VOTE TAKEN AT ANNUAL TOWN MEETING HELD MAY 1, 2021

An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Special Town Meeting.

ARTICLE 22. Voted to amend the Westminster General Bylaws relative to changes and amendments to the Sewer Bylaw in order to mirror the City of Fitchburg's updated sewer ordinances in accordance with the Intermunicipal Agreement with the City as Chapter 161, Sewers, as listed below:

Chapter 161
Sewers

[HISTORY: Adopted by the Annual Town Meeting 4-25-1987 as Art. 41. Amendments noted where applicable.]

GENERAL REFERENCES

Sewage disposal — See Ch. **245**.
Toxic and hazardous wastes — See Ch. **251**.

Water supplies — See Ch. 254.

Article I

Definitions

§ 161-1 **Terms defined.**
Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

ACT OR THE ACT
The Federal Water Pollution Control Act, also known as the "Clean Water Act," herein the "Act," as amended, 33 U.S.C. § 1251 et seq.

APPLICANT
Any person requesting approval to discharge wastewaters into the municipal facilities or a new connection to the wastewater works.

APPROVAL AUTHORITY
The Region 1 Administrator of the U.S. Environmental Protection Agency or his authorized representative.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs (1) through (3), above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Pretreatment Coordinator.

AVERAGE DAILY FLOW

The total volume of sewage in gallons measured at a metering station or other point during a continuous period of 365 days divided by 365.

BEST MANAGEMENT PRACTICES (BMPs)

Practices, such as preventive maintenance, scheduling of activities or process alterations, which enable the User to comply with the provisions of this chapter or any applicable State and/or Federal guidelines. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND or BOD

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter.

BUILDING DRAIN

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

BUILDING SEWER

The pipe which connects to a building drain conveying waste from plumbing fixtures within a building to a Town sanitary or combined sewer, a private sanitary or combined sewer, or other place of disposal. The building sewer begins 10-feet outside the inner face of the building foundation wall and extends to and includes the connection to the Town or private wastewater systems. **CATEGORICAL INDUSTRIAL USER**

An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which apply to a specific category of Users and which existed on the effective date of this chapter and codified at 40 CFR, Chapter 1, Subchapter N, Parts 405 - 471, as the same may from time to time be amended.

CHEMICAL OXYGEN DEMAND or COD

A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CITY

The City of Fitchburg, Massachusetts.

COMBINED SEWER

A sewer designed to receive both wastewater and surface runoff.

COMMISSION

The Water/Wastewater Commission of Fitchburg, or its duly authorized representative.

COMMISSIONER

The Commissioner of the Public Works Department of Fitchburg, or his duly authorized representative.

COMMONWEALTH

The Commonwealth of Massachusetts.

COMPOSITE SAMPLE

A sample which represents many aliquots taken throughout an extended time period, typically 24 hours.

COOLING WATER or NONCONTACT COOLING WATER

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

DAILY MAXIMUM

The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

DAILY MAXIMUM LIMIT

The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

DEPUTY COMMISSIONER

The person designated by the City to supervise the operation of the pretreatment program who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

DISCHARGE DOCUMENT

Either the previously negotiated agreements or a wastewater discharge permit, and includes the criteria for discharge to the East or West Fitchburg Treatment Plant, as appropriate.

DOMESTIC WASTEWATER OR SEWAGE

The wastewater derived principally from dwellings, business buildings, institutions and the like. It may or may not contain groundwater, surface water, stormwater or process or wash water from industrial enterprises.

DRAIN LAYER

Individuals, partnerships, organizations or corporations authorized by the Sewer Commission to install sewer connections. Such authorization shall take the form of a permit issued by the Sewer Commission and shall only be valid for a single installation or group of installations under a contract or agreement.

ENVIRONMENTAL PROTECTION AGENCY or EPA

The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

EXCESSIVE

Amounts or concentrations of a constituent of a wastewater which, in the judgment of the Commissioner, or his/her designee, will cause damage to any town or city facility; will be harmful to a wastewater treatment process; cannot be removed in the POTW to the degree required to meet the limiting stream classification standards of the Nashua River and/or EPA and state effluent standards; can otherwise endanger life, limb or public property; and can constitute a nuisance.

EXISTING SOURCE

Any source of discharge that is not a "New Source."

FACILITIES

Includes structures and conduits for the purpose of collecting, treating, neutralizing, stabilizing or disposal of domestic wastewater and/or industrial or such other wastewaters as are disposed of by

means of such structures and conduits, including treatment and disposal works, necessary intercepting, outfall and outlet sewers and pumping stations integral to such facilities with sewers, equipment, furnishings thereof and other appurtenances connected therewith.

FITCHBURG DEPARTMENT OF PUBLIC WORKS, PUBLIC WORKS, or FDPW

The City of Fitchburg, Massachusetts, Department of Public Works, Wastewater Division or other relevant division(s).

FLOATABLE OIL

Oil, fat or grease of animal or vegetable origin, or petroleum-derived oil or grease in a physical state such that it will separate by gravity from waste by treatment in an approved pretreatment facility.

FOG (FATS, WAX, OILS, and GREASE)

The discharge from a food-handling, food-production or food-packaging establishment of fats, wax, oils, and grease into the Town's or City's wastewater system, and which shall be authorized only pursuant to a validly issued Board of Health permit. Such food establishments shall include commercial/industrial establishments or other establishments deemed appropriate by the FDPW/WDPW that include as a part of their operations the handling, preparation and/or distribution of food.

GARBAGE

The animal and vegetable wastes resulting from the handling, preparation, cooking and serving of food. It is composed largely of putrescible organic matter and its natural moisture content.

GRAB SAMPLE

A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

HOLDING-TANK WASTE

Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

INDIRECT DISCHARGE

The discharge or introduction of nondomestic pollutants from any source subject to or regulated under Section 307(b), (c) or (d) of the Act into the POTW (including holding-tank waste discharged into the system).

INDUSTRIAL USER

A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

INDUSTRIAL WASTEWATER

All water-carried wastes and wastewater, excluding domestic wastewater and unpolluted water; includes all wastewater from any producing, manufacturing, processing, testing, institutional, commercial, agricultural or other operation where the wastewater discharged includes nondomestic wastes.

