

ARTICLE III. WATER SYSTEM

DIVISION 1. GENERALLY

Secs. 26-54—26-79. Reserved.

DIVISION 2. WATER SERVICE

Sec. 26-80. Water connections to be made by the town.

The town superintendent or other authorized officer of the town shall be responsible for:

- (1) Connecting water pipes to the town water system;
- (2) Extending service lines from the individual property boundaries to the town water system; and
- (3) Installing water meters and meter boxes.

(Code 1988, § 6-1; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-81. Alteration of connections.

No person shall make any alteration of or addition to a connection to the town water system without first obtaining the written permission of the town superintendent or other authorized official.

(Code 1988, § 6-2; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-82. Opening of water valve.

The town will open the valve to allow water on a lot when requested by the occupant, contractor, or developer, provided that all required fees have been paid. Except for licensed plumbers, who may turn on water valves for testing purposes, no other person may turn on valves to allow water onto a lot.

(Code 1988, § 6-3; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-83. Service inside of property lines.

Town employees will do no work inside of property lines except for the installation of a water meter where the town superintendent has authorized its installation within the landowner's property lines.

(Code 1988, § 6-4; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-84. Fire hydrants.

Members of the fire department, in the course of their official duties, may use and manipulate fire hydrants. Otherwise, no one may use or manipulate fire hydrants located within the town unless authorized to do so by the town superintendent or an official of the police or fire departments.

(Code 1988, § 6-5; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-85. Water to be metered.

Wherever practicable, all water furnished by the town shall be measured by meters furnished and installed by the town. The water meters shall be the property of the town, and unless otherwise authorized by the town superintendent, they shall be placed as near to the curb line as possible on property owned by the town. Each individual residence or property shall be required to have a separate connection and meter unless otherwise authorized by the town superintendent.

(Code 1988, § 6-6; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-86. Tampering with waterworks.

No person, except a duly authorized official of the town, may remove, injure, or tamper with any part of the town's water system.

(Code 1988, § 6-7; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-87. Connection charges.

Before any person shall be allowed to connect to the town's water system, he shall pay a connection fee as established by the town council from time to time. (Persons seeking connections out of town shall pay 150 percent of the applicable connection fee.) Additionally, persons seeking connection to the water system shall pay all of the town's costs for labor and material (including the meter) plus a surcharge of ten percent.

(Code 1988, § 6-8; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-88. Mandatory water connection.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Facility means any dwelling, business, office, or other improvement of property. The term "facility" also includes agricultural uses of unimproved property.

Person means any natural person, corporation, firm, partnership, company, association, or other entity.

- (b) All facilities using water shall connect to the town's water distribution system if and when the town's system is within 100 feet of the lot on which the facility sits.
- (c) It shall be unlawful for a person to allow a facility to make use of water from a well or other source not part of the town's water distribution system, except bottled water may be used for human consumption and similar purposes.
- (d) Exemptions.

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- (1) The provisions of subsection (c) of this section shall not apply where (and to the extent that) the town superintendent has certified in writing that the town cannot provide water of the type or quantity reasonably required by the facility. For example, in appropriate cases, the town superintendent could find that:
 - a. An agricultural user reasonably requires untreated water for economic reasons; or
 - b. An industry could require more water than the town can reasonably deliver.
 - (2) Even where this exemption is invoked, the facility shall be required to obtain its water from the town distribution system to the extent the town can meet its requirements. Further, this exemption shall expire when the town superintendent certifies that the town can materially meet the facility's reasonable requirements.
 - (e) When a facility makes use of an alternative water source at the time it is annexed into town, the town superintendent may suspend the provisions of subsections (b) and (c) of this section for a fixed period of time, depending upon the owner's investment in the alternative water source, the expected life of the alternative water source, the health risk imposed by the alternative water source, any potential injury to the town's water source caused by the alternative source, and whether the town can economically forego connection.

(Code 1988, § 6-8.1; Ord. of 4-1-1991; Ord. of 7-13-1998; Ord. of 8-3-1998; Ord. of 3-5-2001)

Secs. 26-89—26-119. Reserved.

DIVISION 3. CROSS-CONNECTION

Sec. 26-120. Incorporation of waterworks regulations.

The provisions of 12 VAC 5-590-60 enacted by the state board of health pursuant to Code of Virginia, § 32.1-170 is hereby incorporated into this title.

(Code 1988, § 6-9; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007; Ord. of 7-1-2019)

Sec. 26-121. Cross-connection control program.

The town superintendent shall adopt and implement a cross-connection control and backflow prevention program in accordance with 12 VAC 5-590-600(B).

(Code 1988, § 6-9.1; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007)

Sec. 26-122. Discontinuance of service.

The town may deny or discontinue the water service to a consumer if a backflow prevention device is not installed. If it is found that any such device has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below ten psi gauge, the town shall take positive action to ensure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with commonwealth waterworks regulations and to the satisfaction of the town.

(Code 1988, § 6-10; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007)

Sec. 26-123. Protection of potable water supplies.

The potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this division. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as "water unsafe for drinking" in a conspicuous manner.

(Code 1988, § 6-11; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007)

Secs. 26-124—26-144. Reserved.***DIVISION 4. DROUGHT MANAGEMENT*****Sec. 26-145. Title.**

This division shall be known and may be cited as the "Drought Management Ordinance."

(Code 1988, § 6-87; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-146. Purpose.

The purpose of this division is to provide for the voluntary and mandatory restriction of use of the town public water supply system during declared water shortages or water emergencies.

(Code 1988, § 6-88; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-147. Scope.

This division shall apply to all town residents and businesses which are served by the public water supply.

(Code 1988, § 6-89; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-148. Drought response plan.

The town council has adopted by resolution the Upper Shenandoah River Basin Regional Water Supply Plan.

(Code 1988, § 6-90; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-149. Drought indicators.

The indicators used to indicate drought severity shall be determined by watching well levels in the town. Upon determination that indicators exceed the threshold of a drought stage, as set forth in appendices A and B of the Upper Shenandoah River Basin Regional Water Supply Plan, the town may declare a specific drought stage.

(Code 1988, § 6-91; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-150. Drought stage.

The drought stages shall be drought watch, drought warning, and drought emergency, as determined by the town pursuant to the Upper Shenandoah River Basin Regional Water Supply Plan and state water control board regulation 9 VAC 25-120.

(Code 1988, § 6-92; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-151. Declaration.

Upon the finding by the town council that a drought stage exists, as defined in section 26-150, the town may issue a declaration of a drought stage. The town may declare a drought stage in the absence of a declaration by the commonwealth. The town must declare a drought stage upon declaration by the commonwealth that such a drought stage exists in the town.

(Code 1988, § 6-93; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-152. Drought stage response.

Upon notification to the town superintendent of a drought watch or drought warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Upper Shenandoah River Basin Regional Water Supply Plan (the "plan"). Upon declaration of a drought emergency, mandatory restrictions shall apply as set forth in the plan and in this division.

(Code 1988, § 6-94; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-153. Waiver of restriction.

Upon prior written request by an individual, business, or other water user, the town council, or its designee, the town superintendent may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial manner not common to other businesses or persons generally. No waiver shall be granted by the town council or its designee unless the town council or its designee determines that the public health, safety, and welfare will not be affected by the waiver. All waivers granted by the town council or its designee shall be reported at the town council's next regular or special meeting.

