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# TOWN OF BOSCAWEN

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## SEWER USE ORDINANCE

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(Supersedes previous Sewer Use Ordinance dated June 26, 1975 and amended August 3, 1981)

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

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

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## SECTION 1 - GENERAL PROVISIONS

### 1.1 Purpose and Policy

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

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public; and
- D. To enable the Town of Boscawen to comply with the City's National Pollutant Discharge Elimination System permit conditions and any other federal or State law to which the POTW is subject.

This Ordinance shall apply to all users of the POTW. The Ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

### 1.2 Administration

Except as otherwise provided herein, the Public Works Director shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Public Works Director may be delegated by the Public Works Director to other Town of Boscawen personnel.

### 1.3 Abbreviations

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

- BOD - Biochemical Oxygen Demand
  - CFR - Code of Federal Regulations
  - COD - Chemical Oxygen Demand
  - EPA - United States Environmental Protection Agency
  - gpd - Gallons per day
  - IDP - Industrial Discharge Permit
  - mg/l - Milligrams per liter
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- DES - New Hampshire Department of Environmental Services
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- RSA - New Hampshire Revised Statute Annotated
- SIC - Standard Industrial Classification
- TDS - Total Dissolved Solids
- TSS - Total Suspended Solids
- USC - United States Code

#### 1.4 Definitions

- A. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.
1. Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*
  2. Applicant or Owner. Any person requesting approval to discharge industrial or domestic wastewaters into facilities of the Town.
  3. Approval Authority. The Regional Administrator of the EPA or his duly appointed agent.
  4. Authorized Representative of the User.
    - a. If the user is a corporation:
      - i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
      - ii. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
    - c. If the user is a federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
    - d. The individuals described in paragraphs (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the

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discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town of Boscawen.

5. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).
6. Building Drain. That part of the lowest horizontal piping of a drainage system that receives the discharge from the sanitary sewerage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
7. Building Sewer. The extension from the building drain to the public sewer or other place of disposal and includes the connection to the public sewer, also called house connection.
8. Bypass. The intentional diversion of waste streams from any portion of a wastewater treatment facility.
9. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limitations promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
10. City. The City of Concord, New Hampshire.
11. Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.
12. Commercial Use. Premises used for financial gain, such as business or industrial use, but excluding residential uses and related accessory uses.
13. Commissioner. The Commissioner of the New Hampshire Department of Environmental Services or the commissioner's duly appointed agent.
14. Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria.
15. Control Authority. The term Control Authority as used in this Ordinance, refers to the Regional Administrator of the EPA.
16. DES or NHDES. The New Hampshire Department of Environmental Services.
17. Domestic Wastewater or Sewage. Normal water-carried household and toilet wastes or waste from sanitary conveniences of residences, commercial buildings, and industrial plants, excluding ground, surface, or storm water and contains no industrial waste. (See also: Industrial Wastes.)
18. Easement. An acquired legal right for the specific use of land owned by others.

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19. Environmental Protection Agency or EPA. The United States Environmental Protection Agency or, where appropriate, the EPA Regional Water Management Division Director, or other duly authorized official of said agency.
  20. Excessive. Amounts or concentrations of a constituent of a wastewater which, in the judgment of the Town, will cause damage to any sewerage facility, which will be harmful to a wastewater treatment process, which cannot be removed in the wastewater treatment works of the City to the degree required to meet the limiting stream classification standards of the receiving water, which can otherwise endanger life, limb, or public property, or which can constitute a nuisance.
  21. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
  22. Floatable Oil. Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
  23. 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.
  24. Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
  25. Grab Sample. A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
  26. Grease. The material removed from a grease interceptor (trap) serving a restaurant or other facility requiring such grease interceptors. Also means volatile and non-volatile residual fats, fatty acids, soaps, waxes and other similar materials.
  27. Hauler. Those persons, firms, or corporations, who pump, haul, transport, or dispose of septage and who are licensed by the New Hampshire Department of Environmental Services pursuant to RSA 485-A:4,XVI-a and rules adopted to implement said section.
  28. Human Excrement and other Putrescible Material. The liquid or solid matter discharged from the intestinal canal of a human, or other liquid or solid waste materials that are likely to undergo bacterial decomposition; (provided, however, that these terms shall not include refuse as defined in RSA 145-M).
  29. Incompatible Pollutant. Any pollutant that is not a compatible pollutant.
  30. Industrial Discharge Permit or IDP. A written permit between the Town of Boscawen and an industrial user that outlines the conditions under which discharge to the POTW will be accepted.
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31. Industrial User. A person who discharges industrial wastes to the POTW of the Town of Boscawen.
32. Industrial Wastes or Non-Domestic Wastewater. The wastewater and waterborne wastes from any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacturing trade or business or from development of any natural resources as distinct from domestic wastewater, sewage or unpolluted water.
33. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.
34. Instantaneous Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
35. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore is a cause of a violation of the Town of Boscawen's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as RCRA; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; 40 CFR Part 503 Standards for Sewage Sludge Use and Disposal and RSA 485-A:4, XVI-a.
36. Local Limits. Numerical limitations on the discharge of pollutants established by the Town of Boscawen, as distinct from State or federal limitations for non-domestic wastewater discharged to the POTW.
37. May. Means permissive (see "Shall").
38. Medical/Infectious Waste Medical/infectious waste” as defined by RSA 125-N:2, VIII.
39. National Pollutant Discharge Elimination System Permit or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
40. Natural Outlet. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body or surface water or groundwater.
41. Normal Domestic Wastewater. Wastewater generated by residential users containing not more than 200 mg/l BOD and not more than 250 mg/l suspended solids.

42. New Source.

- a. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced subsequent to the publication of proposed pretreatment standards under Section 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:
  - i. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - ii. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - iii. 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, will be considered.
- b. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - i. Begun, or caused to begin, as part of a continuous on-site construction program
    - a. any placement, assembly, or installation of facilities or equipment; or
    - b. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - ii. Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- c. 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 Section (a)(ii) or (a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

43. Non-Contact Cooling Water. Water used for cooling that does not directly contact any raw material, intermediate product, waste product, or finished product.