INDUSTRY
An establishment with facilities for mechanical, testing, trade or manufacturing purposes.

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

INTERFERENCE
A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the Town's or City's POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City'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 or criteria applicable to the method of disposal or use employed by the POTW:

(1) Section 405 of the Act;

(2) The Solid Waste Disposal Act[1], including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);

(3) any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act, or that would prevent sewage sludge use under 310 CMR 32;

(4) The Clean Air Act[2];

(5) The Toxic Substances Control Act[3]; and

(6) The Marine Protection, Research, and Sanctuaries Act[4].

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[1] Editor's Note: See 42 U.S.C. §6901, et seq.

[2] Editor's Note: See 42 U.S.C. §7401, et seq.

[3] Editor's Note: See 15 U.S.C. §2601, et seq.

[4] Editor's Note: See 33 U.S.C. §1401, et seq.

LOCAL LIMITS
Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

MEDICAL WASTE
Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps,

body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

MONTHLY AVERAGE

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

MONTHLY AVERAGE LIMIT

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

NATIONAL CATEGORICAL PRETREATMENT STANDARD, CATEGORICAL PRETREATMENT STANDARD, or CATEGORICAL STANDARD

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the ACT which apply to a specific category of users and which existed on the effective date of this chapter and codified as 40 CFR, Chapter 1, Subchapter N, Parts 404 through 471, as the same may from time to time be amended.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or NPDES PERMIT

A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342).

NATURAL OUTLET

Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NEW SOURCE

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) 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 if 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 shall be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a "new source" if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection A(1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.

(3) For the purposes of this definition, construction of a "new source" has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous on site construction program:

i. Any replacement, assembly or installation of facilities or equipment; or

ii. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of "New Source" facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

NONCONTACT COOLING WATER

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

NORMAL OPERATING DAY

A twenty-four-hour day in which the standard and routine operations and work of the facility are conducted. It would include but is not limited to daily cleaning, routine maintenance and production. It would not include work stoppages, scheduled and unscheduled shutdowns, holiday schedules, major cleanups and the like.

OIL and GREASE

Any material (animal, vegetable or hydrocarbon) which is extractable from an acidified sample of a waste by Freon or other designated solvent, and as determined by the appropriate standard procedure.

PASS THROUGH

A discharge which exits the POTW into waters of the Commonwealth or of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON

Any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity, Federal, State or local, or any other entity or legal representative, agents or assigns of any of them.

pH

A measure of the acidity or alkalinity of a solution, expressed in standard units.

POLLUTANT

Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural and commercial wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor) or any other contaminant.

POLLUTION

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

PRETREATMENT or TREATMENT

The reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes other than means, except by diluting the concentration of the pollutants as prohibited by 40 CFR 403.6(d), unless allowed by an applicable Categorical Pretreatment Standard.

PRETREATMENT COORDINATOR

The person, designated by the City to carry out certain duties associated with the Industrial Pretreatment Program, that is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

PRETREATMENT REQUIREMENTS

Any substantive or procedural requirement related to pretreatment, other than a Categorical Pretreatment Standard, imposed on an Industrial User.

PRETREATMENT STANDARDS or STANDARDS

Prohibited discharge standards, Categorical Standards and Local Limits.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES

Absolute prohibitions against the discharge of certain substances as set forth in Article III of this chapter.

PROPERLY SHREDDED GARBAGE

Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch [one and twenty-seven-hundredths (1.27) centimeters] in any dimension.

PUBLICLY OWNED TREATMENT WORKS or POTW

The Town or City-owned treatment works, as defined in Section 212 of the Act (33 U.S.C. § 1292). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of liquid wastes including sewers that convey wastewater to the POTW treatment plant. For the purposes of this Chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town/City who are, by contract or agreement with the Town/City, Users of the Town's/City's POTW. The term also means the Town/City and/or its agents having jurisdiction over indirect discharges to and the discharges from such treatment works.

PUBLIC SEWER

A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

PUBLIC DRAIN

A drain located in a public way or easement in which all owners of abutting properties have equal rights, and is under the full care and control of the Town.

RECEIVING WATERS

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

SANITARY SEWER

A sewer which carries wastewater and to which stormwaters, surfacewaters and groundwaters are not intentionally admitted.

SEPTAGE or SEPTIC TANK WASTE

Any sludge and wastewater from holding tanks such as vessels, chemical toilets, campers, trailers septic tanks and cesspools, that is removed and transported by a septage waste hauler, for disposal and treatment at a POTW.

SEWER

A pipe or conduit for carrying wastewater.

SEWER COMMISSION

The Public Works Commission as appointed by the Board of Selectmen of the Town of Westminster or their authorized agents or representatives.

SEWER CONNECTION

A sewer pipeline running laterally from a street sewer, an off-street sewer or a trunk sewer to an individual tract, lot or parcel of land to serve one or more houses or other buildings, whether or not connected to any house or building.

SIGNIFICANT INDUSTRIAL USER OR SIGNIFICANT USER:

(1) A User subject to Categorical Pretreatment Standards, or

(2) A User that:

(a) Discharges an average of 25,000 gallons per day (gpd) or more of process wastewater to the POTW per normal operating day;

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the Pretreatment Coordinator on the basis that it has a

reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) The Deputy Commissioner may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Categorical Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(b) The Industrial User annually submits the certification statement required in 40 CR 403.12(q), together with any additional information necessary to support the certification statement; and

(c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in the above sections (a), (b) and (c) has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Pretreatment Coordinator may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

SIGNIFICANT NONCOMPLIANCE:

(1) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(2) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR § 403.8 paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone

contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

SLUG

Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions. A "slug" shall also include any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flow during a normal operating day.

STANDARD INDUSTRIAL CLASSIFICATION (SIC)

A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

STANDARD LABORATORY PROCEDURES

Those methods outlined in the most recent edition of the EPA manual Methods for Chemical Analysis of Water and Wastes and/or the APHA, AWWA, WPCF publication Standard Methods for the Examination of Water and Wastewater, or in 40 CFR 136.

