the hearing shall deemed a denial of said appeal.

Article XII Industrial Pretreatment

§ 181-60. National Categorical Pretreatment Standards. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Upon the promulgation of National Categorical Pretreatment Standards for a particular industrial subcategory found in 40 CFR, Chapter I, Subchapter N, Parts 405 to 471, and hereby incorporated in these rules and regulations, such standards shall immediately supersede, for users in that subcategory, the limitations imposed under these rules and regulations. The Town shall notify all affected users of the applicable requirements under the Act and Subtitles C and D of the Resource Conservation and Recovery Act.

§ 181-61. Modification of National Categorical Pretreatment Standards.

- A. Pursuant to 40 CFR 403.7, where the facility achieves consistent removal of pollutants limited by a National Categorical Pretreatment Standard, the Town may apply to the EPA for modification of the discharge limits for a specific pollutant covered in the relevant National Categorical Pretreatment Standards in order to reflect the facility's ability to remove said pollutant. The Town may modify pollutant discharge limits contained in a National Categorical Pretreatment Standard only if the requirements of 40 CFR 403.7 are fulfilled and prior written approval from the EPA is obtained.
- B. The Town may develop best management practices by rule for individual wastewater discharge permits to implement local limits and applicable State/Federal requirements.

§ 181-62. Local discharge limitations.

No person shall discharge wastewater containing any pollutant specified in Schedule A annexed hereto and incorporated herein by reference,²⁴ in excess of the limitations for each of said pollutants as specified in said Schedule A (Windham, POTW discharge limitations). Compliance with the provisions of this section shall be assessed on the basis of samples of the person's wastewater discharge collected at each point of connection between the person's building, structure, facility or installation and the facility. If a National Categorical Pretreatment Standard found in 40 CFR, Chapter I, Subchapter N, Parts 405 to 471, and hereby incorporated in these rules and regulations establishes limitations for users in a particular industrial subcategory which are more stringent than the limitations specified in Schedule A, those more stringent limitations shall immediately apply to those users subject to that National Categorical Pretreatment Standard. Compliance with National Categorical Pretreatment Standard limitations shall be determined in accordance with the requirements set forth at 40 CFR 403.12(b)(5).

§ 181-63. State requirements.

Users must comply with state pretreatment standards codified at 06-096 CMR Ch. 528, Pretreatment Program.

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Limits of Liability
§ [INSERT SECTION NO.]

The approval of permit applications or the acceptance of any sewer construction by any of the Precinct's appointed officials does not indicate, nor should it be construed as acceptance of any liability by the Precinct, or any of its employees for claims which may arise due to errors, oversights, inferior material, poor workmanship or damages incurred in connection with construction of building sewers or private sewer disposal systems as set forth in Articles III, IV, and V of these Rules and Regulations.

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§ 181-64. Right of revision.

The Town and/or the District reserves the right to establish by amendment to these rules and regulations more stringent limitations or requirements on discharges to the facility if deemed necessary to comply with these rules and regulations or as may be imposed by federal or state authorities.

§ 181-65. Dilution prohibited in absence of treatment.

Except where expressly authorized to do so by an applicable National Categorical Pretreatment Standard or pretreatment requirement, no user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance either with the limitations contained in any National Categorical Pretreatment Standard or pretreatment requirement, or in any other pollutant-specific discharge limitation developed by the Town or the EPA.

§ 181-66. Pretreatment.

Each user shall provide necessary wastewater treatment as required to comply with these rules and regulations, including the local discharge limitations set forth in Schedule A hereto, and shall achieve compliance with all applicable National Categorical Pretreatment Standards within the time limitations specified by said standards. Any facilities required to pretreat wastewater to a level which will achieve compliance with these rules and regulations shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review and shall be acceptable to the Town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent which complies with the provisions of these rules and regulations or from liability for noncompliance with pretreatment standards or pretreatment requirements and these rules and regulations. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Town prior to the user's initiation of the changes.

- A. Whenever deemed necessary, the Town may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of these rules.
- B. The Town may require any persons discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand, except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity Town approved by the Town and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the users at their expense.

§ 181-67. Records and public notification procedures.