(Code 1988, § 6-95; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-154. Penalties.

First offense violations of this division shall constitute a Class 4 misdemeanor payable by a fine of \$100.00. Second and subsequent violations of this division occurring during the continuance of the same drought emergency shall be a Class 4 misdemeanor payable by a fine of \$250.00.

(Code 1988, § 6-96; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Secs. 26-155—26-176. Reserved.

ARTICLE IV. SEWER SYSTEM¹

DIVISION 1. GENERALLY

Sec. 26-177. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Authorized representative of industrial user means the duly authorized representative of an industrial user who is responsible for the overall operation of the facilities from which the indirect discharge originates.

Authority means the Harrisonburg-Rockingham Regional Sewer Authority, a public body politic and corporate, created pursuant to the state Water and Sewer Authorities Act, or its duly authorized representative.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 26-206. 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. Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).

Building sewer means a sewer conveying wastewater from the premises of a user to the system.

Categorical pretreatment standards or categorical standards means the national categorical pretreatment standards applicable to a specific category of industrial users.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, and to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

End of pipe means the location at which any private or industrial user connects to the public sewer (collection) system.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the EPA Regional Administrator or other duly authorized official of said agency.

¹State law reference(s)—Authority of town to establish, maintain, and operate sewage disposal system, Code of Virginia, § 15.2-2111.

Executive director means the person designated by the authority to supervise the operation of the portion of the system owned by the authority or her duly authorized representative.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of duration.

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

Human waste means waterborne human excrement as may be present from residences, buildings, industrial users or other places.

Indirect discharge or *discharge* means the discharge or the introduction of pollutants into the system from any non-domestic source.

Industrial user means a source of indirect discharge.

Instantaneous limit means 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 means the inhibition or disruption of the town's or authority's wastewater conveyances, treatment processes or operations. The term "interference" includes prevention of or interference with sewage sludge use or disposal by the town or authority.

Local limits means concentration based or other limits for designated parameters (see section 26-206(13)). Local limits apply at end of pipe and are expressed as maximum per day limits, or as otherwise specifically provided.

Member jurisdictions means the City of Harrisonburg, the county, and the towns of Bridgewater, Dayton, and Mt. Crawford which individually collect wastewater within their respective jurisdictions for treatment by the authority.

National Pollutant Discharge Elimination System Permit (NPDES or VPDES) means a permit issued pursuant to section 402 of the Act (33 USC 1342).

National Pretreatment Standards means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317(b), (c)) which applies to industrial users.

New source.

- (1) The term "new source" means 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 National 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;
 - 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.
- (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 (1)b or c of this definition but otherwise alters, replaces or adds to existing process or production equipment.

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- (3) Construction of a new source as defined under subsection (1) of this definition has commenced if the owner or operator has:
- a. Begun, or caused to begin as part of a continuous onsite construction program, any placement, assembly, or installation of facilities or equipment, or 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 definition.

North American Industry Classification System (NAICS) means the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and *publishing* statistical data related to the U.S. business economy. The NAICS industry codes define establishments based on the activities in which they are primarily engaged.

Pass through means a discharge which exits the system into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge from other sources, are a cause of a violation of any requirement of the authority's VPDES Permit (including an increase in the magnitude or duration of a violation). An industrial user significantly contributes to such permit violation where it:

- (1) Discharges a daily pollutant loading or concentration in excess of that allowed by the authority or by federal, state or local law;
- (2) Discharges wastewater which substantially differs in nature and constituents from the user's average discharge;
- (3) Knows or has reason to know that its discharge, alone or in conjunction with discharges from other sources, would result in a permit violation; or
- (4) Knows or has reason to know that the authority is, for any reason, violating its final effluent limitations in its permit and that such industrial user's discharge either alone or in conjunction with discharges from other sources, increases the magnitude or duration of the authority's violations.

Person means any individual, partnership, firm, company, corporation, cooperative, association, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions.

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the system.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Publicly Owned Treatment Works (POTW) means a treatment works, as defined by section 212 of the Clean Water Act (33 USC 1292), which is owned by the authority. This term "publicly owned treatment works" includes

any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Significant industrial user means:

- (1) All industrial users subject to categorical pretreatment standards;
- (2) Any industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the authority (excluding human waste, noncontact cooling and boiler blowdown wastewater);
- (3) Any industrial user that contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the authority treatment plant; or
- (4) Any industrial user that is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting the authority's operation or for violating any pretreatment standard or requirement.

Significant noncompliance. A user is in significant noncompliance if its violations meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter, including instantaneous limits, as defined by 9 VAC 25-31-10;
- (2) Technical review criteria (TRC) violations defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit, including instantaneous limits, as defined by 9 VAC 25-31-10; 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 effluent limit or requirement as defined by 9 VAC 25-31-10 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of authority 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 authority's exercise of its emergency authority 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 wastewater discharge permit 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; or
- (8) Any other violation or group of violations that may include a violation of best management practices which the authority determines will adversely affect the operation or implementation of the pretreatment program.

Slug loading or slug discharge means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 26-206. Any discharge of 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.

Soluble BOD (sBOD) means the BOD result on a sample that is filtered through a 0.45 µm pore size filter.

Standard Industrial Classification (SIC) means a classification pursuant to the standard industrial classification manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

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

Superintendent means the town superintendent, or his authorized deputy, agent or representative.

System means the treatment plant, works and facilities owned by the authority, including all sewer lines that convey wastewater to the treatment plant, and, in addition, the term "superintendent" includes the sewer lines owned by the town.

Total Kjeldahl Nitrogen (TKN) means organic nitrogen plus ammonia, as defined by the named analytical procedure.

Total Suspended Solids (TSS) means the total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provision of section 307(a) of the Act.

Treatment plant means that portion of the system designed to provide treatment to wastewater.

User means any person who causes or permits the contribution of wastewater into the system.

Wastewater means the liquid or water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with all other wastes which may be present, whether treated or untreated, which are contributed into or permitted to enter the system.

Wastewater discharge permit means as set forth in section 26-221.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. of 5-1-2018, § 6.12; Ord. of 8-9-2021, § 6.12)

Sec. 26-178. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD means biochemical oxygen demand.

CFR means the Code of Federal Regulations.

COD means chemical oxygen demand.

l means liter.

mg means milligrams.

mg/L means milligrams per liter.

µm means micrometer.

RCRA means the Resource Conservation and Recovery Act.

SWDA means the Solids Waste Disposal Act, 42 USC 6901 et seq.

USC means the United States Code.

TSS means total suspended solids.

NPDES/VPDES means the National/Virginia Pollutant Discharge Elimination System.

(Ord. of 5-1-2018, § 6.12.1; Ord. of 8-9-2021, § 6.12.1)

Secs. 26-179—26-205. Reserved.