STATE

The Massachusetts Department of Environmental Protection, Division of Water Pollution Control.

STORM DRAIN or STORM SEWER

A sewer which carries stormwater, surface water, groundwater or drainage but excludes wastewater and industrial wastes, other than unpolluted cooling water.

STORMWATER

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

SUBSTANTIAL REHABILITATION:

(1) Repairs, replacement, improvements (including major movable equipment) and additions, the cost of which exceeds 15% of the after-rehabilitation value of the property; or

(2) Replacement of two or more major building components.

SUPERINTENDENT

The Director of Public Works of the Town of Westminster or his authorized deputy, agent or representative.

SUSPENDED SOLIDS

Solids that either float on the surface of or are in suspension in water, wastewater or other liquids and which are removable by laboratory filtering and are referred to as "nonfilterable residue" in the laboratory test prescribed in Standard Methods for the Examination of Water and Wastewater.

TOXIC SUBSTANCES

Any substance or mixture, whether gaseous, liquid or solid, which, when discharged into the sewer system, may tend to interfere with any wastewater treatment process, constitute a hazard to human beings or animals, inhibit aquatic life or create a hazard to recreation in the receiving waters of the effluent from the POTW Treatment Plant.

TOWN

The Town of Westminster, Massachusetts.

TURBIDITY

A condition in water or wastewater caused by the presence of suspended matter, resulting in the scattering and absorption of light rays; measure of fine suspended matter in liquids; analytical quantity usually reported in arbitrary turbidity units determined by measurements of light diffraction.

UNPOLLUTED WATER

Water whose discharge will not cause any violation of receiving water standards of the Commonwealth of Massachusetts.

UPSET

An incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards or the provisions of this chapter because of factors beyond the 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.

USER

Any person who contributes, causes or permits the contribution of wastewater into the Town's or City's POTW.

WASTES

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

WASTEWATER

The spent water of a community and may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any

groundwater, surface water and stormwater, whether treated or untreated, which are contributed to the POTW.

WASTEWATER DISCHARGE PERMIT

The permit required of Significant Industrial Users to discharge to the Town's or City's POTW, as set forth in § 161-34 of this chapter.

WASTEWATER TREATMENT WORKS

Any arrangement of devices and structures used for treating wastewater.

WASTEWATER WORKS

All structures, equipment and processes for collecting, pumping, treating and disposing of wastewater.

WATERCOURSE

A channel in which a flow of water occurs, whether continuously or intermittently.

WESTMINSTER DEPARTMENT OF PUBLIC WORKS, PUBLIC WORKS, or WDPW

The Town of Westminster, Massachusetts, Department of Public Works, Sewer Department or other relevant division(s).§ 161-2 Word usage.

"Shall" is mandatory; "May" is permissive.

§ 161-2A Abbreviations.

(1) Abbreviations. The following abbreviations shall have the designated meanings:

BOD:	Biochemical Oxygen Demand
BMP:	Best Management Practice
BMR:	Baseline Monitoring Report
CFR:	Code of Federal Regulations
CIU:	Categorical Industrial User
COD:	Chemical Oxygen Demand
EPA:	U.S. Environmental Protection Agency
IU:	Industrial User
NPDES:	National Pollutant Discharge Elimination System
NSCIU:	Non-Significant Categorical Industrial User
POTW:	Publicly Owned Treatment Works
RCRA:	Resource Conservation and Recovery Act
SIU:	Significant Industrial User
SNC:	Significant Noncompliance
TSS:	Total Suspended Solids
U.S.C.:	United States Code

§ 161-2B Interpretation.

(1) A. In the construction of this chapter, the use of the masculine gender shall include the feminine, and the singular shall include the plural where context so indicates.

(2) B. This chapter shall be construed and interpreted so as to be consistent with the Act and

the regulations of the EPA promulgated thereunder. It is the intent of the Town/City to vest the Sewer Commission/Commission with all the powers necessary and reasonably useful to fulfill the Town's/City's and the POTW's obligations under the Act and regulations promulgated thereunder and any stricter or additional obligations imposed by the Commonwealth or its agencies.

(3) C. Whenever reference is made to any Federal or State statute or regulation, it shall mean the statute or regulation existing on the effective date of this chapter and as the context permits or requires. It shall also mean and include the statute or regulation as the same may from time to time be amended.

Article II
Building Sewers and Connections

§ 161-3 Permit required for connection.

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

§ 161-4 Notification of new or changed discharge required.

Any person proposing a new discharge into the system or a substantial change in the volume of character of pollutants that are being discharged into the system shall notify the Sewer Commission at least forty-five (45) days prior to the proposed change or connection.

§ 161-5 Classes of permits.

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

A. Single-Family Residential.

B. Multifamily and Commercial.

C. Industrial.

§ 161-6 Application for permit; fees; required approvals.

A. In all classes, the owner or his agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent.

B. A permit and inspection fee of seventy-five dollars ($75.) shall be paid to the town at the time the application is filed. Any amount not used is to be reimbursed, and any amount in excess of seventy-five dollars ($75.) is to be paid within thirty (30) days.

C. Approval of commercial and industrial permits must be obtained from the Superintendent/Commissioner after review and recommendation by the Sewer Commission/Commission before a permit can be issued.

D. An applicant seeking a sewer connection or extension shall provide inflow and infiltration mitigation in accordance with 314 CMR 12 § 12.04 (2) (d.).

§ 161-7 Use of old building sewers.

An old building sewer may be used in connection with a new building only when it is found, on examination and test by the Superintendent, to meet all requirements of this chapter. Any costs involved in examinations and tests shall be paid by the person making the application for a permit.

§ 161-8 Low building drains.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

§ 161-9 Costs and expenses to be borne by owner; town to be held harmless.

A. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner.

B. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

§ 161-10 Each building to have separate sewer; exception.

A separate and independent building sewer shall be provided for every building, except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

§ 161-11 Installation requirements.

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. 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 and Water Pollution Control Federation Manual of Practice No. 9 shall apply.

§ 161-12 Connection of sources of runoff or groundwater prohibited.

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

§ 161-13 Connection standards.