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44. Pass Through. A discharge that exits the POTW into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town of Boscawen's NPDES permit, including an increase in the magnitude or duration of a violation.
  45. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, State, and local governmental entities.
  46. pH. A logarithmic measure devised to express the hydrogen ion concentration of a solution, expressed in Standard Units. Solutions with pH values greater than 7 are basic (or alkaline); solutions with pH values less than 7 are acidic.
  47. Pharmaceutical waste. A prescription drug, as defined by RSA 318:1, XVII, or a nonprescription or proprietary medicine, as defined by RSA 318:1, XVIII, that is no longer suitable for its intended purpose or is otherwise being discarded.
  48. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
  49. Pollution Prevention. The use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes at the source, or minimize their release to the environment prior to recycling, treatment or disposal. It includes practices that reduce the use of hazardous materials, energy, water or other resources. It also includes practices that protect natural resources and human health through conservation, more efficient use, or effective release minimization.
  50. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
  51. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
  52. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
  53. Private Sewer. The portion of the sewer system that is not the responsibility of the government agency or public utility to operate and maintain including, but not limited to building sewers, building drains, and/or private wastewater collection/disposal systems.
  54. Private Wastewater Collection System. A sewer system that connects at the service connection
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that collects wastewater from more than one (1) building drain and is not a public sewer and may include gravity sewers, manholes, pumping stations, force mains and other infrastructure that collects and conveys wastewater to the public sewer.

55. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances as identified in Section 2.3 of this Ordinance.
  56. Properly Shredded Garbage. Wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be transported freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.
  57. Public Sewer. A pipe or conduit that carries wastewater, storm water, groundwater, subsurface water, or unpolluted water from any source, which is controlled by a governmental agency or public utility.
  58. Public Works Director. The person designated by the Town of Boscawen to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.
  59. Publicly Owned Treatment Works or POTW. A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) that is owned by the Town of Boscawen. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if these structures convey wastewater to a POTW wastewater treatment facility. The term also means the municipality that has jurisdiction over discharges to and from such a treatment plant, and any sewer that conveys wastewater to the POTW from persons outside the Town of Boscawen who are, by contract or agreement with the Town of Boscawen, users of the Town of Boscawen's POTW.
  60. Radiological Waste. Radioactive waste as regulated by RSA 125-F.
  61. Recreational Vehicle or "RV". A mobile vehicle or trailer used for temporary living e.g. a camper or wholly self-contained transport and living unit.
  62. Sanitary Sewer. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial facilities, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
  63. Screening Level. That concentration of a pollutant that under baseline conditions would cause a threat to personnel exposed to the pollutant, or would adversely impact structures of the POTW. To be administered as local limits applicable to a particular discharge, the screening levels must be adjusted to account for conditions at the point of discharge that differ from baseline conditions.
  64. Selectmen. The duly elected Selectmen of the Town of Boscawen or their authorized agent or representative.
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65. Semi-Public Use. Premises of private, non-profit organizations such as schools, hospitals, and religious institutions.
66. Septage or Septic Tank Waste. Any liquid, solid, or sludge pumped from chemical toilets, vaults, septic tanks, or cesspools or other holding tanks, that have received only domestic wastewater.
67. Septage Tank Truck. Any watertight vehicle that is used for the collection and hauling of septage as described above and that complies with the rules of the New Hampshire Department of Environmental Services.
68. Service Connection. The location where the responsibility for operation and maintenance of the sewer transitions between the user and the Town. This occurs where the building sewer enters the public sewer main.
69. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
70. Sewer. A pipe or conduit that carries wastewater, storm water, groundwater, subsurface water, or unpolluted water from any source.
71. Shall. Means mandatory (see "May").
72. Significant Indirect Discharger. An indirect discharger that meets one or more of the following criteria:
- a. Is subject to national categorical pretreatment standards under 40 CFR 403.6;
  - b. Discharges an average of 10,000 gallons per day or more of process wastewater;
  - c. Discharges a process wastewater which contributes 5 percent or more of the hydraulic or organic loading to the wastewater treatment plant;
  - d. Discharges medical/infectious waste, pharmaceutical waste, or radiological waste; or
  - e. Is designated as such by the municipality as having a reasonable potential for adversely affecting the POTW's operation or performance or for violating any pretreatment standard or requirement.
73. Significant Industrial User.
- a. A user subject to categorical pretreatment standards under 40 CFR 403.8 and 40 CFR Chapter I, Subchapter N; or
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- b. A user that:
    - i. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down wastewater);
    - ii. Contributes a process waste stream that comprises five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - iii. Is designated as such by the Town of Boscawen on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  - c. Upon determining that a user meeting the criteria in Subsection b.i. or b.ii. has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town of Boscawen may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

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

- a. Chronic violations. A pattern of violating the same pretreatment standard daily maximum or average limit (any magnitude of exceedence) sixty-six percent (66%) or more of the time in a 6-month period;
  - b. Technical Review Criteria (TRC violations). Thirty-three percent (33%) or more of the measurements exceed the same pretreatment standard daily maximum limit or average limit by more than the TRC factor in a six month period. The TRC factor is 1.4 for biochemical oxygen demand (BOD), total suspended solids (TSS), oil & grease and 1.2 for all other pollutants;
  - c. Any other discharge violation that the Public Works Director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
  - d. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Public Works Director's exercise of its emergency authority to halt or prevent such a discharge;
  - e. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - f. Failure to provide within thirty (30) days after the due date, any required reports, including, Industrial Discharge Permit applications, periodic self-monitoring reports, and reports on
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compliance with compliance schedules;

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

75. Slug Load or Slug. Means:

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

76. Source Reduction. Any practice that:

- a. Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and
- b. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications; process or procedure modifications; reformulation or redesign of products; substitution of raw materials; and improvements in housekeeping, maintenance, training, or inventory control. The term "source reduction" does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity that itself is not integral to and necessary for the production of a product or the providing of a service.

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

78. State. The State of New Hampshire.

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

80. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

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81. Town. Means the Town of Boscawen, a municipal corporation in the County of Merrimack and State of New Hampshire.
82. Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
83. Treatment Plant, Treatment Works, or Treatment Facility. Any device or system used in the storage, treatment, equalization, recycling or reclamation of wastewater and/or wastewater sludge as defined herein.
84. Unpolluted Water. Water of quality equal to or better than the State Water Quality Standards (Part Env-Wq 1700) or water that would not cause a violation of receiving water quality standards and would not be benefitted by discharge to the POTW.
85. User or Industrial User. A source of pollutants introduced into the POTW from any non-domestic source regulated under Section 307 (b), (c), or (d) of the Act.
86. Wastewater. Liquid and water-carried industrial wastes and/or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
87. Watercourse. A natural or artificial channel for the passage of water either continuously or intermittently.