All records relating to compliance with applicable pretreatment standards and pretreatment requirements as defined in 40 CFR 403.3(l) and (t) shall be made available to officials of the EPA, DEP, or Town upon request. In addition, pursuant to the public participation requirements of 40 CFR Part 25, the Town shall annually publish in the largest daily newspaper of general circulation in the municipality in which the POTW is located a list of users which, at any time during the preceding 12 months, were in significant noncompliance with applicable pretreatment standards or pretreatment requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates Subsection C, D or H of this section) and shall mean:

- A. Chronic violations of "wastewater discharge limits," defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined in this article;
- B. "Technical review criteria (TRC) violations," defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by this article, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement as defined by this article (daily maximum, long-term average, instantaneous limit, or narrative standard) that the District determines has caused, alone or in combination

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with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of best management practices, which the District determines will adversely affect the operation or implementation of the local pretreatment program.

§ 181-68. Accidental discharges.

- A. Plans and procedures. Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by these rules and regulations. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town and approved by the Town.

- (1) The industrial user shall be permitted to introduce pollutants into the facility until accidental discharge procedures have been approved by the Town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of these rules and regulations, or from any other violation of these rules and regulations.
- (2) In the case of an accidental discharge, the industrial user shall immediately notify the Town of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and any and all corrective actions.

B. Written notice. Within five days following an accidental discharge, the industrial user shall submit to the Town a detailed written report describing the cause of the discharge and the measures which have been and shall be taken by the user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as result of damage to the facility, fish kills, or any other damage to person, animals or property, nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by the regulations or other applicable law.

C. Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. Employers shall ensure that all employees who may cause or suffer such a discharge to occur, or who may know or have reason to know thereof, are advised of the emergency notification procedures.

§ 181-69. Slug discharge.

Within one year of being identified as significant, the Town shall evaluate whether each significant industrial user needs a plan to control slug discharges. The significant industrial user shall comply with the provisions of any such slug control plan which the District determines to be necessary, including but not limited to:

- A. A description of discharge practices, including nonroutine batch discharges;
- B. A description of stored chemicals;
- C. Procedures for immediately notifying the facility of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification; 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 organic pollutants, including solvents, and/or measures and equipment for emergency response.

§ 181-70. Reports of potential problems.

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- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Town of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five days following such discharge, the user shall, unless waived by the District, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might 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 which may be imposed pursuant to these rules.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in Subsection A above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.
- D. Significant industrial users are required to notify the Town immediately of any changes at its facility affecting the potential for a slug discharge.

§ 181-71. Permit requirements.

- A. It shall be unlawful for any significant industrial user to discharge wastewater directly or indirectly into the facility without first obtaining a wastewater discharge permit from the Town. Any violation of the terms and conditions of the permit shall be deemed a violation of these rules and regulations. Obtaining a permit does not relieve the significant industrial user of its obligation to obtain other permits required by federal, state or local law. The Town may require that any industrial user, including haulers, obtain a permit as necessary to carry out the purpose of these rules and regulations.
- C. New industrial users located beyond the Town's wastewater service area shall submit a permit application, in accordance with the Town before discharging into the sewer collection system. Upon review and approval of such application, the Town may enter into a contract with the user which requires the user to subject itself to and abide by these rules and regulations, including all permitting, compliance monitoring, reporting, and enforcement provisions herein.
- CI. Any significant industrial user proposing to begin or recommence discharging nondomestic wastes into the facility must obtain a permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least 90 days prior to the anticipated startup date.

§ 181-72. Permit application.

In order to be considered for a permit, all industrial users required to have a permit must submit the following information on an application form provided by the Town:

- A. Name, address and location (if different from address);
- B. Standard Industrial Classification (SIC) code of both the industry as a whole and any processes for which National Categorical Standards have been promulgated;
- C. Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by any federal, state or local standards. Sampling and analysis will be undertaken in accordance with 40 CFR Part 136;
- D. Time and duration of the discharge;
- E. Daily maximum, daily average, and monthly average wastewater flow rates identified separately by regulated discharge streams, including daily, monthly and seasonal variations, if any;
- F. Description of activities, facilities and plant processes on the premises, including a list of all raw material and chemicals used at the facility which are or could accidentally or intentionally be discharged;
- G. The site plans, floor plans, mechanical plans, plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location and elevation;
- H. Each product produced by type, amount, process or processes and rate of production where production-based National Categorical Standards may apply;
- I. Type and amount of raw materials processed (average and maximum per day) where production-based National Categorical Standards may apply;
- J. Number and type of employees and hours of operation, and proposed or actual hours of operation of the pretreatment system;
- K. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet all applicable federal, state or local standards. If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish

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installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) 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 industrial user to meet the applicable pretreatment standard (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major

components, commencing construction, beginning operation and conducting routine operation). No increment referred to above shall exceed nine months, nor shall the total compliance period exceed 18 months.