DIVISION 2. REGULATIONS

Sec. 26-206. General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause a pass through or an interference with the operation or performance of the system. This general prohibition applies to all users of the system whether or not the user is subject to national pretreatment standards or any other national, state, or local requirements. A user may not contribute the following substances directly or indirectly to the system:

- (1) 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 hazard, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
- (2) Unusual concentrations of total suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residue), or any solid or viscous pollutants in amounts that will cause obstruction to the flow in the system.
- (3) Any wastewater having a pH less than 5.5, or wastewater having any other corrosive property capable of causing damage or creating a hazard to the system or personnel of the authority or town.
- (4) Any wastewater containing or which result in the presence of toxic pollutants or gases, vapors or fumes in sufficient quantity, either alone or by interaction with other pollutants, which injures any wastewater treatment process, may cause acute worker health or safety problems, creates a toxic effect in the receiving waters of the authority or town, or exceeds the limitation set forth in a categorical standard. A toxic pollutant shall include, but not be limited to, any pollutant identified as such pursuant to section 307(a) of the Act.
- (5) Any noxious or malodorous liquids, gases or solids which, either alone or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent personnel of the authority or town from entering into the sewers for maintenance and repair.
- (6) Any substance which may cause the authority's effluent or any other product of the authority, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall any substance discharged to the system cause the authority to violate any applicable sludge use or disposal criteria, or regulations developed therefor.

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- (7) Any substance which will cause the authority to violate its VPDES permit or applicable water quality standards of the receiving water.
 - (8) Any wastewater with objectionable color which cannot be removed by the treatment plant, such as, but not limited to, dye waste and vegetable tanning solutions.
 - (9) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater with a temperature that causes the temperature of the combined wastewater of all users at the treatment plant to exceed 37 degrees centigrade (98.6 degrees Fahrenheit).
 - (10) Slug loading prohibited by this division.
 - (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the authority.
 - (12) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit.
 - (13) a. Any wastewater, which at the end of pipe location, exceeds the following local limits for the listed parameters:

<i>Parameter</i>	<i>Maximum Daily Limit (mg/L)</i>
Arsenic	0.51
Cadmium	0.09
Chromium	4.4
Copper	1.7
Cyanide	2.2
Lead	1.21
Mercury	0.002
Nickel	1.5
Selenium	0.41
Silver	2.8
Zinc	5.0

<i>Parameter</i>	<i>Maximum Daily Limit (mg/L)</i>	<i>Monthly Average Limit (mg/L)</i>	<i>Monthly Average Concentration (mg/L)</i>
BOD	500	350	N/A
TSS	500	350	N/A
TKN	100	N/A	70.0
Total Phosphorus	20	N/A	14.0
Nitrate + Nitrite	10.0	N/A	N/A
Oil & Grease	100	N/A	N/A

pH	(Range in standard units) 5.5—9.5	N/A	N/A
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- b. The executive director of the authority may impose mass limitations in place of the concentration-based limits in subsection (13)a of this section with respect to any user other than a significant industrial user. If any measured values of these parameters are over the limits listed in subsection (13)a of this section, the authority will determine if an industrial user designation is required.
 - c. The sample type for oil and grease and pH shall be a grab sample. The sample type for all other parameters shall be a 24-hour composite sample (or for the time period discharges occur if less than 24 hours). Compliance with a maximum daily limit shall be based on a single composite sample when there is only one sample in a 24-hour period, or an average of multiple composite samples in a day. Compliance with a monthly average limit shall be based on an average of all of the values for a specific parameter within a calendar month. Under no circumstances may grab samples be averaged.
 - d. Discharges of each single sample of TKN and total phosphorus in excess of the respective monthly average concentration shown in the table above but below the maximum daily limit shall not be considered an exceedance or a violation of the local limits. All discharges of TKN and total phosphorus in excess of the respective monthly average concentration shall be subject to the treatment cost recovery fees in section 26-218.
- (14) Any trucked or hauled pollutants, except at discharge points designated by the authority, and pursuant to specific authorization of a wastewater discharge permit pursuant to this article or other written authority authorization.
 - (15) Petroleum oil, nonbiodegradable cutting oil, or products containing mineral oil in amounts that will cause interference or pass through.
 - (16) Any wastewater containing quantities of pollutants which exceed the applicable limitations set forth in a National Pretreatment Standard as such standards may be revised from time to time.
 - (17) Unusual concentrations of biochemical oxygen demand, at a flow rate or pollutant concentration that will cause interference.
 - (18) Any stormwater or water from any roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains.

(Ord. of 5-1-2018, § 6-13; Ord. of 8-9-2021, § 6-13)

Sec. 26-207. Prohibited substances and materials.

- (a) No person shall discharge or cause to be discharged, either directly or indirectly, any wastewater, sewage or waste to the system which will cause a pass through or an interference with the operation or performance of the treatment plant or the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the authority or town, that such wastes can harm the system, have an adverse effect on the waters of the state or can otherwise endanger life, limb, public property or constitute a nuisance. Consideration will be given 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 sewage treatment process, capacity of the treatment plant, degree of treatability of wastes in the treatment plant and other pertinent factors. The substances prohibited are:

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- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
 - (2) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the town or the authority.
 - (3) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.
 - (4) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the wastewater at the treatment plant exceeds the limits established by the authority for such materials.
 - (5) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the authority as necessary, after treatment of the wastewater, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the waters of the state.
 - (6) Materials which exert or cause unusual concentrations of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) not to exceed 750 mg/L.
- (b) When the authority or town determines that a user is violating this section, the violator may be subject to the enforcement actions in sections 26-226 through 26-233.
- (Ord. of 5-1-2018, § 6-14; Ord. of 8-9-2021, § 6-14)

Sec. 26-208. Federal categorical pretreatment standards compliance.

Compliance by existing sources with categorical standards is required under federal law within three years of the date the standard is effective, unless a shorter compliance time is specified within the standard. Compliance by new sources is required under federal law on the date the standard is effective.

- (1) *Nonsignificant categorical industrial users.* The authority may determine that a categorical industrial user is a nonsignificant 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, noncontact cooling and boiler blowdown wastewater, unless specifically included in the standard) and the following conditions are met:
 - a. The industrial user, prior to the authority'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 CFR 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.
- (2) *Equivalent limitations to those expressed as mass.*
 - a. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
 - b. In any such case, the authority, in calculating equivalent mass-per-day limitations, shall calculate such limitations by multiplying the limits in the categorical standard by the industrial user's average rate of production. This average rate of production shall be based not upon the designed

production capacity but rather upon a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

- c. Further, in any such case, the authority, in calculating equivalent concentration limitations, shall calculate such limitations by dividing the mass limitations derived as provided in subsection (2)b of this section by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.

(3) *Equivalent limitations to those expressed as concentration.*

- a. When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the authority. The authority may establish equivalent mass limits only if the industrial user meets all the following conditions:
 - 1. To be eligible for equivalent mass limits, the industrial user must:
 - (i) Employ, or demonstrate that he will employ, water conservation methods and technologies that substantially reduce water use during the term of its wastewater discharge permit;
 - (ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical standard, and not have used dilution as a substitute for treatment;
 - (iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;
 - (iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
 - (v) Have consistently complied with all applicable categorical standards during the period prior to the industrial user's request for equivalent mass limits.
 - 2. Further, an industrial user subject to equivalent mass limits must:
 - (i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - (ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - (iii) Continue to record the facility's production rates and notify the authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined initially. Upon notification of a revised production rate, the authority will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

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- (iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented so long as it discharges under an equivalent mass limit.
 - b. The authority, if it establishes equivalent mass limits, will:
 - 1. Calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes of the industrial user by the concentration-based daily maximum and monthly average limits for the applicable categorical standard and the appropriate unit conversion factor;
 - 2. Upon notification of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility;
 - 3. Retain the same equivalent mass limit in a subsequent wastewater discharge permit if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment. The industrial user must also be in compliance with 40 CFR 403.17 regarding the prohibition of bypass.