## **SECTION 2 - GENERAL SEWER USE REQUIREMENTS**

### **2.1 Use of Public Sewers**

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Boscawen or in any area under the jurisdiction of said Town of Boscawen, any human or animal excrement, garbage, or objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the Town of Boscawen, or in any area under the jurisdiction of said Town of Boscawen, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance and with State and federal laws and regulations.
- C. Sewers For Intended Uses Only. No person shall discharge into any public sewer of the Town of Boscawen, or into any fixture that thereafter discharges into any public sewer, any waste or substance other than for which the particular sewer is intended, designed or provided.
- D. Applicable Permits Required. No person shall discharge into any public sewer of the Town of Boscawen, or into any fixture that thereafter discharges into any public sewer, any waste or substance until all applicable federal, state and local permits have been obtained.
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- E. Use Of Sanitary Sewers. Except as specifically provided with reference to some particular sewer, sanitary sewers shall be used only for the conveyance and disposal of domestic wastewater, and for industrial wastes that are not objectionable as hereinafter provided. No sanitary sewer shall be used to receive and convey or dispose of any storm or surface water, subsoil drainage, or unpolluted water.
- F. Use Of Storm Sewers. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or a natural outlet approved by the Public Works Director. An NPDES permit is required prior to discharging industrial cooling water, process waters, or storm water runoff generated in areas of industrial activity (as defined in 40 CFR Part 122) to a storm sewer or natural outlet.
- G. Use Designation. If the intended or designated use of any particular sewer or drain and allowable discharge thereto is unclear, the Public Works Director will consider the pertinent facts and make a determination. Said determination will be final and binding.
- H. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater in any area where a public sewer is available, as described in paragraph (I) below.
- I. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town of Boscawen and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Town of Boscawen, is hereby required at the owner(s)' expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, within ninety (90) days subsequent to the date of official notice to do so, provided that said gravity public sewer is within one hundred (100) feet of the building. This requirement for connection may be waived when permitted by the Public Works Director if the household is already connected to a properly functioning, State-approved septic system approved after 1985.
- J. Where a public sanitary sewer is not available under the provisions of paragraph (I) above, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of RSA 485-A:29-44 and rules promulgated thereto. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town of Boscawen. At no time shall any quantity of industrial waste be discharged to a private, domestic wastewater disposal facility.
- K. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, the owner shall connect to the public sewer, as provided in paragraph (I) above. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with clean mineral soils, and their use shall be discontinued.
- L. No statement contained in the preceding paragraphs of this Section shall be construed to interfere with any additional requirements that may be imposed by the Public Works Director.
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- M. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment that is part of the POTW.
- N. Every building of any improved property shall be maintained in a sanitary and safe operating condition that does not adversely affect the POTW by the owner of such improved property. The owner is responsible to ensure that no stormwater, groundwater, or other drainage enters the building drain and/or building sewer. If the Town finds that a building drain or building sewer does not meet this requirement, all necessary repairs and/or replacements shall be the responsibility of the owner.

## **2.2 Building Sewers and Connections**

- A. No person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer, private sewer connected to the POTW, or appurtenance thereof without first obtaining written permission from the Public Works Director.
  - B. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service producing only domestic wastewater, and (b) for service to establishments producing industrial wastes. For residential and commercial services, the owner(s) or his agent shall make application to the Town of Boscawen at least fifteen (15) days prior to said service connection. For an establishment discharging industrial wastes, the application shall be made at least sixty (60) days prior to said service connection. The permit application shall be supplemented by any plans, specifications, or other information (including pollution prevention studies) considered pertinent in the judgment of the Public Works Director. A permit and inspection fee in accordance with the provisions of this Ordinance shall be paid to the Town of Boscawen at the time the application is filed.
  - C. All costs and expenses incidental to the installation and connection of the building drain and/or building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town of Boscawen from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
  - D. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases, the front building sewer may be extended to the rear building and the whole considered as one building sewer, but the Town of Boscawen does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.
  - E. Existing building sewers may be used in connection with new buildings only when they are found, on examination (including, but not limited to closed-circuit television inspection) and test by the Public Works Director to meet all requirements of this Ordinance and do not exhibit any defects. The costs for examination and testing shall be borne by the owner(s) regardless of whether the building sewer is determined to be acceptable for re-use. The owner(s) shall indemnify the Town of Boscawen from any loss or damage that may directly or indirectly be
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occasioned by the examination or testing of the building sewer.

- F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town of Boscawen and DES rules Env-Wq 700. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Environment Federation (WEF) Manual of Practice No. FD-5 shall apply.
- G. During construction of a new sanitary sewer, the Town of Boscawen may construct the service connections for existing buildings to the curb or the property line or the edge of a right-of-way. Construction of the building sewer, including connection to the structures served, shall be the responsibility of the owner of the improved property to be connected; and such owner shall indemnify and save harmless the Town of Boscawen, its officers, and agents from all loss or damage that may result, directly or indirectly, due to the construction of a building sewer on his premises or its connection to the service connection. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of reconstruction, if needed of the building sewer and service connection.
- H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage conveyed by such building drain shall be lifted by an approved means and discharged to the building sewer at the owner's expense.
- I. No person(s) shall make connection of roof downspouts, interior or exterior foundation drains, area-way drains, sump pumps, defective drains or other sources of surface run-off or groundwater or building floor drains to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.
- J. No person shall obstruct the free flow of air through any drain or soil pipe.
- K. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town of Boscawen, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. FD-5. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.
- L. The applicant for the building sewer permit shall notify the Public Works Director when the building sewer is ready for inspection and connection to the public sewer. Such notice shall be provided not less than 48 hours in advance of the time any connection is to be made to any public sewer. The connection and testing shall be made under the supervision of the Public Works Director or his representative. This requirement shall also apply to repairs or alterations to building connections, drains or pipes thereto.
- M. Suitable provisions shall be made at the point of connection for testing, which responsibility

shall rest with the holder of the sewer connection permit.

- N. No building sewer shall be covered until it has been inspected and approved by the Public Works Director. If any part of building sewer is covered before being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to the public sewer.
- O. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town of Boscawen at the expense of the owner.
- P. Proposed new discharges from residential or commercial sources involving loadings exceeding 5000 gallons/day, any new industrial discharge, or any alteration in either flow or waste characteristics of existing industrial wastes that are being discharged into the POTW must be approved by DES. Such approvals shall be obtained in accordance with Section 6.2 of this Ordinance.
- Q. No private wastewater collection systems shall be constructed in Boscawen. All new wastewater collection systems shall be constructed to Town, State, and Federal Standards within public rights of way or within easements acceptable to the Town and shall become public sewers upon acceptance by the Town.