(2) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Town, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the Town;

- A. A list of any environmental control permits held by or for the facility;
- B. The location(s) for monitoring all waste streams covered by the permit;
- C. Any other information as may be deemed by the Town to be necessary to evaluate the permit application.

§181-73. Certification statement.

A. The following certification statement is required to be signed and submitted by users submitting permit applications; users submitting baseline monitoring reports under 40 CFR 403.12(b); users submitting reports on compliance with the categorical pretreatment standard deadlines under 40 CFR 403.12(d); users submitting periodic compliance reports required by 40 CFR 403.12(e) and (h); and users submitting an initial request to forgo sampling of a pollutant on the basis of 40 CFR 403.12(e)(2)(iii). The following certification statement must be signed by an authorized representative:

"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."

B. Users that have an approved monitoring waiver must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under the rules."

C. Application signatories and certifications.

- (1) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in this section.
- (2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Town prior to or together with any reports to be signed by an authorized representative.

Wastewater discharge permit approval.

The Town will evaluate the data furnished by the industrial user. The Town may require additional information.

Within 45 days of receipt of a complete permit application, the Town will determine whether to issue an individual wastewater discharge permit. The Town may deny any application for an individual wastewater discharge permit and

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may require additional information. After evaluation of the data furnished, the **Town** may issue a permit subject to terms and conditions provided herein.

§ 181-74. Wastewater discharge permit contents.

Industrial discharge permits shall include such conditions as are reasonably deemed necessary by the **Town** to prevent pass through or interference, protect the quality of the water body receiving the treatment plant effluent, protect worker health and safety, facilitate treatment plant sludge management and disposal, protect ambient air quality, and protect against damage to the facility. Permits may contain, but need not be limited to, the following:

- A. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- B. Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties, including those determined in accordance with the limits specified in Schedule A;²⁵
- C. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate or prevent the introduction of pollutants into the facility;
- D. Development and implementation of spill control plans or other special conditions, including additional management practices necessary to adequately prevent accidental discharges;
- E. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the facility;
- F. Requirements for installation and maintenance of inspection and sampling;
- G. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;
- H. Compliance schedules (but in no event may a compliance deadline in a permit be later than a National Categorical Pretreatment compliance deadline);
- I. Requirements for submission of technical reports or discharge reports;
- J. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the **Town** and affording the **Town** access thereto;
- K. Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the facility;
- L. Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the industrial user;
- M. Requirements for notification of excessive, accidental, or slug discharges;
- N. Other conditions as deemed appropriate by the **Town** to ensure compliance with these rules and regulations, and state and federal laws, rules, and regulations;
- O. A statement that compliance with the permit does not relieve the industrial user of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit;

§ 181-75. Permit issuance process.

- A. Permit duration. Permits shall be issued for a specified time period, not to exceed three years at the discretion of the **Town**. A permit may be issued by the **Town** for less than three years.
- B. Public notification. The **Town** will publish [in an official government publication and/or newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, or on a web page] a notice to issue a pretreatment permit, at least 45 days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.
- C. Permit appeals. Upon receipt of the permit, the industrial user may petition to appeal the terms of the permit. Such petition shall be made, in writing, to the **Town** Council within 10 days from the receipt of the permit.
 - (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the appeal.
 - (2) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed in the permit.
 - (3) The effectiveness of the permit shall not be stayed pending a reconsideration by the **Town**. If, after considering the petition and any arguments put forth by the District, the **Town** determines that reconsideration is proper, it shall remand the permit back to the District for reissuance. Those permit provisions being reconsidered by the **Town** shall be stayed pending reissuance.
 - (4) The **Town's** decision not to reconsider a final permit shall be considered final administrative action for purpose of judicial review.
 - (5) Aggrieved parties seeking judicial review of the final District action must do so by filing a complaint with the Superior Court for Cumberland County within 30 days of the **Town's** decision.

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A statement of permit transferability in accordance with § 260-74 hereof.¶
A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule, in accordance with §§ 260-87 and 260-88 hereof.¶

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Permit modification.