The authority will not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(Ord. of 5-1-2018, § 6-15; Ord. of 8-9-2021, § 6-15)

Sec. 26-209. Modification of federal categorical pretreatment standards.

When the system achieves consistent removal (as defined by 40 CFR 403.7) of pollutants limited by categorical standards, the authority may in its discretion apply for modification of specific limits in the categorical standards. The authority may then modify pollutant discharge limits in the categorical standards to reflect such removal credits if the requirements contained in 40 CFR 403.7 are met and prior EPA approval is obtained.

(Ord. of 5-1-2018, § 6-16; Ord. of 8-9-2021, § 6-16)

Sec. 26-210. Specific pollutant limitations.

The authority has established local limits in section 26-206(13), applicable to all users. The authority further reserves the right to set specific numerical limitations on the quantity of pollutants discharged by any user to the system. Such further limitations may affect a single user, a category of users, or all users and will be set at such limits which will further the objectives of this article.

(Ord. of 5-1-2018, § 6-17; Ord. of 8-9-2021, § 6-17)

Sec. 26-211. State requirements.

Any applicable state requirements and limitations on discharges shall apply in any case where they are more stringent than requirements established by the authority.

(Ord. of 5-1-2018, § 6-18; Ord. of 8-9-2021, § 6-18)

Sec. 26-212. Authority's right of revision.

The authority reserves the right to modify the wastewater discharge permits, limitations or requirements on discharges to the system as it determines necessary to comply with the objectives of this division.

(Ord. of 5-1-2018, § 6-19; Ord. of 8-9-2021, § 6-19)

Sec. 26-213. Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this division, the categorical standards or any other federal, state or local law or regulation.

(Ord. of 5-1-2018, § 6-20; Ord. of 8-9-2021, § 6-20)

Sec. 26-214. Accidental discharges.

Each user shall provide protection from accidental discharge of prohibited pollutants or other substances regulated by this division. In case of an accidental discharge, it is the responsibility of the user to immediately telephone and otherwise notify the authority of the incident. The notification shall include the location of the discharge, type of waste, concentration, volume, and corrective actions.

- (1) *Written notice.* Within five days following an accidental discharge, the user shall submit to the authority and town a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the system, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any civil penalties or other liability which may be imposed under this division or other applicable law.
- (2) *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 dangerous or accidental discharge.

(Ord. of 5-1-2018, § 6-21; Ord. of 8-9-2021, § 6-21)

Sec. 26-215. New or increased wastewater.

- (a) The authority may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the system by any user where such contributions do not meet applicable pretreatment standards or requirements or where such contributions would cause a risk of pass through or interference to the system.
- (b) All industrial users shall promptly notify the authority of any significant changes to the user's operations or systems which might alter the nature, quality, volume, or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under section 26-217 at least 30 days before the change. The executive director 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 section 26-221(1). The executive director may issue an individual wastewater discharge permit under section 26-221 or modify an existing wastewater discharge permit under section 6-28(2) in response to changed conditions or anticipated changed conditions.

(Ord. of 5-1-2018, § 6-22; Ord. of 8-9-2021, § 6-22)

Sec. 26-216. Notification of problem discharges.

All industrial users shall notify the authority and town immediately of all discharges that could cause problems to the system, including, but not limited to, any slug loadings by such users. This notification shall be followed up within five days by written notification as provided in section 26-214. Significant industrial users are required to notify the authority immediately of any changes at its facility affecting potential for a slug discharge.

(Ord. of 5-1-2018, § 6-23; Ord. of 8-9-2021, § 6-23)

Sec. 26-217. Notification of hazardous wastes.

- (a) All industrial users shall notify the authority, the EPA Region 3 Waste Management Division Director, the town and the state department of environmental quality division of land protection and revitalization in writing of any discharge into the system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261 or 9 VAC 20-60. Such notification must include the name of the hazardous waste as set forth in such regulations, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the system, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed hazardous waste discharges must be submitted to the authority and town in advance of any substantial change in the volume or character of pollutants.
- (b) Industrial users are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or any quantity of acute hazardous waste, requires a one-time notification. Subsequent months during which the industrial user discharges additional quantities of such hazardous waste do not require additional notification.
- (c) In the case of new regulations identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the authority, the EPA Region 3 Waste Management Division Director, the town and the state department of environmental quality division of land protection and revitalization of the discharge of such substance within 90 days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume or toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) Industrial users who commence discharging hazardous wastes after the effective date of these notification requirements shall provide notification no later than 180 days after the discharge of the hazardous waste.

(Ord. of 5-1-2018, § 6-24; Ord. of 8-9-2021, § 6-24)

Sec. 26-218. Treatment cost recovery fees.

- (a) In accordance with the formula below, the authority shall calculate and collect treatment cost recovery fees for any daily composite sample for BOD, TSS, TKN and total phosphorus concentrations in excess of the

monthly average wastewater discharge permit limit or monthly average concentration as provided in section 26-206(13). Such fees shall be calculated as the sum of each treatment cost recovery fee calculated during the monitoring period. Treatment cost recovery fees shall be paid by Industrial users within 45 days of the end of the monitoring period.

$$\text{Treatment cost recovery fee} = 8.345 \times (X - Y) \times \text{ADF} \times Z \times U$$

Where:

X is each single sample concentration when in excess of the monthly average wastewater discharge permit limit (BOD=350 mg/L and TSS=350 mg/L) or monthly average concentration (TKN=70.0 mg/L and total phosphorus=14.0 mg/L).

Y is the monthly average wastewater discharge permit limit (BOD=350 mg/L and TSS=350 mg/L) or monthly average concentration (TKN=70.0 mg/L and total phosphorus=14.0 mg/L).

ADF is the average daily wastewater flow in million gallons recorded on the day the exceedance occurred.

Z is the pollutant parameter treatment cost recovery multiplier below.

U is the pollutant parameter unit cost for treatment in dollars per pound.

Treatment Cost Recovery Multiplier

<i>Parameter</i>	<i>1.0</i>	<i>1.5</i>	<i>2.0</i>	<i>3.0</i>
BOD	>350-500 mg/L	>500-1,000 mg/L	>1,000-1,500 mg/L	>1,500 mg/L
TSS	>350-500 mg/L	>500-1,000 mg/L	>1,000-1,500 mg/L	>1,500 mg/L
TKN	>70.0-100 mg/L	>100-125 mg/L	>125-150 mg/L	>150 mg/L
Total Phosphorus	>14.0-20 mg/L	>20.0-25 mg/L	>25-30 mg/L	>30 mg/L
Nitrate + Nitrite	NA	NA	NA	>10.0 mg/L

The unit cost for treatment (U) shall be as determined by the authority on an annual or other basis and published on the authority website.