### 2.3 Prohibited Discharge Standards

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be accidentally discharged to the POTW.

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, flow, or wastewater:
  - 1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, gas, solid, or any substance that may generate or form any flammable, combustible or explosive substance, fluid, gas, vapor or liquid when combined with air, water or other substances present in sewers, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - 2. Wastewater having a pH less than 5.0 or greater than 11.0, as measured at the point of connection to the sanitary sewer or other available monitoring location, or otherwise causing corrosive structural damage or hazard to the POTW equipment, or personnel, or with alkalinity in such quantities that the pH of the influent to the POTW is caused

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to exceed 8.0;

3. Solid or viscous substances including water or wastes containing fats, wax, grease, or oils, whether emulsified or not, or containing substances that may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees (0-65 degrees C), in amounts that will cause obstruction of the flow in the POTW resulting in interference;
4. Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), or chlorine demand requirements released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW, constitute a hazard to humans or animals, create a public nuisance, exceed any national categorical pretreatment standard or cause pass through;
5. Wastewater having a temperature greater than 140°F (60°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the POTW treatment plant to exceed 104°F (40°C);
6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through;
7. Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
8. Trucked or hauled pollutants, except at discharge points designated by the Public Works Director in accordance with Section 4.9 of this Ordinance; and
9. Any medical/infectious wastes, pharmaceutical waste, or radiological waste except as specifically authorized in a discharge permit;
10. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent or sludge to fail a toxicity test;
11. Household hazardous wastes including but not limited to paints, stains, thinners, pesticides, herbicides, anti-freeze, transmission and brake fluids, motor oil and battery acid.
12. Any hazardous waste listed or designated by DES under Env-Hw 400.
13. Wastewater that imparts color that may not be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently may impart color to the treatment facility's effluent, thereby violating the Town of Boscawen's NPDES permit;
14. Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard

- to life, or to prevent entry into the sewers for maintenance or repair;
15. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or federal regulations;
  16. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, or otherwise unpolluted wastewater or infiltration or inflow from any source including defective laterals or sump pumps;
  17. Sludges, screenings, or other residues from the pretreatment of industrial wastes unless specifically authorized by the Public Works Director in a wastewater discharge permit;
  18. Detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW;
  19. Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10 percent (10%) of the Lower Explosive Limit of the meter;
  20. Garbage that has not been properly shredded (garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers);
  21. Any quantities of flow, concentrations, or both that constitute a "slug" as defined in Section 1.4 of this Ordinance;
  22. Waters or wastes that, either singly or by interaction with other waters or wastes in the POTW, release dangerous or noxious gases, form suspended solids that affect the operation of the collection system, or create a condition deleterious to structures and treatment processes; or
  23. Any materials that exert or cause unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime, slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

## **2.4 Federal Categorical Pretreatment Standards**

The categorical pretreatment standards are found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

EPA shall be the Control Authority for industrial users subject to categorical pretreatment standards. As the Control Authority, industrial users are responsible to the EPA for compliance with categorical pretreatment standards and the requirements of 40 CFR Part 403. Categorical industrial users shall provide the Town of Boscawen with copies of any reports to, or correspondence with EPA relative to compliance with the categorical pretreatment standards.

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

Upon promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this Ordinance for sources in that subcategory, shall, on the compliance date of the categorical pretreatment standards, immediately supersede the limitations imposed under this Ordinance.

## **2.5 Local Discharge Restrictions**

All persons discharging industrial process wastes into public or private sewers connected to the Town of Boscawen's sewer system shall comply with applicable federal requirements and State standards for pretreatment of wastes as they may be amended from time to time in addition to the requirements of this Ordinance.

Local numerical discharge limitations recognized by the Town of Boscawen as set forth herein, or may be added in the future (referred to as "local limits"), all State pretreatment standards and federal categorical pretreatment standards shall apply, whichever is most stringent.

In developing the list of pollutants of concern for which local limits are established, the Town of Boscawen has adopted the allowable headworks loading at Concord's POTW as listed in Article 9-6-14 of the City's Code of Ordinances. However, the most recent City Allowable POTW Headworks Loading shall apply.

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

- Reject or prevent any discharge to the sewer system after notice has been served to the discharger and the discharger has had reasonable opportunity to respond;
- Require pretreatment prior to discharge to the sewer system (Section 3.0);
- Require control (e.g., equalization) over the quantities and rates of discharge; and/or
- Require payment to cover additional cost of handling and treating the wastes.

If the Public Works Director allows the pretreatment or equalization of waste flows, the design and installation of the systems and equipment shall be subject to the review and approval of the Town, City and DES (see Section 3).

- A. Maximum Allowable POTW Headworks Loadings Limitations. The following numerical pollutant loading limitations are adopted to protect against pass-through and interference at the City's POTW. However, the most recent City Allowable POTW Headworks Loading shall apply. The pollutants of present concern and their projected allowable headworks loadings in pounds per
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day at maximum design flow in million gallons per day for the POTW.

POLLUTANT	ALLOWABLE POTW HEADWORKS LOADING (lb/day)	UNIFORM CONCENTRATION LIMIT (mg/l)
Cadmium	0.225	0.12
Copper	18.33	12.00
Lead	4.06	2.71
Nickel	7.87	5.37
Silver	10.69	7.90
Zinc	14.05	6.07

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

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

- B. Screening Levels. Screening levels are numerical values above which actions are initiated to evaluate, prevent or reduce adverse impacts due to flammability, chemical reactivity, organic/solids loadings, or worker health and safety.

If any of the screening levels are exceeded, repeat analysis must be performed to verify compliance or noncompliance with that screening level. If noncompliance is confirmed, then the industrial user may be required, at the discretion of the Public Works Director, to conduct an appropriate engineering evaluation to determine the potential impact of the discharge of this pollutant to the Town’s sewer system or the City’s POTW or alternatively, to develop a pollution prevention plan specifically addressing the pollutant that exceeds the screening level. This study or plan must be conducted under the supervision and approval of the Town of Boscawen. Should the evaluation indicate the impact to be unsatisfactory, the Industrial User shall reduce the pollutant concentration to a satisfactory level. If the evaluation supports development of an alternate site-specific limitation, then the screening level shall be adjusted and administered as a limit for the specific discharge.