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

- 1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- 2) Material or substantial alterations or additions to the industrial user's operation processes or discharge volume or character which were not considered in drafting the original permit;
- 3) A change in any condition in either the industrial user's operation processes or discharge volume or other character which was not considered in drafting the original permit;
- 4) Information indicating that the permitted discharge poses a threat to the facility, treatment plant, personnel or the receiving waters;
- 5) Violation of any terms or conditions of the permit;
- 6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
- 7) Revision of or a grant of variance from National Categorical Standards pursuant to 40 CFR 403.13; 260.37
- 8) To correct typographical or other errors in the permit;
- 9) To reflect transfer of the facility ownership and/or operation to a new user; or

10) Upon a written request of the industrial user, provided such request does not create a violation of any applicable requirements, standards, laws or rules and regulations.

B. The filing of a request by the industrial user for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

§ 181-76. Permit transfer.

Permits may be reassigned or transferred to a new owner and/or operation whether by merger, sale of assets or otherwise, with prior written approval of the Town with the following stipulations:

A. The industrial user must give at least 45 days' advance notice of the proposed transfer to the Town;

B. The notice must include a written certification by the new owner which:

- (1) States that the new owner has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur;
- (3) Acknowledges full responsibility for complying with the existing permit;
- (4) Describes the new user, plus, gives the same information about as the prior user.

§ 181-77. Permit revocation.

Permits may be revoked in accordance with the Town Code or ordinance for any of the following reasons:

- A. Falsifying self-monitoring reports;
- B. Tampering with monitoring equipment;
- C. Refusing to allow timely access to the facility premises and records;
- D. Failure to meet effluent limitations;
- E. Failure to pay fines;
- F. Failure to pay sewer charges;
- G. Failure to meet compliance schedules;
- H. Any pass through or interference;
- I. Any other activity which may threaten the facility, the Town or district's employees or the public.

§ 181-78. Permit reissuance.

The user shall apply for permit reissuance by submitting a complete permit application a minimum of 60 days prior to the expiration of the user's existing permit.

§ 181-79. Continuation of expired permits.

An expired permit will continue to be effective and enforceable until the permit is reissued if:

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

§ 181-80. Special agreements; intermunicipal agreements.

- A. Nothing in these rules and regulations shall be construed as preventing any special agreement or arrangement between the **Town** and any industrial user whereby wastewater of unusual strength or character is accepted into the facility and specially treated and subject to any payments or user charges as may be applicable or specially arranged. However, no discharge which violates these rules and regulations will be allowed under the terms of such special agreements. If, in the opinion of the **Town**, the wastewater may have the potential to cause or result in any of the following circumstances, no such special agreement will be made:
- (1) Pass through or interference.
 - (2) Threaten the facility, the **Town** or district employees, or the public.

B. Other jurisdictions (intermunicipal agreements). The **Town** may accept wastewater from other areas and thus enter into an intermunicipal agreement. These agreements are authorized through these rules and shall follow the requirements contained within.

§ 181-81. Reporting requirements.

- A. Baseline report. Within 180 days following the effective date of a National Categorical Pretreatment Standard, an existing industrial user subject to said standard and currently discharging to or scheduled to discharge to the facility shall submit to the **Town** a report as prescribed under 40 CFR 403.12(b). This report shall be signed by an authorized representative of the user and contain a certification statement. The report shall also contain a statement certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.
- B. At least 90 days prior to commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable National Categorical Standard shall be required to submit to the **Town** a report which contains the information required in these rules and regulations. Reports by new sources shall include information on the method of pretreatment the new source intends to use to meet applicable pretreatment standards. The report shall be signed by an authorized representative of the user and shall contain the certification statement in § 260-69 of these rules and regulations.
- C. Compliance certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, shall be submitted indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- D. Compliance schedule progress reports. If the report described in Subsection A above states that additional pretreatment and/or operation and maintenance (O&M) will be required to meet the pretreatment standards and requirements, the industrial user shall submit to the **Town** a compliance schedule. Not later than 14 calendar days following each date in the compliance schedule and the final date for compliance, the industrial user shall submit a progress report to the **Town** as prescribed under 40 CFR 403.12(c) in writing stating, at a minimum, whether or not the industrial user complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the **Town**. The report shall be signed by an authorized representatives of the user and shall contain the certification statement.
- E. Compliance deadline report. Within 90 days following the date for final compliance with an applicable pretreatment standard or requirement or, in the case of a new source, following commencement of the introduction of wastewater into the facility, any user subject to pretreatment standards or requirements shall submit to the **Town** a report, in writing, prescribed under 40 CFR 403 12(d), indicating the nature and concentration of all pollutants in the discharge which are limited by pretreatment standards or requirements, and the average and maximum daily flow of the wastewater containing such pollutants. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This report shall be signed by an authorized representative of the user and be certified by a qualified professional. The **Town** may require such follow-up reports as deemed necessary to monitor the actions taken by the user to come into

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compliance with the applicable pretreatment standards or requirements. The report shall also contain the certification statement.