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. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

§ 161-14 Inspection required.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The sewer connection shall be made under the supervision of the Superintendent or his representative.

§ 161-15 Guarding of excavations; restoration of streets.

All excavations for building sewer installation shall be adequately guarded by the applicant 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.

Article III
Use of Public Sewers

§ 161-16 Discharge of unpolluted drainage.

A. No person shall discharge or cause to be discharged any storm-, surface or ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

§ 161-17 Hazardous discharges.

No person shall discharge or cause or allow to be discharged into any sewer under the control of the Superintendent the hereinafter described substance, materials, waters or wastes if it appears likely, in the opinion of the Sewer Commission/Commission, that such wastes in quantity or quality exceeding limitations established by the Sewer Commission/Commission can harm either the sewers, wastewater treatment process or equipment, have an adverse effect on the receiving waters or can otherwise endanger life, limb, public property or constitute a nuisance.

§ 161-18 Permission required to discharge industrial wastewaters.

Persons, including industries, who desire to discharge industrial wastewaters into town/city facilities or facilities appurtenant thereto shall make their requests in writing to the Sewer Commission/Commission. In forming its opinion as to the limitations on the acceptability of any wastes, the Sewer Commission/Commission will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant and other pertinent factors. The Sewer Commission/Commission may require the applicant to furnish such analyses of the proposed wastewater discharge as may be needed to determine its acceptability into the sewer system and as required by state and federal regulations.

§ 161-19 Costs for additional treatment or damages.

Costs for unauthorized additional treatment in or for repairing damages to town facilities resulting due

to violations of the Sewer Commission's/Commission's Rules and Regulations is to be reimbursed to the town/city by the person or industry from which the wastewaters originated that cause of the adverse effect.

§ 161-20 General Discharge Prohibitions

No user shall introduce or cause to be introduced directly or indirectly into the POTW any pollutant or Wastewater which causes pass-through or interference. These general prohibitions apply to all such users of a POTW, whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

A. Any wastewaters containing toxic pollutants or poisonous liquids, gases or solids (including heavy metals) in sufficient quantity, which either singly or by interaction with other wastes, injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, create any hazard in the waters receiving treated effluent from the POTW treatment plant or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

B. Any wastewater, liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) [sixty-five degrees Celsius (65° C.)]. No person may discharge a waste which shall cause the temperature at the POTW influent to exceed 104° F (40° C).

C. Any wastewaters having pH lower than five point five (5.5) standard units (s.u.) or higher than 11.0 s.u., or having any other corrosive property capable of causing damage or hazard to structures, equipment, process or personnel at the POTW.

D. Any wastewaters containing fats, wax, grease or oils or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32° F.) [zero degrees Celsius (0° C.)] and one hundred fifty degrees Fahrenheit (150° F.) [sixty-five degrees Celsius (65° C.)]. Fats, oils, greases or waxes which are free floating shall not be discharged into the sewer system.

E. Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the Town or City, the state or EPA has notified the user is a fire hazard or a hazard to the system.

F. Any solid or viscous substances in quantities of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the POTW, such as but not limited to, ashes, cinders, spent lime, sand, mud, straw, shavings, metal, glass, rags, feathers, bones, tar, plastics, wood, unground garbage, grass clippings, whole blood, paunch manure, hair and fleshings,

entrails, grease, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

G. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower [seventy-six-hundredths (0.76) horsepower metric] or greater shall be subject to the review and approval of the Superintendent. (See Article **I**, § **161-1**, definition of "properly shredded garbage.")

H. Waters or wastes containing dyes or other color which cannot be removed by biological processes and which require special chemical treatment in order for POTW treatment plant effluent to meet standards set by state law or rules, regulations or orders made pursuant to law.

I. Waters or wastes which require excessive quantities of chlorine for stabilization in addition to biological treatment.

J. Any waters or wastes containing phenols or other taste or odor producing substances in such concentrations exceeding limits which may be established by the Sewer Commission/Commission as necessary and after treatment of the composite wastewater to meet the requirements of the state, federal or other public agencies or jurisdiction for such discharge to the receiving waters.

K. Any radioactive wastes or isotopes in excessive amounts or of such half-life or concentration as may exceed limits established in applicable state or federal regulations or by the Sewer Commission/Commission.

L. Pollutants, including oxygen-demanding pollutants (BOD, for example), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW. In no case shall materials or flow be discharged in such amounts as to constitute a slug as defined in this chapter.

M. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

N. Any wastewater which causes a hazard to human life or creates a public nuisance, including any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

O. It shall be unlawful for any person to discharge into the sewer system or cause to be discharged into the sewer system the sludge resulting from pretreatment of waters or wastewaters.

P. Any pollutants which create a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140° F. (60° C.) using the test methods set forth in 40 CFR 261.21.

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

R. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

S. Pollutants, substances or wastewater prohibited by this § **161-20** shall not be processed or stored in such a manner or location that they could be discharged to the POTW.

T. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than one-half inch (½"; 1.27 cm) in any dimension.

U.

§ 161-20A **Specific local limitations**

A. The following Local Limits, representing the total Maximum Allowable Industrial Load ('MAIL') from all industrial sewer users, are established to protect the POTW from pass-through and interference. The Commission shall issue discharge permits to all Significant Industrial Users ('SIUs') with site-specific limits for the permittee's discharge parameters. The Commission shall establish the site-specific limits for each SIU to ensure that the total industrial wastewater loading to the POTW does not exceed the Local Limits. The Commission reserves the right to adjust the individual SIU discharge limits in the future, as necessary, to address changes in the SIU's discharge volume or pollutant characteristics of the industrial wastewater.

Parameter	**Maximum Allowable Industrial Load (lb/day)**
Aluminum	39.9
Arsenic	0.664‡
Cadmium	0.0132‡
Chromium	61.9‡
Copper	0.185
Lead	0.293‡
Mercury	0.00326
Nickel	3.95‡
Selenium	0.943‡
Silver	0.409‡
Zinc	4.49‡
Chromium VI	8.72‡
Ammonia	1,859‡
BOD5	8,584
TSS	6,960
Total Phosphorus	10.7‡
Cyanide	2.029‡

Note:	"‡" designates 'Screening Limit'

B. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32 °F and 150 °F (0 °C and 65 °C).