- C. Special Agreements. No statement contained in this Section except for paragraphs 2.3(A), 2.3(B), and 2.4 shall be construed as preventing any special agreement or arrangement between the Town and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the Town of Boscawen provided that said agreements do not contravene any requirements of existing federal or State laws, and/or regulations promulgated thereunder, are



compatible with any user charge system in effect, and do not waive applicable federal categorical pretreatment standards. Special agreement requests shall require submittal of a pollution prevention plan that specifically addresses the discharge for which a special agreement is requested.

## **2.6 Right of Revision**

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

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

## **2.7 Dilution**

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

## **2.8 Mass-Based Limitations**

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

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## SECTION 3 - PRETREATMENT OF WASTEWATER

### 3.1 Pretreatment Facilities

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

### 3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary to protect the Town's sewer system or the City's POTW and determine the user's compliance with the requirements of this Ordinance, the Public Works Director 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.
- B. The Public Works Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An Industrial Discharge Permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided at the owner's expense when, in the judgment of the Public Works Director, these devices are necessary for the preliminary treatment of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Public Works Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. The owner shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates and means of disposal, which shall be subject to periodic review by the Public Works Director. Any removal and hauling of the collected materials shall be performed by currently licensed waste disposal firms. Cleaning of interceptors shall be performed in accordance with manufacturer recommendations but at a frequency of no less than weekly for internal interceptors and quarterly for external interceptors.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter and alarm.
- E. Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes,

these devices shall be maintained continuously to ensure satisfactory and effective operation by the owner at his expense.

- F. A dental practice which manages dental amalgam shall install and maintain an amalgam separator in accordance with federal and/or state regulations.

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

At his discretion, the Public Works Director, may evaluate whether each significant indirect discharger needs an accidental discharge/slug control plan. The Public Works Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Public Works Director may develop such a plan for any user. An accidental discharge/slug control plan shall consider and address, at a minimum, the following:

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

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

### **4.1 Wastewater Characterization**

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

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

- A. No significant indirect discharger shall discharge wastewater into the sewer system without first obtaining an Industrial Discharge Permit from the Public Works Director, except that a significant indirect discharger that has filed a timely and complete application pursuant to Section 4.4 of this Ordinance may continue to discharge for the time period specified therein.
- B. The Public Works Director may require other users to obtain Industrial Discharge Permits, or submit an application for an Industrial Discharge Permit, as necessary to execute the purposes of this Ordinance.

- C. Any violation of the terms and conditions of an Industrial Discharge Permit (IDP) shall be deemed a violation of this Ordinance and shall subject the industrial discharge permittee to the enforcement actions set out in Sections 9 through 12 of this Ordinance. Obtaining an IDP does not relieve a permittee of its obligation to comply with all federal and State pretreatment standards or requirements or with any other requirements of federal, State, and local law.

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

All industrial users must receive DES approval for any new industrial discharge, or any significant alteration in either flow or waste characteristics. Such approvals shall be obtained in accordance with Section 6.2 of this Ordinance.

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

Any user required to obtain an Industrial Discharge Permit who was discharging wastewater into the sewer system prior to the effective date of this Ordinance, and is not currently covered by a valid Industrial Discharge Permit, and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Public Works Director for an Industrial Discharge Permit in accordance with Section 4.7 of this Ordinance. The user shall not cause or allow discharges to the sewer system to continue after one hundred twenty (120) days of the effective date of this Ordinance except in accordance with an Industrial Discharge Permit issued by the Public Works Director.

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

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

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

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

#### **4.7 Industrial Discharge Permit Application Contents**

All users required to obtain an Industrial Discharge Permit, and other users subject to these rules, as required by the Public Works Director shall submit a permit application. The Public Works Director shall require all users to submit as part of an application the following information where applicable, as a minimum:

- A. The name, street address, and mailing address of the indirect discharger;
- B. The name, position, and daytime telephone number of a responsible individual at the indirect

- discharger, such as a plant manager, plant engineer, president, or vice president of the company, who has certified the permit application in accordance with Section 4.8 below;
- C. The “SIC” code and The North American Industry Classification System (“NAICS”) code of the indirect discharger, if available;
  - D. Whether the indirect discharger is subject to national categorical standards, and if so, which standards;
  - E. The estimated average, minimum, maximum and total daily flow for domestic discharges and each process discharge and the time and duration of those discharges;
  - F. A schematic of the proposed treatment process;
  - G. If applicable, plans, specifications, and operation and maintenance procedures for new or modified treatment facilities at the indirect discharger, stamped by a chemical, civil, sanitary, or environmental engineer registered in New Hampshire;
  - H. A schematic diagram showing the production process, including the origin of each waste stream;
  - I. A list of pollutants expected to be present in the discharge and the anticipated quantity of each, based on:
    - 1. Analyses of the waste stream(s) to be discharged, in which case test results shall be submitted with the discharge permit request; or
    - 2. Knowledge of the process which produces the wastewater;
  - J. Information on the toxicity and treatability of the pollutants proposed to be discharged, as available from manufacturer’s testing, safety, and data publications;
  - K. A map showing the location within the municipality of the indirect discharger with respect to the sewer system;
  - L. A listing of all chemicals used at the indirect discharger that will be or could be discharged, such as production chemicals, degreasers, and cleaning solvents;
  - M. A description and location diagram of all sampling locations at the indirect discharger;
  - N. A brief narrative describing those measures taken or planned to reduce water usage and implement pollution prevention techniques, if any, such as:
    - 1. Flow restrictors;
    - 2. Countercurrent rinses;
    - 3. Recycling of non-contact cooling water;
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4. Chemical substitutions; and
5. Pollutant source reduction; and

O. A list of all environmental permits held by or for the indirect discharger.

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

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

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

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

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

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

The Public Works Director will evaluate the data provided by the industrial user and may require additional information. In its discretion, within sixty (60) days of receipt of a complete Industrial Discharge Permit application [or ninety (90) days in the case of an application for a new or increased discharge requiring review and approval by DES,] the Public Works Director will determine whether or not to issue an Industrial Discharge Permit. The Public Works Director may deny any application for an Industrial Discharge Permit if, in its discretion, denial is appropriate.

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

An Industrial Discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An Industrial Discharge Permit may be issued for a period less than these intervals at the discretion of the Public Works Director. Each Industrial Discharge Permit will indicate a specific date upon which it will expire.

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

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### 5.3 Industrial Discharge Permit Contents

An Industrial Discharge Permit shall include such conditions as are deemed reasonably necessary by the Public Works Director to prevent pass through or interference, protect the quality of the water body receiving the treatment facility's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the sewer system or City's POTW.