- F. Periodic continued compliance reports. Any user subject to a pretreatment standard or requirement after the compliance date for such pretreatment standard or requirement or, in the case of a new source, after commencement of the discharge into the facility shall submit to the Town during the months of June and December, unless required more frequently in the applicable pretreatment standard or requirements or by the Town, a report in writing as prescribed under 40 CFR 403.12(e), containing the results of sampling and analysis of the discharge, indicating the average and maximum daily flows and nature of concentration of pollutants in the effluent which are limited by such pretreatment standard or pretreatment requirement. At the discretion of the Town and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Town may agree to alter the months during which the above reports are to be submitted. The reports required shall be signed by an authorized representative of the industrial user, and shall contain the certification described.
- G. Significant industries. All significant industrial users must, at a frequency determined by the Town, submit no less than twice per year (June and December, or on dates specified) reports indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Town of the pretreatment standard necessary to determine the compliance status of the user.
- H. Wastewater samples. All samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that a sample's results are unrepresentative of its discharge.
- I. Nonsignificant industries (NSI). Reporting of self-monitoring results shall be at a frequency determined by the Town and designated in the NSI's industrial discharge permit.
- J. Elimination or change of discharge. The industrial user shall notify the Town, in writing, 45 days prior to the permanent elimination of a discharge or any modifications in the waste collection, treatment and disposal facilities, changes in operation procedures, or other significant activities which alter the volume, nature or frequency of the discharge as specified in the user's permit application.
- K. Notifications of potential problems. All industrial users shall notify the Town immediately of all discharges that could cause problems to the facility, including any slug loadings by an industrial user.
- L. Notifications of hazardous waste discharge.

- (1) An industrial user shall notify the Town, the EPA Regional Waste Management Division Director and the Director of the DEP's Division of Solid and Hazardous Waste, in writing, of any discharge into the facility of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 CFR Part 261, or 38 M.R.S.A. § 1301 et seq., the EPA hazardous waste number, and the type of discharge (continuous, batch or other).

- (1) If the industrial user discharges more than 100 kilograms of such waste per calendar month to the facility, the notification shall also contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during the calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

- (2) All industrial users who commence discharging after January 3rd, 2024, shall file the notification no later than 180 days after the discharge of the listed or characteristic waste. The notification need be submitted only once for each hazardous waste discharged. However, all industrial users must notify the Town in advance, of any change in their wastewater discharge. The notification requirement set forth herein does not apply to any pollutants already reported under the self-monitoring requirements set forth in Subsection A, B, C, D and E above. Any such notification shall in no way remove the liability of the user for any damages caused by introduction of such hazardous waste.

- (2) Industrial users are exempt from above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

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(3) In the case of any new regulations under Section 3001 of RCRA²⁶ identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the industrial user must notify the Town, the EPA Regional Waste Management Division Director, and the Director of DEP's Division of Solid and Hazardous Waste of the discharge of such substance within 90 days of the effective date of such regulations.

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(4) In the case of any notification made under this Subsection L, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

Monitoring and analysis.

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A. The reports as the Town may require under these rules and regulations shall contain the results of all sampling and analysis of the industrial user's discharge, whether or not conducted more frequently than required by the Town, including the flow and the nature and concentration of pollutants contained therein which are limited by applicable pretreatment standards and requirements. The sampling and analysis may be performed by the Town in lieu of the industrial user, in which event the industrial user will not be required to submit the compliance certification. In addition, where the Town collects all of the information required for the report, including analytical results and flow data, the industrial user is not required to submit the report or compliance certification required therein.

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(1) If the industrial user's sampling indicates a violation, the user must notify the Town within 24 hours of becoming aware of such violation. The user must also repeat the sampling and analysis to the Town within 30 days after becoming aware of the violation. The industrial user is not required to resample, however, if the Town performs sampling at the industrial user between the time when the industrial user performs its initial sampling and the time when said user receives the results of the sampling.