C. pH: not less than 5.5 standard units (s.u.) nor more than 11.0 s.u.

§ 161-20B **Precedence of Other Standards**

The Categorical Pretreatment Standards set forth in 40 CFR, Chapter 1, Subchapter N, Parts 405 - 471, are hereby incorporated into this chapter and adopted by the City subject to the following:

A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Commission may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

B. Upon the effective date of the Categorical Pretreatment Standards for a particular industrial subcategory, the Categorical Standard, if more stringent than the limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter.

C. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Commission shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

D. A User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive requirement of 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.

E. A User may obtain a net gross adjustment to a Categorical Pretreatment Standard in accordance with 40 CFR 403.15.

F. If State or Local Limits are more stringent than the Categorical Pretreatment Standards, then the State or local standards shall apply. It is the intent of this section that the most stringent standards shall apply.

G. The City reserves the right to establish by this chapter more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives of 403 CFR Part 403.

§ 161-20C **Accidental Discharge**

A. Regulations. Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities required to prevent accidental discharge of prohibited materials shall be provided and maintained at the owners or User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be

submitted to the Pretreatment Coordinator for review and shall be approved before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the Pretreatment Coordinator or his duly authorized representative of the incident. (See Article VI, § 161-34A.H, of this chapter.)

B. Notice to employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a slug discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

C. Accidental discharge/slug control plans. At least once every two years, the Pretreatment Coordinator shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan. The Pretreatment Coordinator may require any User to develop, submit for approval and implement such a plan. Alternatively, the Pretreatment Coordinator may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges.

(2) Description of stored chemicals.

(3) Procedures for immediately notifying the Pretreatment Coordinator of any accidental or slug discharges, as required by § 161-34A.H of this chapter.

(4) 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.

(5) Such other plans, methods, steps, systems or requirements as the Pretreatment Coordinator may require.

D. The User must immediately notify the Pretreatment Coordinator of changes that occur at the facility affecting the potential for an accidental or slug discharge, thereby allowing the Pretreatment Coordinator to reevaluate the need for an Accidental/Slug Discharge Control Plan or other actions to prevent such discharges.

E. Each User must notify the Pretreatment Coordinator of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change. The notification shall include location of the discharge, type of waste, concentration and volume and corrective actions.

F. No User who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have

been approved by the Pretreatment Coordinator.

§ 161-21 Action by Sewer Commission.

A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § **161-20** of this Article and which, in the judgment of the Sewer Commission/Commission, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Sewer Commission/Commission may:

(1) Reject the wastewaters or the wastes.

(2) Require pretreatment of wastewaters or wastes to modify them to an acceptable condition for discharge to the public sewers; and/or

(3) Require control over the quantities and rates of discharge of the wastewaters or wastes; and/or

(4) Require payment to cover the added cost of handling and treating the wastewaters or wastes not covered by existing taxes or sewer charges under the provisions of § **161-2** of this Article.

B. If the Sewer Commission/Commission permits the pretreatment or equalization of wastewater or waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Sewer Commission/Commission, and subject to the requirements of all applicable codes, bylaws and laws and the rules and regulations of the Sewer Commission/Commission. Any costs involved with such reviews shall be paid by the person requesting the permit.

§ 161-22 **Grease, oil and sand interceptors.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the Sewer Commission, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall be of a type and capacity approved by the Sewer Commission and shall be located as to be readily and easily accessible for cleaning and inspection.

§ 161-23 **Preliminary treatment or flow-equalizing facilities.**

Where preliminary treatment or flow-equalizing facilities are provided for any wastewaters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner, at his expense.

§ 161-24 **Installation of control structures.**

When required by the Sewer Commission, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastewater or wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Sewer Commission. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§ 161-25 Sampling standards.

All measurements, test and analyses of the characteristics of wastewaters to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control structure provided or upon suitable samples taken at said control structure. In the event that no special structure has been required by the Sewer Commission, samples shall be taken at suitable locations within the establishment from which the wastewaters are being discharged. Sampling shall be carried out by accepted methods specifically designed to obtain representative samples of the total wastewater discharge and of slugs if any occur. [The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls from a premises is appropriate or whether a separate sample or samples should be taken.] Frequency of sampling shall be established by the Superintendent on an individual basis. Any costs involved in examination and tests shall be paid by the individual industry. The Sewer Commission may check these tests as necessary.

§ 161-26 Monitoring of industrial discharges.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the Sewer Commission and/or other duly authorized employees of the town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Sewer Commission. Such records shall be made available upon the request by the Sewer Commission to other agencies having jurisdiction over discharges to the receiving waters.

§ 161-27 Future connections.

Future connections to facilities constructed by the town shall be designed in criteria established by the Superintendent and constructed by the person desiring the additional connection after review and approval of the plans and specifications by the Sewer Commission and the Superintendent.

§ 161-28 Adoption or amendment of rules and regulations.

Any rules and regulations consistent with this chapter may be adopted and/or amended by the Sewer Commission in conformance with MGL C. 83, § 10, after due notice published once a week for three (3) consecutive weeks in a newspaper available to inhabitants of the Town.

§ 161-29 Individual septic systems.

Regulations for and supervision of individual septic systems are not included under this chapter.

Article IV
Protection From Damage

§ 161-30 Damage prohibited.

No unauthorized person shall:

A. Break, damage, destroy, uncover, deface or tamper with any equipment or materials belonging to the Town of Westminster or City of Fitchburg and used or intended to be used for the purposes of making measurement, tests or examination of sewage or wastes.

B. Remove, damage or interfere with the functioning of any pipe, main, manhole, manhole cover, building, apparatus or equipment used in the collection, conveyance or treatment of sewage or

industrial wastes.

C. Place or cause to be placed in any manhole or sewer pipe or main any material which results or is likely to result in the stopping or obstructing of the normal flow of sewage or wastes. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

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Article V
Powers and Authority of Inspectors

§ 161-31 Entrance permitted; inquiries limited.