A. Industrial Discharge Permits for significant industrial dischargers shall contain:

1. Indirect discharger name, street address, mailing address, and daytime telephone number;
  2. Dates of issuance and expiration;
  3. The general and specific prohibitions from the sewer use ordinance which apply to the discharge;
  4. A list of pollutants, allowable parameters, and discharge limits;
  5. Identification of applicable EPA categorical standards;
  6. A list of pollutant to be monitored and the monitoring requirements applicable thereto;
  7. Sampling frequency, techniques, and locations;
  8. Reporting requirements;
  9. Inspection requirements;
  10. Notification requirements, including for:
    - a. Slug loading;
    - b. Spills, bypasses, and upsets;
    - c. Changes in volume or characteristics of the discharge for which a permit revision is not required; and
    - d. Permit violations.
  11. Record keeping requirements;
  12. Applicable definitions and special conditions from the sewer use ordinance;
  13. Applicable civil and criminal penalties for violations;
  14. Notification requirements prior to any new or increased discharge;
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15. A requirement to submit a complete new application at a specified frequency, which shall be not less than once every five years; and a statement that indicates Industrial Discharge Permit duration, which in no event shall exceed five (5) years;
  16. A statement that the Industrial Discharge Permit is nontransferable without prior notification to the Town of Boscawen in accordance with Section 5.6 of this Ordinance, and provisions for providing the new owner or operator with a copy of the existing Industrial Discharge Permit;
  17. For users with reporting requirements, such reports at a minimum shall require:
    - a. Periodic monitoring results indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment requirements and the average and maximum daily flow for these process units;
    - b. A statement as to whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, than what additional operation and maintenance practices and/or pretreatment systems are necessary; and
    - c. Submittal of any monitoring results performed in addition to the requirements of the Industrial Discharge Permit using procedures prescribed in the permit.
  18. A description of identified pollution prevention opportunities at the facility;
  19. A statement that compliance with the Industrial Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable federal and State pretreatment standards, including those that become effective during the term of the Industrial Discharge Permit.
- B. Industrial Discharge Permits may contain, but need not be limited to, the following conditions:
1. Limitations on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the sewer system City's POTW;
  3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  4. Development and implementation of pollution prevention plans to reduce the amount of pollutants discharged to the sewer system City's POTW;
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5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the sewer system City's POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment; and
7. Other conditions as deemed appropriate by the Public Works Director to ensure compliance with this Ordinance, and State and federal laws, rules, and regulations.

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

Any person, including the user, may petition the Public Works Director to reconsider the terms of an Industrial Discharge Permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appellant user must indicate the Industrial Discharge Permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the Industrial Discharge Permit.
- C. The effectiveness of the Industrial Discharge Permit shall not be stayed pending the appeal.
- D. If the Public Works Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied.
- E. Aggrieved parties may appeal the conditions of the Industrial Discharge Permit in accordance with Section 14.2 of this Ordinance.

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

The Public Works Director may modify an Industrial Discharge Permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of Industrial Discharge Permit issuance;
- C. A change in the City's POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the Town of Boscawen's sewer system, the City's POTW, Town of Boscawen personnel, or the water quality in the receiving waters;
- E. Violation of any terms or conditions of the Industrial Discharge Permit;

- F. Misrepresentations or failure to fully disclose all relevant facts in the Industrial Discharge Permit application or in any required reporting;
- G. To correct typographical or other errors in the Industrial Discharge Permit; or
- H. To reflect a transfer of the facility ownership or operation to a new owner or operator.

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

Industrial Discharge Permits may be transferred to a new owner or operator only if the permittee provides at least sixty (60) days advance notice to the Public Works Director, and the Public Works Director approves the Industrial Discharge Permit transfer. The notice to the Public Works Director shall include a written certification by the new owner or operator that:

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

Failure to provide advance notice of a transfer shall render the Industrial Discharge Permit void as of the date of facility transfer.

### **5.7 Industrial Discharge Permit Reissuance**

A user with an expiring Industrial Discharge Permit shall apply for reissuance of the Industrial Discharge Permit by submitting a complete permit application, in accordance with Section 4.7 of this Ordinance, a minimum of sixty (60) days prior to the expiration of the user's existing Industrial Discharge Permit. Under no circumstances shall the permittee continue to discharge without an effective permit. An expired permit will continue to be effective and enforceable until the permit is reissued if:

- The industrial user has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and
- The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

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

- A. If another municipality, or user located within another municipality, contributes wastewater to the Town's sewer system, the Town of Boscawen shall enter into an inter-municipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph (A), above, the Public Works Director shall request the following information from the contributing municipality:

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

### **6.1 Periodic Compliance Reports**

- A. All significant indirect dischargers shall, at a frequency determined by the Public Works Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports shall be signed and certified in accordance with Section 4.8 of this Ordinance.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to maintain its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Public Works Director, using the procedures prescribed in Sections 6.6 and 6.7 of this Ordinance, the results of this monitoring shall be included in the report.

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

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

- A. The Public Works Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submittal of an Industrial Discharge Permit application under Section 4.7 of this Ordinance.
- B. Upon approval of the request by the Town of Boscawen, a Discharge Request will be submitted by the Town of Boscawen to DES on behalf of the user. All applicable DES review fees shall be provided by the user.
- C. Upon approval of the Discharge Request by DES, the Public Works Director may issue an Industrial Discharge Permit or modify an existing Industrial Discharge Permit under Section 5 of this Ordinance in response to changed conditions or anticipated changed conditions.
- D. An person proposing to construct or modify any of the following or any combination of the following shall submit an application for a Sewer Connection Permit to the DES in accordance with DES Env-Wq 700:
  - 1. Any extension of a collector or interceptor, whether public or private, regardless of flow;
  - 2. Any wastewater connection or other discharge in excess of 5,000 gpd;

3. Any wastewater connection or other discharge to a WWTP operating in excess of 80 percent design flow capacity or design loading capacity based on actual average flow or loadings for 3 consecutive months;
4. Any industrial wastewater connection or change in existing discharge of industrial wastewater, regardless of quality or quantity;
5. Any sewage pumping station greater than 50 gpm or serving more than one building;  
or
6. Any proposed sewer that serves more than one building or that requires a manhole at the connection.

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

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

### **6.4 Reports from Unpermitted Users**

All users not required to obtain an Industrial Discharge Permit shall provide appropriate reports to the Public Works Director as the Public Works Director may require.

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

If the results of sampling performed by a user indicate a violation, the user shall notify the Public Works Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Public Works Director within thirty (30) days subsequent to becoming aware of the violation. The user is not required to resample if

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the Public Works Director monitors at the user's facility at least once a month, or if the Public Works Director samples between the user's initial sampling and when the user receives the results of this sampling.