- (b) Notwithstanding the above, for industrial users whose principal classification is industry 312120 (breweries), 312130 (wineries), 312140 (distilleries), 312111 (soft drinks), and other classifications (as approved by the authority), pursuant to the North American Industry Classification System (NAICS), the factor X used for calculating the BOD treatment cost recovery fee may be computed by subtracting sBOD from BOD and using the difference, as determined by the authority on a case-by-case basis.
- (c) Imposition and payment of such fees shall not excuse the exceedance of the underlying pollutant parameter monthly average limit from section 26-206(13), and any such exceedance shall continue to be subject to authority enforcement.

(Ord. of 5-1-2018, § 6-25; Ord. of 8-9-2021, § 6-25)

Sec. 26-219. Industrial user monitoring.

Permitted industrial users shall be required to monitor their wastewater discharges at the following frequencies unless stipulated differently in their individual wastewater discharge permit:

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- (1) All pollutant parameters except as specified below:

Other Pollutant Parameter
Discharge Frequencies

<i>Average Daily Flow</i>	<i>Monitoring Frequency</i>
<50,000 gpd	1/week
≥50,000 < 100,000 gpd	2/week
≥100,000 gpd	3/week

- (2) Metals: once per year.
- (3) Oil and grease: twice per month.
- (4) pH: at least once per hour each day for the time period of the discharge.
- (5) If sampling performed by an industrial user indicates a violation, the user shall notify the authority 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 authority within 30 days after becoming aware of the violation. Where the authority has performed the sampling and analysis in lieu of the industrial user, the authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:
- The authority performs sampling at the industrial user at a frequency of at least once per month; or
 - The authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the authority receives the results of this sampling.

(Ord. of 5-1-2018, § 6-26; Ord. of 8-9-2021, § 6-26)

Sec. 26-220. Wastewater discharges.

It shall be unlawful for any significant industrial user to discharge without a wastewater discharge permit to the system any wastewater except as authorized by the authority in accordance with the provision of this division.

(Ord. of 5-1-2018, § 6-27; Ord. of 8-9-2021, § 6-27)

Sec. 26-221. Wastewater discharge permits.

All significant industrial users proposing to connect to or contribute to the system shall obtain from the authority a wastewater discharge permit before connecting to or contributing to the system. The authority may require any other industrial user to obtain from the authority a wastewater discharge permit before connecting to or contributing to the system, if the authority determines that a wastewater discharge permit is beneficial in implementing this division.

- (1) *Wastewater discharge permit application.* A user required to obtain a wastewater discharge permit shall complete and file with the authority an application in the form prescribed by the authority. The authority shall furnish the town with a copy of the application upon receipt. Proposed new users shall apply at least 90 days prior to their intent to connect to or contribute to the system. The application shall include the following information:

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- a. Name, address of the user and the location of the discharge if different from such address;
 - b. SIC number;
 - c. Wastewater constituents and characteristics, including, but not limited to, those identified in section 26-206(13) as determined by a reliable analytical laboratory; and sampling and analysis shall be performed in accordance with procedures established in 40 CFR 136;
 - d. Time and duration of contribution;
 - e. Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
 - f. Site plans showing all sewers and sewer connections by the size, location and elevation and any pretreatment facilities;
 - g. Description of pretreatment facilities and processes on the premises, or those to be installed;
 - h. Measurement of pollutants:
 - 1. The user shall identify the pretreatment standards applicable to each regulated process; and the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by an applicable standard or the authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The samples shall be representative of daily operations. In cases where the standard or local limit requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the authority or the applicable standards to determine compliance with the standard;
 - 2. Further, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this subsection; samples shall be taken immediately downstream from pretreatment facilities if such exists 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 shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards;
 - 3. Where a proposed alternate concentration or mass limit has been calculated in accordance with the combined wastestream formula of 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the authority. This subsection pertains to users subject to categorical standards;
 - 4. In the case of users not subject to categorical standards, the authority shall specify on the wastewater discharge permit application which pollutants are to be sampled (including sample type and number) and tested;
 - i. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards or requirements, the shortest schedule by which the user is able to

provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard or otherwise by this article. The following conditions shall apply to this schedule:

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 or requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
 2. No increment referred to in subsection (1)i.1 of this section shall exceed nine months;
 3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the authority 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 such 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 authority;
- j. A list of products produced;
- k. Type of raw material processed; and
- l. Any other information as may be required by the authority to evaluate the wastewater discharge permit application. The authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the authority may issue a wastewater discharge permit subject to the terms and conditions provided herein; or the authority may decline to issue the wastewater discharge permit.
- (2) *Wastewater discharge permit modifications.* The authority may reopen and modify a wastewater discharge permit for good cause, including, without limitation, for the following reasons:
- a. To incorporate any new or revised pretreatment standard or requirement.
 - b. To address significant alterations to the user's processes or discharge.
 - c. A change in the authority's facilities or processes or the regulatory requirements applicable to the authority.
 - d. To correct typographical or other errors in the wastewater discharge permit.
 - e. On the request of the permittee for good cause shown.
- (3) *Wastewater discharge permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this section and all other applicable regulations, user charges and fees established by the authority or the town. Wastewater discharge permits shall contain the following:
- a. Statement of duration (in no case more than five years);
 - b. Statement of nontransferability without, at a minimum, prior notification to the authority and town, a signed agreement between the current and new permittees stating and agreeing to the date of transfer, and approval of the transfer by the authority. The authority may, in its discretion, require a new wastewater discharge permit application from the proposed new owner;
 - c. Effluent limits, including best management practices, based on applicable general pretreatment standards, categorical pretreatment standards, and the requirements of this division;

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- d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type;
 - e. Statement of applicable civil and criminal penalties for violation of the wastewater discharge permit, pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
 - f. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization, if determined necessary by the authority;
 - g. Requirements for installation and maintenance of inspection and sampling facilities, if determined necessary by the executive director;
 - h. Requirements for maintaining and retaining plant records relating to wastewaters and discharge as specified by the authority, and affording the authority access thereto;
 - i. Requirements for notification of the authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the system;
 - j. Requirements for immediate notification of all discharges that could cause problems to the system, including any slug loading;
 - k. Requirements for slug discharge control, if determined necessary by the authority. A slug control plan shall contain, at a minimum, the following elements: description of discharge practices, including non-routine batch discharges; description of stored chemicals; procedures for immediately notifying the authority of slug discharges, with procedures for a follow-up written notification within five days; and, if necessary, procedures to prevent adverse impact from accidental spills, including 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;
 - l. Statement that the wastewater discharge permit may be reopened and modified as determined necessary by the authority; and
 - m. Other conditions as determined appropriate by the authority to ensure compliance with this division.

(4) *Wastewater discharge permit duration.*

- a. Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. The user shall apply for wastewater discharge permit renewal at least 180 days prior to the expiration of the user's existing wastewater discharge permit. The terms and conditions of the new wastewater discharge permit may be subject to modification by the authority. The user shall be informed of any proposed changes in its wastewater discharge permit at least 30 days prior to the effective date of change. Any changes or new conditions in the wastewater discharge permit shall include, if necessary and consistent with legal requirements, a reasonable time schedule for compliance.
- b. If the permittee has submitted a complete reapplication no later than the date identified in subsection (4)a of this section, and the authority has not, through any fault of the permittee, made a decision on wastewater discharge permit reissuance, the wastewater discharge permit shall be administratively extended and remain in effect until a final decision on the wastewater discharge permit by the authority.