The Sewer Commission, Commission, Superintendent, Commissioner and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Sewer Commission, Commission, Superintendent, Commissioner or other representatives shall have no authority to inquire into any process, including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for wastes treatment.

§ 161-32 Observance of safety rules; liability.

While performing the necessary work on private properties referred to in § **161-31** above, the Sewer Commission, Commission, Superintendent, Commissioner or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the town employees, and the town/city shall indemnify the company against loss or damage for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except such as may be caused by negligence or failure of the company to maintain safe conditions as required in Article **III**, § **161-24**.

§ 161-33 Use of easements.

The Sewer Commission, Commissioner, Superintendent, Commissioner and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town/city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. The Superintendent/Commissioner and other duly authorized employees of the town/city bearing proper credentials and identification shall be permitted to enter the building on private property to prevent any illegal discharge to the sewers.

Article VI
Industrial Pretreatment Program

§ 161-34 Authorized agent.

The Fitchburg Wastewater Treatment Facility, through its Commission or Commissioner, or his/her designee, shall constitute the town's authorized agent for its industrial pretreatment program, and for this purpose, the Sewer Commissioners may enter into a contract to provide for such service, which shall include sewer connection permit approval, discharge permitting and monitoring authority. Said

agent shall also have all legal remedies which would be available to the Sewer Commission, including recourse against collection system violators, which remedies shall include, but not be limited to, injunctive relief and suit for punitive damages. The Commission shall have full power and authority to promulgate 'Rules and Regulations' relating to all aspects of the federal pretreatment program, for all purposes set forth in MGL c.83, s.10, and to comply with federal law, including EPA regulations, state law and regulations, and to further the purposes and objectives of this chapter. Such 'Rules and Regulations' may include but not be limited to regulations for imposition of civil penalties, procedural regulations governing hearings and appeals, regulations imposing stricter requirements with respect to application for permits, issuance of permits, contents of permits, and modification or termination of permits issued by the Commission.

A. Permit application. All significant industrial users proposing to connect to or contribute to the POTW shall obtain a wastewater discharge permit or have a discharge agreement before connecting to or contributing to the POTW. Significant industrial users shall complete and file with the City an application for a wastewater discharge permit on a City-provided form. If additional pretreatment and/or operation and maintenance will be required to meet pretreatment standards, the user shall submit with his or her permit application the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The Commission will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Commission may issue a wastewater discharge permit subject to terms and conditions provided herein. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the certification required by 40 CFR 403.6(a)(2)(ii).

B. Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater discharge permit as required by Subsection **A** hereof, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the Commission within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by the City's Sewer Rules and Regulations.

C. Discharge document conditions. Discharge documents shall be made expressly subject to all the provisions of this chapter and to all other applicable federal, state and local laws and regulations and user charges and fees established by the City. A violation of any provision of this chapter or any other applicable state or federal law shall be deemed a violation of the permit.

D. Duration of discharge documents. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements identified in

Article III are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Discharge agreement term shall be based on actual conditions contained in specific document.

E. Transfer of discharge documents. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the Commission. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The transfer of discharge rights pursuant to agreement documents shall be based on conditions contained in the specific document.

§ 161-34A **Reporting Requirements.**

The reporting requirements for holders of wastewater discharge permits shall be the same as presented below:

A. Pretreatment Baseline Monitoring Report. Any User subject to Pretreatment Standards shall submit a baseline monitoring report (form supplied by the City) to the Pretreatment Coordinator by whichever deadline is later:

(1) Existing Sources. Either 180 days after the final administrative decision is made upon a category determination submission under 40 CFR 403.6(a)(4); or 180 days after the effective date of a Categorical Pretreatment Standard for that particular industry.

(2) New Sources. At least 90 days prior to commencement of their discharge, New Sources and sources that become Categorical Users after the promulgation of an applicable Categorical Standard shall submit to the Pretreatment Coordinator a report which contains the information listed below. A New Source shall report the method of pretreatment it intends to use to meet the applicable Categorical Pretreatment Standards. A New Source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(a) Measurement of pollutants.

i. The User shall take a minimum of one representative sample to compile data necessary to comply with monitoring requirements.

ii. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Pretreatment Coordinator;

iii. Sampling and analysis shall be performed in accordance with § 161-34B.C;

iv. The Pretreatment Coordinator may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

v. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

a. Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in § 161-1 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

b. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in § 161-34A.B of this Chapter.

c. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with § 161-34A.F of this Chapter and signed by an Authorized Representative as defined in § 161-1.

B. Compliance Schedule Report. If additional pretreatment and/or operation and maintenance procedures will be required to meet the Pretreatment Standards, the User shall submit a schedule for compliance with said Standards.

(1) The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, etc.). No increment shall exceed 9 months.

(2) The completion date in the compliance schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. Not later than 14 days following each date in the schedule, the User shall submit a progress report to the Pretreatment Coordinator, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Pretreatment Coordinator.

C. Report on Compliance with Categorical Pretreatment Standard Deadlines. Any User presently

discharging to the POTW and subject to Categorical Pretreatment Standards shall submit a report within 90 days following the date for final compliance with said Standards. New Users shall submit this report following commencement of the introduction of wastewater into the POTW. The User shall supply the following information on a form supplied by the City:

(1) The nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards. Sampling shall be conducted in accordance with 40 CFR part 136 and §161-34B.C.

(2) The average and maximum daily flow for those process units of the Industrial User which are limited by such Pretreatment Standards or Requirements.

(3) Whether applicable Pretreatment Standards and requirements are being met, and if not, what additional pretreatment and/or operation and maintenance procedures are needed to bring the User into compliance.

(4) Additional information as required by 40 CFR 403.12(d) or as required by the Pretreatment Coordinator or the Commission.

(5) This statement shall be signed by an Authorized Representative of the User, as specified in 40 CFR 403.12(d).

D. Periodic Compliance (Self-Monitoring) Reports. Any User subject to a Categorical Pretreatment Standard after the compliance date of such Pretreatment Standard, or in the case of a New Source, after commencement of the discharge into the POTW, shall submit ***Quarterly Self-Monitoring Compliance Reports*** to the Pretreatment Coordinator by or before ***April 1st***, ***July 1st***, ***October 1st***, and ***January 1st***, unless required more frequently in the Pretreatment Standard, or by the Pretreatment Coordinator or Deputy Commissioner, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in the baseline monitoring report, except that the Pretreatment Coordinator may require more detailed reporting of flows.