## **6.6 Analytical Requirements**

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

## **6.7 Sample Collection**

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

## **6.8 Timing**

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

## **6.9 Record Keeping**

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance and any additional records of information obtained pursuant to monitoring activities

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undertaken by the user independent of such requirements. Records shall include the date, exact location, method, and time of sampling, and the name of the person(s) obtaining the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five (5) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town of Boscawen, or where the user has been specifically notified of a longer retention period by the Public Works Director. Before destroying the records, the industrial user shall request and receive permission from the Town of Boscawen.

## **SECTION 7 - POWERS AND AUTHORITIES OF INSPECTORS**

### **7.1 Compliance Monitoring**

The Town of Boscawen, in its discretion, may investigate instances of noncompliance with the industrial pretreatment standards and requirements.

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

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

All users discharging to the Town of Boscawen's sewer system shall allow unrestricted access by Town of Boscawen authorized Town Agents, State and EPA personnel ("Inspector(s)") for the purpose of determining whether the user is complying with all requirements of this Ordinance, and/or any Industrial Discharge Permit or order issued hereunder. Users shall allow the Inspector(s) ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. If a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Inspector(s) will be permitted to enter without delay for the purposes of performing specific responsibilities.
  - B. The Inspector(s) shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
  - C. The Inspector(s) may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure accuracy.
  - D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Inspector(s) and shall not be replaced. The costs of clearing such access shall be borne by the user.
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- E. Unreasonable delays in allowing the Inspector(s) access to the user's premises shall be a violation of this Ordinance.
- F. The Inspector(s) is authorized to obtain information concerning industrial processes that have a bearing on the kind or source of discharge to the public sewer. The industrial user may request that the information in question not be disclosed to the public in accordance with Section 8 of this Ordinance. The information in question shall be made available upon written request to governmental agencies for uses related to this Ordinance, the City's NPDES permit, or the pretreatment program. The burden of proof that information should be held confidential rests with the user. However, information regarding wastewater discharge by the user (flow, constituents, concentrations, and characteristics) shall be available to the public without restriction.
- G. The Inspector(s) shall be permitted to enter all private properties through which the Town of Boscawen 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 sewer system lying within said easement.
- H. In addition to the inspections set forth in subsections A through H, the Town and/or their authorized agents may conduct an inspection at the following:
1. When a building permit is issued for improvements/repairs of buildings, costing at least \$25,000.
  2. When an existing sanitary sewer lateral is to be used to serve a new structure on the property.
  3. At the time of an ownership change. In the event of an ownership change, the Town may inspect the property for compliance with this Ordinance.
  4. Upon specific information that the premises may be in violation of this Ordinance.

An inspection and/or testing, under this section, may include, but not be limited to, a video inspection, smoke testing, dye testing and/or visual inspection.

### **7.3 Search Warrants**

The Public Works Director may seek the issuance of a search warrant from the New Hampshire 6th Circuit- District Division- Franklin to ensure compliance with this Ordinance.

## **SECTION 8 - CONFIDENTIAL INFORMATION/PUBLIC PARTICIPATION**

### **8.1 Confidential Information**

Information and data on a user obtained from reports, surveys, Industrial Discharge Permit Applications, Industrial Discharge Permits, and monitoring programs, and from the Public Works Director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Public Works Director, that the release of such information would divulge information, processes, or methods of production entitled to protection

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as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person providing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

## **8.2 Public Participation**

The Town of Boscawen shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of industrial pretreatment standards and requirements.

## **SECTION 9 - ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **9.1 Notification of Violation**

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

### **9.2 Compliance Schedule Development**

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

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards including, but not limited to, retaining an engineer, completing preliminary and final design plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
  - B. No increment referred to above shall exceed nine (9) months;
  - C. The user shall submit a progress report to the Public Works Director no later than fourteen (14) days following each date in the schedule and the final date of compliance which identifies, as a
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minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the action being taken by the user to return to the established schedule; and

- D. In no event shall more than nine (9) months elapse between such progress reports to the Public Works Director.

### **9.3 Pollution Prevention Plan Development**

The Public Works Director may require any user that has violated or continues to violate any provision of this Ordinance, an Industrial Discharge Permit, or order issued hereunder, or any other pretreatment standard or requirement, to develop a pollution prevention plan. The pollution prevention plan must specifically address violation(s) for which this action was undertaken. The pollution prevention plan shall be developed using good engineering judgment and shall be submitted to the Public Works Director no later than sixty (60) days after the user was notified of this requirement.

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

The Public Works Director may publish annually, in the largest daily newspaper circulated in the Town of Boscawen, a list of the users that, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

### **9.5 Show Cause Orders**

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

### **9.6 Cease and Desist Orders**

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

- A. Immediately comply with all requirements; and
- B. Implement such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

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### **9.7 Consent Orders**

The Public Works Director is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment systems, additional self-monitoring, and management practices. Such orders shall have the same force and effect as administrative orders issued pursuant to Sections 9.5 and 9.6 of this Ordinance and shall be judicially enforceable.

### **9.8 Industrial Discharge Permit Termination**

Any industrial user who violates the following conditions of this Ordinance or a wastewater discharge permit or order, or any applicable State or federal law, is subject to permit termination:

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

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 9.5 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Public Works Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

### **9.9 Termination of Discharge**

In addition to the provisions in Section 9.8 of this Ordinance, any user who violates the following conditions is subject to discharge termination:

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

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 9.5 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Public Works Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

### **9.10 Emergency Suspensions**

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

- A. Any user notified of a suspension of its discharge shall immediately terminate or eliminate its wastewater discharge. In the event of a user's failure to immediately comply with the suspension order, the Public Works Director may implement such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Public Works Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Public Works Director that the period of endangerment has passed, unless the termination proceedings in Section 9.8 or 9.9 of this Ordinance are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures implemented to prevent any future occurrence, to the Public Works Director prior to the date of any show cause or termination hearing under Sections 9.5, 9.8 or 9.9 of this Ordinance.

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

### **9.11 Recovery of Expenses**

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

## **9.12 Harm to Town of Boscawen Property**

No person shall maliciously, willfully, or negligently damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is part of the public sewerage system.