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- (5) *Supplemental wastewater discharge permit provisions.* The following are required for supplemental wastewater discharge permits:
- a. Performance bonds reserve.
 - b. Liability insurance reserve.
 - c. Payment of outstanding fees and penalties reserve.
 - d. Disclosure statements (compliance information on user and key personnel) reserve.
- (6) *Wastewater discharge permit transfer.* Wastewater discharge permit shall be issued to a specific user for a specific operation at a specific location. A wastewater discharge permit shall not be assigned, transferred or sold to another person or user except as provided in subsection (2) of this section, and shall not be applicable to a different premises or a new or changed operation without the approval of the authority.

(Ord. of 5-1-2018, § 6-28; Ord. of 8-9-2021, § 6-28)

Sec. 26-222. Reporting requirements.

- (a) *Baseline report.* Within 180 days after the effective date of a categorical standard, existing industrial users subject to such standards and currently discharging to or scheduled to discharge to the system shall submit to the authority a report which contains the information listed in subsections (a)(1) through (7) of this section. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the authority a report which contains the information listed in subsections (a)(1) through (5) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (a)(4) and (5) of this section:
- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owners.
 - (2) *Permits.* A list of any environmental control permits held by or for the facility.
 - (3) *Description of operations.* A brief description of the nature, average rate of production, and SIC of the operation carried out by such industrial user. This description shall include a schematic process diagram which identifies points of discharge to the system from the regulated processes.
 - (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the system from each of the following:
 - a. Regulated process streams; and
 - b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

The authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
 - (5) *Measurement of pollutants.*
 - a. The categorical standards applicable to each regulated process. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or the authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the

standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the authority or the applicable standards to determine compliance with the standard. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection. Samples shall 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 shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the standards. Where an alternate concentration or mass limit has been calculated in accordance with this division, this adjusted limit along with supporting data shall be submitted to the authority.

- b. The authority 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.
 - c. 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 system.
- (6) *Certification.* A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, stating whether standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the standards.
- (7) *Compliance schedule.*
- a. If additional pretreatment and/or O&M will be required to meet the standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable standard.
 - b. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required, the information required by subsection (a)(6) of this section and this subsection (a)(7) shall pertain to the modified limits. If the categorical pretreatment standard is modified by a removal allowance, the combined wastestream formula, and/or a fundamentally different factors variance after the user submits the report required by this section, any necessary amendments to the information requested by subsection (a)(6) of this section and this subsection (a)(7) shall be submitted by the user to the authority within 60 days after the modified limit is approved.
 - c. Compliance schedule for meeting categorical standards. The following conditions shall apply to the schedule required by this subsection (a)(7): 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 industrial user to meet the applicable categorical standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment shall exceed nine months. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the authority 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

industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the authority.

- (b) *Categorical standard deadline compliance.* Within 90 days following the date for final compliance with applicable categorical standards or in the case of a new source following commencement of the introduction of wastewater into the system, the user shall submit to the authority a report including the information described in subsections (a)(4) through (6) of this section. For industrial users subject to equivalent mass or concentration limits established by the authority, this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.
- (c) *Periodic reports on continued compliance.* After the compliance date of a categorical standard or, in the case of a new source, after commencement of the discharge into the system, any user subject to a categorical standard shall submit to the authority during the months of June and December, unless required more frequently by the authority, a report identifying the nature and concentration of pollutants in the effluent which are limited by such standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period. At the discretion of the authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the authority may agree to alter the months during which the above reports are to be submitted. In cases where the standard requires compliance with a best management practice or other pollution prevention alternative, the user shall submit documentation required by the authority or the standard necessary to determine the compliance status of the user.
- (d) *Signatory requirements for industrial user reports.* Reports and applications submitted by an industrial user must be signed:
 - (1) By a responsible corporate officer or a duly authorized representative of that individual. The term "responsible corporate officer" means as the president, secretary, treasurer or vice-president of the corporation in charge of the principal business function, or any other person who performs similar policymaking or decision-making functions for the corporation. In addition, the manager of one or more manufacturing, production or operating facilities of the corporation, 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 ensure 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 discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) By a general partner or proprietor if the industrial user submitting the reports required by subsections (a) and (b) of this section is a partnership or sole proprietorship, respectively.
 - (3) By a duly authorized representative of the individual designated in subsection (d)(1) or (2) of this section if:
 - a. The authorization is made in writing by the individual described in subsection (d)(1) or (2) of this section;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the authority.

If an authorization under subsection (d)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (d)(3) of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative. The following statement shall be used on all reports, application and notices requiring certification, and with all submissions of data:

"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 ensure 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 fines and imprisonment for knowing violations."

- (e) *Reporting period.* The reports required in subsection (b) of this section must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The authority shall require that frequency of monitoring necessary to assess and ensure compliance by industrial users with applicable local limits, pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the authority. Where time-proportional composite sampling or grab sampling is authorized by the authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility. Using protocols (including appropriate preservation) specified in 40 CFR 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. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the authority, as appropriate.
- (f) *Grab samples.* For sampling required in support of baseline monitoring and 90-day compliance reports required by subsection (a) of this section, a minimum of four 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 authority may authorize a lower minimum. For the reports required by subsections (b) and (h) of this section, the authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable local limits, pretreatment standards and requirements.
- (g) *Dilution.* The authority may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (c) of this section shall identify the mass of pollutants regulated by the standards in the effluent of the user.
- (h) *Sampling and analytical procedures.* All analyses shall be performed in accordance with procedures established by the EPA in 40 CFR 136. Sampling shall be performed in accordance with the techniques designed and implemented to obtain representative samples. If an industrial user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the authority using the procedures prescribed in this section, the results of this monitoring shall be reported.
- (i) *Reporting requirements for industrial users not subject to categorical pretreatment standards.* The authority must require appropriate reporting from those industrial users with discharges that are not subject to

categorical pretreatment standards. Significant noncategorical industrial users must submit to the authority at least once every six months (on dates specified by the authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the authority. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the authority to determine the compliance status of the user. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR 136 and amendments thereto. This sampling and analysis may be performed by the authority in lieu of the significant noncategorical industrial user.

- (j) *Record maintenance of the industrial user; retention.* Any industrial user subject to the reporting requirement established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with best management practices. Such records shall include for all samples:
- (1) The date, exact place, method, and time of sampling and the name of the person taking the samples;
 - (2) The dates analyses were performed;
 - (3) The individuals who performed the analyses;
 - (4) The analytic methods used; and
 - (5) The result of such analyses.

Any industrial user subject to the reporting requirements established in this section (including documentation associated with best management practices) shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this section), and shall make such records available for inspection and copying on the request of the authority. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the authority.

(Ord. of 5-1-2018, § 6-29; Ord. of 8-9-2021, § 6-29)

Sec. 26-223. Monitoring and pretreatment facilities.