(1) All wastewater samples must be representative of the User's discharge.

(2) Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(3) In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Commission or the Pretreatment Standard necessary to determine the compliance status of the User.

(4) At the discretion of the Pretreatment Coordinator and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Pretreatment Coordinator may agree to alter the months during which the above reports are to be submitted.

(5) Significant Non-categorical Users shall submit periodic compliance reports at least once every six months in accordance with 40 CFR 403.12(h) or as required by the Pretreatment Coordinator.

(6) If the Industrial User monitors any pollutant more frequently than required by the POTW, the results of this monitoring shall be included in this report.

(7) This statement shall be signed by an Authorized Representative of the User, as specified in 40 CFR 403.12(d).

E. Reports of Changed Conditions. Each User must notify the Commissioner and Pretreatment Coordinator of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

(1) The Pretreatment Coordinator may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 161-34 of this chapter.

(2) The Commission may issue an individual wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

(3) Significant Industrial Users are required to notify the Pretreatment Coordinator immediately of any changes at its facility affecting the potential for a slug discharge.

F. Certification Statements.

(1) The following certification statement is required to be signed by Users submitting baseline monitoring reports, pretreatment compliance reports, periodic compliance reports, self-monitoring reports and permit applications.

(a) "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."

G. Date of Receipt of Reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

H. Accidental/Slug Discharges Report. In the event of an accidental discharge into the sanitary sewer of any wastes which might pose a hazard to the POTW treatment processes, personnel or sludge disposal

methods or the discharge of a slug as defined herein, the Pretreatment Coordinator must be notified by the User within one hour after discovery. Notification shall include location of discharge, type of waste, concentration and volume and corrective actions. A written report must be submitted within five days, stating what occurred and the corrective actions taken so that further accidental discharges will not occur. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

I. Upset Reporting. The occurrence of an Upset, as defined in § 161-1, shall constitute an affirmative defense for an Industrial User to an action brought for noncompliance with Categorical Pretreatment Standards and local and state requirements. The burden of proof for such upset shall rest on the Industrial User. The Industrial User must notify the Pretreatment Coordinator immediately after becoming aware of the Upset. The Industrial User must have evidence to demonstrate the following conditions:

(1) An Upset occurred and the Industrial User can identify the specific cause(s) of the Upset.

(2) The treatment facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(3) The Industrial User has submitted the following information to the Pretreatment Coordinator within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):

(a) A description of the discharge and cause of noncompliance.

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

(c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the User, seeking to establish the occurrence of an Upset, shall have the burden of proof.

(5) The Industrial User shall control production and all discharges to the extent necessary to return to compliance with Categorical 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.

(6) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records and information obtained pursuant to any monitoring activities required by this chapter or by order of the Commission or Pretreatment Coordinator any additional records or information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Such records shall include:

(a.) The date, exact place, method and time of sampling and the name(s) of the person(s) taking the samples.

(b.) The dates analyses were performed.

(c.) Who performed the analyses.

(d.) The analytical techniques/methods used.

(e.) The results of such analyses.

(7) Any Industrial User subject to the reporting requirements established in this chapter shall be required to maintain for a minimum of three years all records of monitoring activities and results. Records shall be made available for inspection and copying by the Pretreatment Coordinator. The period of retention shall be extended during the course of any unresolved litigation relating to the Industrial User, the City or the POTW, or where the User has been specifically notified or ordered to retain records for a longer period by the Commission or Pretreatment Coordinator.

J. Sludge Documentation. The transportation and/or disposal of sludges generated by pretreatment shall be subject to applicable Federal, State and local regulations. The Industrial User shall be responsible for documenting the transporting and/or disposal of all pretreatment sludges. Receipts and other documentation shall be kept for a minimum of three years and shall be made available to the Pretreatment Coordinator upon request.

K. Intercepted and Separated Materials. Upon request by the Pretreatment Coordinator, a User having an interceptor or separator must state specifically how the waste oil, grease, solvent, paint, etc., is disposed of and must provide evidence of such disposal service when required by the Pretreatment Coordinator. Records and receipts must be kept which demonstrate that these waste materials were contained and transported in a safe manner as prescribed by the rules of regulatory agencies, including but not limited to the United States Department of Transportation, and handled by reputable persons who shall dispose of all such wastes in accordance with all Federal, State and local regulations.

L. Truth in Reporting. The reports required by this section shall comply with and be subject to the provisions of the United States Code (18 U.S.C. § 1001) relating to fraud and false statements; the provisions of Section 309(c)(4) of the Act governing false statements, representation or certification; and the provisions of Section 309(c)(6) of the Act regarding responsible corporate officers.

M. Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a User indicates a violation, the User must notify the Pretreatment Coordinator within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Pretreatment Coordinator within 30 days after becoming aware of the violation. The User is not required to resample if the Pretreatment Coordinator monitors at the User's facility at least once a month or if the Pretreatment Coordinator samples at a time between the User's initial sampling and the time when the User received the results of this initial sampling.

N. Notification of the Discharge of Hazardous Waste.

(1) Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents in the wastestream discharged during the calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, reports of changed conditions must be submitted under § 161-34A.E of this chapter. The notification requirement in this section does not apply to pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of this chapter.

(2) Dischargers are exempt from the requirements of Subsection N(1) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as set forth in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

(3) If new regulations under Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or any other Federal or State statute identify additional characteristics of hazardous waste or list any additional substance as a hazardous waste, the User must notify the Pretreatment Coordinator, the EPA Regional Waste Management Waste Division Director and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

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

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, by a permit issued hereunder or by any applicable Federal or State law.

O. Analytical requirements. All pollutant analysis, 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 and § 161-34B, 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 must be performed in accordance with procedures approved by EPA.

§ 161-34B Self-Monitoring Regulations.