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(2) The frequency of monitoring shall be prescribed in the industrial discharge permit and, for industrial users subject to National Categorical Pretreatment Standards, shall not be less frequent than prescribed in this section or by the Superintendent. All analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act²⁷ and contained in 40 CFR Part 136 and amendments thereto, or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the Town or other parties, approved by the EPA.

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B. The Town may authorize an industrial user subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user [see 40 CFR 403.12(e)(2)]. This authorization is subject to the following conditions:

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- (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
- (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
- (3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
- (4) The request for a monitoring waiver must be signed and include the certification statement [40 CFR 403.6(a)(2)(ii)].
- (5) Nondetectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

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- (6) Any grant of the monitoring waiver by the Town must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Town for three years after expiration of the waiver.
- (7) Upon approval of the monitoring waiver and revision of the user's permit by the Town, the industrial user must certify on each report that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.
- (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements

of § 181-74, or other more frequent monitoring requirements imposed by the Town and notify the Town.

(9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

§ 181-82. Reports of changed conditions.

Each user must notify the Town of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

- A. The Town may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- B. The Town may issue an individual wastewater discharge permit under these rules or modify an existing wastewater discharge permit under these rules in response to changed conditions or anticipated changed conditions.

§ 181-83. Reports of potential problems.

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Town of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five days following such discharge, the user shall, unless waived by the Town Engineer, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might 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 which may be imposed pursuant to this article.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in Subsection A above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.
- D. Significant industrial users are required to notify the Town immediately of any changes at its facility affecting the potential for a slug discharge.

§ 181-84. Recordkeeping requirements.

- A. An industrial user subject to the reporting requirements shall maintain records of all information resulting from any monitoring activities required thereunder. Such records shall include, for all samples:
- (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
 - (2) The dates analyses were performed;
 - (3) Who performed the analyses;
 - (4) The analytical techniques/methods used;
 - (5) The results of such analyses; and
 - (6) The results of any quality control procedures which may be required by the Town.
- B. The industrial user shall keep copies of all such records and reports of monitoring activities and results for a minimum of three years, and shall make such records available for inspection and copying by the EPA, DEP, and the Town with or without notice. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the facility pretreatment

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program, or when requested by the Town, the DEP or EPA.

§ 181-85. Monitoring facilities.

- A. The Town may require each industrial user to provide and operate, at the industrial user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the industrial user's premises, but the Town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- B. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analyses. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the industrial user.
- C. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification to the industrial user by the Town.

§ 181-86. Inspection and sampling.

- A. The Town may inspect the facilities of any industrial user to ascertain whether the purpose and requirements of these rules and regulations are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the Town or its representatives ready access at all times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, or the performance of any of their duties. The Town, DEP and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the Town, DEP and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (1) The Town 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.
- (2) The Town may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a frequency determined by the Town to ensure their accuracy.
- (3) 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 Town and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (4) Unreasonable delays in allowing the Town Engineer access to the user's premises shall be a violation of these rules.
- B. If the Town 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 these rules, 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 these rules or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Town may seek issuance of a search warrant from the community in which the discharge is located.

§ 181-87. Confidentiality of information.

- A. In accordance with 40 CFR 403.14 and 1 M.R.S.A. § 401 et seq., any information and data concerning an industrial user which is contained in or obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public and governmental agencies without restriction, unless the user specifically claims, and is able to demonstrate to the satisfaction of the Town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user in accordance with applicable law. Any such claim of confidentiality must be asserted at the time of submission in the manner prescribed on the application form or instruction and the words "Confidential Business Information" must be stamped or written on each page containing such information. If no claim is made, the Town may make the information available to the public without further notice.

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- B. Notwithstanding any claim of confidentiality, any information and data provided to the Town which is effluent data, as defined at 40 CFR 2.302 (including, but not limited to, wastewater constituents and characteristics), shall be available to the public without restriction. All other information and data shall be available to the public at least to the extent provided by 40 CFR 2.302.
- C. Information accepted by the Town as confidential shall not be made available for inspection by the public, except as provided by 40 CFR 2.304 and 1 M.R.S.A. § 401 et seq., but shall be made available upon written request to governmental agencies for uses related to these rules and regulations, the National Pollutant Discharge Elimination System (NPDES) Permit, DEP permit, and the industrial pretreatment program; provided, however, that such portions of a report shall be available for use by the state or any state agency, the Town, or by the United States or EPA in criminal or civil judicial or administrative enforcement proceedings involving the user.