- (a) *Monitoring facilities.*
- (1) Each user required to monitor its wastewater shall provide and operate, at the user's expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but when such location would be impractical or cause undue hardship on the user, if approved by the town, the authority may approve a 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.
 - (2) 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.
 - (3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the authority's requirements and all applicable local construction standards and specifications, and shall be available for the authority's inspection and use for sampling.
- (b) *Pretreatment facilities.* Users shall provide necessary pretreatment as required to comply with this division and shall achieve compliance with all pretreatment standards and requirements within the time limitations as specified by this division, the wastewater discharge permit, any order or federal pretreatment standards, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the

authority shall be proven, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the authority for review, and shall be acceptable to the authority 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 authority under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the authority prior to the user's initiation of the changes. All records relating to compliance with pretreatment standards and requirements shall be made available to officials of the EPA, the state department of environmental quality, the town and the authority upon request.

(Ord. of 5-1-2018, § 6-30; Ord. of 8-9-2021, § 6-30)

Sec. 26-224. Inspection and sampling.

The authority shall randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by the industrial users, occasional and continuing noncompliance with pretreatment standards or requirements; inspect and sample the effluent from each significant industrial user at least once a year; and evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug loadings. If the authority determines that a slug loading plan is needed, such plan shall contain, at a minimum, the elements outlined in section 26-221(3)k and set forth in 40 CFR 403.8(f)(2)(vi). The authority may inspect such facilities to ensure compliance. All users shall allow representatives of the town and the authority access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination (including the right to copy such records) and the performance of any of their duties. The town and the authority shall have the right to set upon the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the town and/or the authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. In addition, all users shall pay to the town or the authority all reasonable and necessary costs incurred by the town or the authority in connection with inspections, wastewater monitoring, sampling and testing.

(Ord. of 5-1-2018, § 6-31; Ord. of 8-9-2021, § 6-31)

Sec. 26-225. Confidential information.

Information and data of a user obtained from reports, questionnaires, wastewater discharge permit applications, wastewater discharge permits, monitoring programs and inspections shall be available to the public without restriction unless the user specifically identifies such information as being business confidential or proprietary and requests that such information remain confidential. Information and data identified and marked by the user as business confidential or proprietary will be held confidential by the authority and the town to the extent permissible under law. Information and data concerning effluent data cannot be claimed as confidential.

(Ord. of 5-1-2018, § 6-32; Ord. of 8-9-2021, § 6-32)

Sec. 26-226. Harmful contributions.

- (a) The authority or town may suspend the wastewater treatment service or a wastewater discharge permit or cut off the sewer connection when the authority or town determines such suspension or cut off to be necessary, in order to stop a discharge which:

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- (1) Presents or may present an imminent or substantial endangerment to the health or welfare of persons;
 - (2) Presents or may present an imminent or substantial endangerment to the environment;
 - (3) May cause or actually causes an interference or pass through; or
 - (4) May cause the authority to violate any condition of its VPDES permit.
- (b) The authority or town may reinstate the wastewater discharge permit or the wastewater treatment service upon proof of the elimination of the subject discharge.
- (c) In the event of a suspension or cut off under this section, within 15 days, the user shall submit a written report to the authority and town describing the event that caused the conditions of concern and the measures taken to prevent any recurrence.
- (Ord. of 5-1-2018, § 6-33; Ord. of 8-9-2021, § 6-33)

Sec. 26-227. Revocation of wastewater discharge permit.

The authority may revoke any wastewater discharge permit if it determines that:

- (1) A user has falsified information or records submitted or retained in accordance with this division or in connection with any wastewater discharge permit issued pursuant to this division;
 - (2) A user has violated the conditions of a wastewater discharge permit;
 - (3) A user has refused right of entry required by this division;
 - (4) A user has failed to timely reapply for a wastewater discharge permit or request a required wastewater discharge permit modification;
 - (5) A user has discharged into the system in violation of this division; or
 - (6) Changed circumstances require a temporary or permanent reduction or elimination of the permitted discharge.
- (Ord. of 5-1-2018, § 6-34; Ord. of 8-9-2021, § 6-34)

Sec. 26-228. Notice of violation.

- (a) *Issuance.* The authority may issue a written notice of violation if there are reasonable grounds to believe that the person to whom the notice of violation is directed has violated:
- (1) This division;
 - (2) Any requirement imposed under this division; or
 - (3) Any order or wastewater discharge permit issued under this division.
- (b) *Contents.* A notice of violation issued under this section shall:
- (1) Specify the provision that allegedly has been violated;
 - (2) State the alleged facts that constitute the violation;
 - (3) Require a written response;
 - (4) Require correction of the cause of the violation alleged; and/or
 - (5) Require the user's appearance at an informal hearing at a time and place scheduled in order to respond to the charges in the notice of violation.

(Ord. of 5-1-2018, § 6-35; Ord. of 8-9-2021, § 6-35)

Sec. 26-229. Issuance of compliance order.

- (a) *Generally.* After or concurrent with the issuance of a notice of violation under this division, the authority may:
 - (1) Issue a compliance order that requires the person to whom the order is directed to take corrective action within a time set in the order; and/or
 - (2) Send a compliance order that requires the person to whom the order is directed to appear at an informal hearing at a time and place scheduled in order to respond to the charges in the order.
- (b) *Effective date of compliance order.* Unless and until the person subject to the order makes a timely request for an informal hearing, the order is according to its terms a final and effective order. If the person to whom an order is directed makes a timely request for a hearing, the order becomes a final compliance order when the authority renders its decision following the hearing.
- (c) *Emergency compliance order.* Nothing herein shall prevent the authority from issuing an emergency compliance order, when conditions warrant, which shall be a final order when it is delivered to the user and during any informal hearing process, subject to later withdrawal or change by the authority.

(Ord. of 5-1-2018, § 6-36; Ord. of 8-9-2021, § 6-36)

Sec. 26-230. User informal hearing requests.

Within ten days after the date of a notice of violation or compliance order for which the authority has not scheduled an informal hearing, the person to whom the notice of violation or compliance order is directed may request a hearing by written request to the executive director. Upon such request by a user, the executive director shall schedule an informal hearing before such person as the executive director designates, unless he determines that the request for a hearing is frivolous or insubstantial. Following any such hearing, the authority may take further enforcement or other action that it determines to be necessary.

(Ord. of 5-1-2018, § 6-37; Ord. of 8-9-2021, § 6-37)

Sec. 26-231. Injunctive relief.

The authority or town may bring an action for an injunction against any person who violates any provision of this division or any order or wastewater discharge permit issued under this division.

(Ord. of 5-1-2018, § 6-38; Ord. of 8-9-2021, § 6-38)

Sec. 26-232. Administrative civil penalties, special orders.

- (a) In the event of a violation of this division, or an order or wastewater discharge permit hereunder, the executive director or his designee may issue to the offending person a special order assessing an administrative civil penalty and requiring other appropriate relief. No special order shall be issued until after the person accused of the violation has been provided an opportunity for a hearing, except with the consent of such person. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, on such person or any authorized representative of such person at least 30 days prior to the hearing. The notice shall specify the time and place for the hearing, facts and legal requirements related to the alleged violation, and the amount of any proposed administrative civil penalty. At the hearing, the

person accused of the violation may present evidence, including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and may examine any witnesses for the authority. A verbatim record of the hearing shall be made. Within 30 days after the conclusion of the hearing, the executive director or his designee shall make findings of fact and conclusions of law and either issue the special order, withdraw the matter, or take other appropriate action.