## **SECTION 10 - JUDICIAL ENFORCEMENT REMEDIES**

### **10.1 Injunctive Relief**

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

### **10.2 Civil Penalties**

- A. A user who has violated, or continues to violate, any provision of this Ordinance, an Industrial Discharge Permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town of Boscawen for a maximum civil penalty of \$10,000 per violation, per day, plus actual damages incurred by the sewer system or City's POTW. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. RSA 149-I:6,II.
- B. The Town Board of Selectmen may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town of Boscawen.
- C. In determining the amount of civil liability, the Court may consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, implementing any other action against a user.

### **10.3 Criminal Prosecution**

Any person or industrial user who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder may be subject to criminal prosecution.

### **10.4 Nonexclusive Remedies**

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

## **SECTION 11 - SUPPLEMENTAL ENFORCEMENT ACTION**

### **11.1 Performance Bonds**

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

### **11.2 Liability Insurance**

The Public Works Director may decline to issue or reissue an Industrial Discharge Permit to any user who has failed to comply with any provision of this Ordinance, a previous Industrial Discharge Permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the sewer system or City's POTW caused by its discharge.

### **11.3 Public Nuisances**

A violation of any provision of this Ordinance, an Industrial Discharge Permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Public Works Director. Any person(s) creating a public nuisance shall be subject to the provisions of the Town of Boscawen Code governing such nuisances, including reimbursing the Town of Boscawen for any costs incurred in removing, abating, or remedying said nuisance.

## **SECTION 12 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

### **12.1 Upset**

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

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pretreatment standards if the requirements of paragraph (C), below, are met.

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

## 12.2 Bypass

- A. For the purposes of this section,
1. “Bypass” means the intentional diversion of waste streams from any portion of a user's treatment facility.
  2. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur that does not cause pretreatment standards or requirements

to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

#### C. Notification of Bypass

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Public Works Director, at least ten (10) days before the date of the bypass.
2. A user shall submit oral notice to the Public Works Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the amount of time it is expected to continue; and steps implemented or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Public Works Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

#### D. Enforcement Actions

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

### **SECTION 13 - VALIDITY**

- A. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.
  - B. The validity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.
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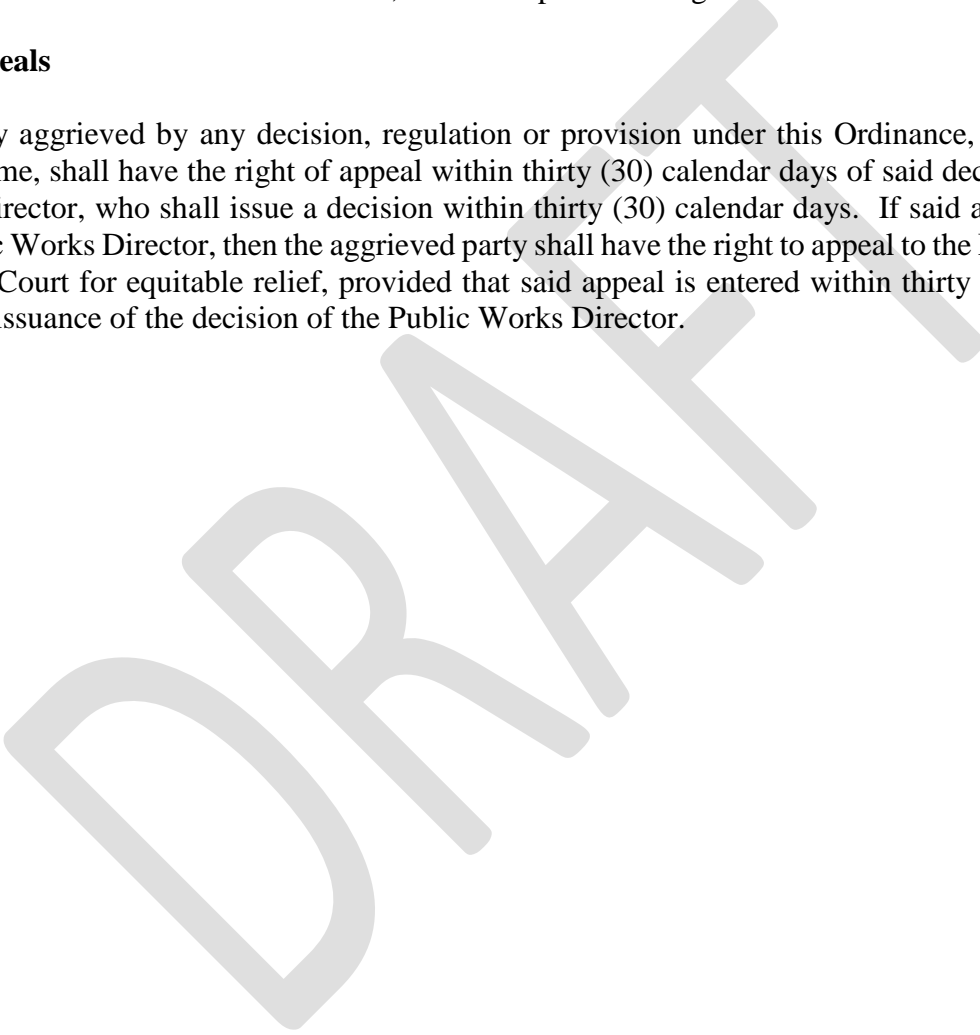
## **SECTION 14 - INTERPRETATION OF REQUIREMENTS**

### **14.1 Interpretation**

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

### **14.2 Appeals**

Any party aggrieved by any decision, regulation or provision under this Ordinance, as amended, from time to time, shall have the right of appeal within thirty (30) calendar days of said decision to the Public Works Director, who shall issue a decision within thirty (30) calendar days. If said appeal is denied by the Public Works Director, then the aggrieved party shall have the right to appeal to the Merrimack County Superior Court for equitable relief, provided that said appeal is entered within thirty (30) calendar days from the issuance of the decision of the Public Works Director.



**SECTION 15 - EFFECTIVE DATE**

This Ordinance supersedes the previous Sewer Use Ordinance dated June 26, 1975, amended August 3, 1981.

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

The foregoing Ordinance was adopted by vote of the Boscawen Board of Selectmen this \_\_\_\_day of \_\_\_\_\_, 2018 which shall be the effective date hereof.

BOSCAWEN, NH BOARD OF SELECTMEN

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BOSCAWEN PUBLIC WORKS DIRECTOR

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\*The Town certifies to NHDES that no changes were made to this ordinance subsequent to the NHDES approval dated \_\_\_\_\_.

APPENDIX A - Town of Boscawen's 1981 Amendment to the Original Sewer Use Ordinance regarding sewer main extensions.

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