§ 181-88. Notice of violation.

- A. When the Town finds that a user has violated, or continues to violate, any provision of these rules and regulations, an industrial discharge permit condition or order issued hereunder, the Town may serve upon that user a written notice of violation. Within 10 days of receipt of this 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 Town.
- B. When the Town finds that a user has violated the discharge limitations as set forth in the user's permit, the Town will serve upon that user a written notice of violation. Within five days of the receipt of this notice, the user shall submit to the Town a written report with corrective and preventive action taken to prevent recurrence.
- C. Nothing in this section shall limit the authority of the Town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. Submission of this plan or report in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
- D. If the user fails to respond to the notice of violation within the specified times noted above, or fails to provide the required information specified in the notice of violation, the Town will take whatever measures necessary to correct or alleviate the violation. The District staff will be made available to assist in developing or implementing corrective measures, if requested by the Town.
- E. If the Town fails to act within a reasonable period of time to correct such deleterious acts, or otherwise fails to act responsibly in protecting the facility, the District may directly impose requirements to correct deleterious acts or violations of these rules and regulations on persons, firms, or corporations causing or contributing to such violations.
- F. In such cases any action required by the District, such as, but not limited to, pretreatment of prohibited wastes or flow equalization facilities, will be done entirely at the cost of the industrial user and subject to review and approval of the Town.
- G. The District staff may, if determined necessary by the District and after attempting to notify the Town and bearing proper identification, enter all premises connected to the system, at reasonable hours all times for the purpose of inspection, measurement, sampling and testing to determine the quantity and character of wastes and wastewaters discharged or otherwise enforce these rules and regulations, including the inspection and copying of reports and records relating to the industrial pretreatment program.
- H. Further, the District may, by complaint to the Superior Court, restrain or enjoin any person, firm, corporation or municipality from committing any act which may damage or impair the facility or which is prohibited by any rule or regulation of the District.

§ 181-89. Violations and penalties. [Amended 1-27-2014]

Any user of the system who violates any provision of the laws administered by the Town pertaining to pretreatment standards and requirements, including without limitation a violation of the terms or conditions of any rule or regulation of the Town, is subject to a civil penalty payable to the Town as set by the Councill. The Town may recover the civil penalty by civil action in the District Court or Superior Court.

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§ 181-90, Industrial surcharges.

The Town Council, after receiving the recommendations of the Town Engineer and the Superintendent may establish a schedule of industrial surcharges to cover the added cost of handling and treating any of the wastes enumerated in this Ordinance.

§ 181-91, Industrial cost recovery.

A. All persons discharging industrial wastes or commercial wastes which average 1,000 or more gallons per day shall be subject to industrial cost recovery under this section, as required by federal law, in addition to sewer user fees and any industrial waste surcharges.

B. The Town Council, after receiving the recommendations of the Town Engineer and the Superintendent, shall establish a schedule of charges to industrial and commercial users which shall be based upon the volume of wastes and the quantity of BOD and suspended solids contained in the wastes to ensure that each such user pays its proportionate share of the cost of the treatment works allocable to such industrial and commercial users.

Article XIII
Limits of Liability

§ 181-91

A. The approval of permit applications or the acceptance of any sewer construction by any of the Town's appointed officials does not indicate, nor should it be construed as acceptance of any liability by the Town, or any of its employees for claims which may arise due to errors, oversights, inferior material, poor workmanship or damages incurred in connection with construction of building sewers or private sewer systems as set forth in Articles III, IV, and V of these Rules and Regulations.

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The discharge of any industrial waste to the sanitary sewer is prohibited without a valid Industrial Discharge Permit (IDP). ¶

Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances governed by these Rules and Regulations. Facilities to prevent accidental discharges shall be provided and maintained at the industrial user's expense.¶

Persons subject to this Article shall submit an application for an IDP containing information required under applicable State and Federal pretreatment regulations. Such information, at a minimum, shall include:¶

1. The name and address of the facility, including the name of the operators and owners.¶

2. A list of all environmental permits held by or for the facility.¶

3. A brief description of the nature, average rate of production, and Standard Industrial Classification of the operations carried out at such facility including:¶

An identification of the categorical pretreatment standards applicable to each regulated process.¶

An analysis identifying the nature and concentration of pollutants in the discharge.¶

Notification to the PrecinctDistrict of any proposed or existing discharge of listed or characteristic hazardous ...

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