A. Requirements. Periodic measurements of flow, suspended solids, BOD_5 and other appropriate waste characteristics shall be made by those Users specifically designated by the Commission. The Commission shall determine the number of twenty-four-hour flow measurements and samples required. All samples taken by the Industrial User shall be divided with the City for testing as specified by the Commission. Continuous monitoring may be required in cases involving large fluctuations in quantity or quality of wastes or if the wastewater appears to have characteristics which may damage the treatment system. The acceptability of any monitoring results shall be determined by the Commission. Self-monitoring frequency, parameters and location shall be specified by the Commission and stated on the User's discharge permit.

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

C. Measurements. All measurements, tests and analyses of the characteristics of wastewaters to which reference is made in this chapter shall be determined and performed in accordance with standard laboratory procedures and in accordance with § 161-34A.O of this chapter. In the event that no special structure has been required by the Commission, samples shall be taken at suitable locations within the establishment from which the wastewaters are being discharged. Sampling shall be carried out by accepted methods specifically designed to obtain representative samples of the total wastewater discharge and of slugs if any occur. Frequency of sampling shall be established by the Commission on an individual basis and stated in the User's permit. Any costs involved in examination and tests shall be paid by the individual industry. The Pretreatment Coordinator may check these tests as necessary.

(1) Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(a) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(b) For sampling required in support of baseline monitoring and 90-day compliance reports a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the Pretreatment Coordinator may authorize a lower minimum. For periodic compliance reports and reports on compliance with Pretreatment Standards the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

(c) Except for those pollutants that are required to be measured by grab samples (referenced above), all other pollutants will be measured using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is representative of the discharge and is authorized by the Pretreatment Coordinator.

(d) Samples should be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula CFR 403.6(e) in order to evaluate compliance with Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 403.6(e), this adjusted limit along with supporting data shall be submitted to the POTW.

§ 161-34C **Pretreatment of Industrial Wastewater.**

A. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits and prohibitions set out in Article V, within the limitations set by the EPA, the Commonwealth of Massachusetts or the Commission, whichever limitation is the most stringent. Any facilities required to pretreat wastewater to a level acceptable to the Commission shall be provided, operated and maintained at the User's expense.

B. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Pretreatment Coordinator for review and shall be acceptable to the Pretreatment Coordinator before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Commission under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the Pretreatment Coordinator and be acceptable to the Pretreatment Coordinator prior to the User's initiation of the changes.

§ 161-34D **Confidential Information.**

A. Information and data on a User obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the Commission that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the Commonwealth or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

C. Information accepted by the Commission as confidential shall not be transmitted to any governmental agency or to the general public by the Commission until and unless a ten-day notification is given to the User.

§ 161-34E Publication of Users in Significant Violation.

A. The Commission shall publish annually, in the largest daily newspaper in the City, a list of the Users which, during the previous 12 months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term "Significant Noncompliance" shall be as defined in § 161-1.

Article VII
Violations and Penalties

§ 161-35 Violations.

A. Any person who fails to comply with this chapter and/or its rules and regulations promulgated hereunder shall be subject to enforcement actions by the Town/City in accordance with the remedies detailed in this Article VII, and in accordance with the Sewer Rules and Regulations.

B. When the Pretreatment Coordinator finds that a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Pretreatment Coordinator may serve upon that User a written Notice of Violation. Within 10 days of the receipt of such notice, the User shall submit a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, including its plan for implementing specific required actions. Submission of a plan shall not relieve the User of any liability for any violations occurring before or after receipt of the notice or order, nor shall corrective action undertaken by a User be deemed a defense to the impositions of civil penalties imposed under this chapter.

C. Effective date. Any notice or order issued under this chapter is effective immediately, according to its terms, when it is served.

§ 161-36 Civil Penalties.

A. The Sewer Commission/Commission shall prescribe and establish civil administrative penalties for violations of this chapter, or orders of the Sewer Commission/Commission or Superintendent/Commissioner, or his/her designee, the conditions of the permit, pretreatment standards and any federal and state requirement applicable to users discharging into the POTW system. The penalties shall be not more than $5,000 for each violation. Each day on which the violation(s) exists shall be deemed a separate violation.

B. When the Superintendent/Commissioner, or his/her designee, finds that a user has violated or

continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent/Commissioner, or his/her designee, may fine such user in an amount not to exceed $5,000 per violation for each day of violation. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(1) Fines shall be assessed at two hundred dollars ($200.00) per violation per day for the first violation and increase by two hundred dollars ($200.00) per day for each subsequent violation to a maximum of five thousand dollars ($5,000.00) per violation per day.

(2) If the industry/permittee remains in full compliance for one year from the date the fine was assessed, the assessment cycle shall begin anew and any subsequent fines will be assessed as described above beginning at two hundred dollars ($200.00) per violation per day.

C. The Sewer Commission/Commissioner 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/City.

D. In determining the amount of civil liability, the Town/City shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

E. Issuance of an administrative fine shall not be a bar against, or a prerequisite for taking any other enforcement and penalty action against the User.

§ 161-37 **Criminal Penalties.**

A. Any user or person who violates any provision of this chapter, a wastewater discharge permit or order issued pursuant to this chapter or any pretreatment standard or requirement shall, upon conviction, be punished by a fine of not more than $300 per violation per day.

B. Any person who makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by this chapter or discharge permits or who falsifies, tampers with or knowingly renders inaccurate monitoring device or method required by this chapter shall, upon conviction, be punished by a fine of $300 per violation.

C. A User who knowingly or with a wanton or reckless disregard causes or permits any substance to be introduced into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a fine as set forth in ***§ 161-37.A***. This penalty shall be in addition to any other civil fine or cause of action for personal injury or property damage available under State law.

Article VIII
General Provisions

§ 161-38 Repealer.
All bylaws or parts of bylaws in conflict herewith are hereby repealed.

§ 161-39 Severability.
The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

§ 161-40 Effect on City of Fitchburg ordinance.
These Sewer Use Rules and Regulations shall not contravene, nor render ineffective any of the lawfully established ordinances of the City of Fitchburg titled "Ordinance Governing the Discharge of Waters and Wastes Into the Public Sewer System."

§ 161-41 When effective.
This chapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

A True Copy, Attest:

Ellen M. Sheehan, CMMC
Westminster Town Clerk