- (b) No special order shall assess an administrative civil penalty in excess of \$32,500.00 per violation, or \$100,000.00 in total, except with the consent of the subject of the special order. The actual amount of any administrative civil penalty assessed shall be based upon the severity of the violations, the extent of any potential or actual environmental harm or facility damage, the compliance history of the person, any economic benefit realized from the noncompliance, and the ability of the person to pay the penalty. In addition to administrative civil penalties, the special order may include a monetary assessment for actual damages to sewers, treatment works and appurtenances and for costs, attorney fees and other expenses resulting from the violations, absent the consent of the person in the order. Civil penalties in excess of the maximum amounts established herein may be imposed only by a state court of competent jurisdiction in amounts determined in its discretion but not to exceed the maximum amounts established in Code of Virginia, § 62.1-44.32.
- (c) This section shall not impair the authority's right to proceed for penalty or other relief on other applicable authorities. Each day during which a violation is found to have occurred shall constitute a separate violation, other than any violation that is by its nature only as to matters occurring over a period in excess of a single day. An admission or finding of liability under this section shall not be deemed an admission in any criminal proceeding, and no civil action authorized by the section shall proceed while a criminal action is proceeding. Any special order issued by the authority, whether or not assessing an administrative civil penalty, shall inform the person of his right to seek reconsideration or review by the executive director and of his right to judicial review of any final special order. Reconsideration or review shall be initiated by written request to the executive director filed within 30 days of the date of the special order. The executive director's decision on reconsideration or review shall be provided in writing. Judicial review shall be available only if the subject of the special order has first exhausted his opportunity for administrative reconsideration or review. An appeal shall be to circuit court on the record of proceedings before the authority. To commence an appeal, the person shall file a petition in circuit court within 30 days of the date of the final decision on the special order on reconsideration or review, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support such findings.

(Ord. of 5-1-2018, § 6-39; Ord. of 8-9-2021, § 6-39)

Sec. 26-233. Surcharge.

The authority may impose a surcharge on each member jurisdiction, user or discharge which exceeds the limitations specified in this division, sufficient to recover any costs that result either directly or indirectly from such exceedance. The assessment or payment of any such surcharge shall not constitute an acceptance of such wastes by the authority, and shall not prevent the authority from any other enforcement or other actions under this division in response to such exceedance.

(Ord. of 5-1-2018, § 6-40; Ord. of 8-9-2021, § 6-40)

Sec. 26-234. Defenses to wastewater discharge permit violations.

- (a) *Upset.* For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or pretreatment requirements because of factors beyond the reasonable control of the industrial 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. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards or pretreatment requirements if the following requirements are met:
- (1) *Conditions necessary for a demonstration of upset.* An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the industrial user can identify the cause of the upset;
 - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - c. The industrial user has submitted the following information to the authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - (2) *Burden of proof.* In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (3) *Reviewability of authority consideration of claims of upset.* No determinations made in the course of the review shall constitute final authority action subject to judicial review. Industrial users will have the opportunity for a determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - (4) *User responsibility in case of upset.* The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its pretreatment 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 pretreatment facility is reduced, lost or fails.
 - (5) *Recovery fees.* The treatment cost recovery fees, outlined in section 26-218, still apply regardless of the cause or length of the upset.
- (b) *Bypass.* The term "bypass" means the intentional diversion of wastestreams from any portion of an industrial user's pretreatment facility. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (1) *Bypass not violating applicable categorical standards or pretreatment requirements.* An industrial user may allow any bypass to occur which does not cause categorical standards or pretreatment

requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (b)(2) and (3) of this section.

- (2) *Notice.* If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the authority, if possible, at least ten days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable standards to the authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (3) *Prohibition of bypass.* Bypass is prohibited, and the authority may take enforcement action against an industrial user for a bypass, unless;
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c. The industrial user submitted notices, as required under subsection (b)(2) of this section.

The authority may approve an anticipated bypass, after considering its adverse effects, if the authority determines that it will meet the three conditions listed in this subsection (b)(3).

- (4) *Recovery fees.* The treatment cost recovery fees, outlined in section 26-218, still apply regardless of the cause or length of the bypass.

(Ord. of 5-1-2018, § 6-41; Ord. of 8-9-2021, § 6-41)

Sec. 26-235. Public notice of significant noncompliance.

At least annually, the authority shall give public notification in the largest daily newspaper published in the county (Daily News-Record) of industrial users which were in significant noncompliance with applicable pretreatment standards or other pretreatment requirements. For the purposes of this section, a user is in significant noncompliance if its violations meet one of more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter, including instantaneous limits, as defined by 9 VAC 25-31-10;
- (2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit, including instantaneous limits, as defined by 9 VAC 25-31-10, 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 effluent limit or requirement as defined by 9 VAC 25-31-10 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the authority

determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of authority 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 authority's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- (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; or
- (8) Any other violation or group of violations that may include a violation of best management practices which the authority determines will adversely affect the operation or implementation of the pretreatment program.

(Ord. of 5-1-2018, § 6-42; Ord. of 8-9-2021, § 6-42)

Secs. 26-236—26-265. Reserved.

DIVISION 3. USE OF PUBLIC SEWER REQUIRED

Sec. 26-266. Unsanitary disposal prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town or in any area under the jurisdiction of said town, any human excrement, garbage, or other objectionable waste.

(Ord. of 5-1-2018, § 6-44)

Sec. 26-267. Improper discharge prohibited.

It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of said town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this division.

(Ord. of 5-1-2018, § 6-45)

Sec. 26-268. Private sewage disposal prohibited.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Ord. of 5-1-2018, § 6-46)

Sec. 26-269. Connection to public sewers required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the town, being a portion of the system, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, being a portion of the system, in accordance with the provisions of this division, within 90 days after date of official notice to do so, provided that said public sewer, being a portion of the system, is within 100 feet of the property line.

(Ord. of 5-1-2018, § 6-47)

Secs. 26-270—26-286. Reserved.***DIVISION 4. PRIVATE SEWAGE DISPOSAL*****Sec. 26-287. When public sewers not available.**

Where a public sanitary sewer, being a portion of the system, is not available under the provisions of section 26-269, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

(Ord. of 5-1-2018, § 6-48)

Sec. 26-288. Permit required.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee, in the amount provided on the town fee schedule, shall be paid to the town at the time the application is filed.

(Ord. of 5-1-2018, § 6-49)

Sec. 26-289. Inspection required.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any state of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.

(Ord. of 5-1-2018, § 6-50)

Sec. 26-290. Compliance with state regulations required.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health. No permit shall be issued for any private sewage

disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. of 5-1-2018, § 6-51)

Sec. 26-291. Private sewer use to be discontinued when public sewer available.

At such time as a public sewer, being a portion of the system, becomes available, as provided in section 26-269, to a property serviced by a private sewage disposal system, a direct connection shall be made to the system in compliance with this division, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge and filled with suitable material.

(Ord. of 5-1-2018, § 6-52)

Sec. 26-292. Town not responsible for operation and maintenance of private sewers.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(Ord. of 5-1-2018, § 6-53)

Sec. 26-293. Health officer requirements.

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

(Ord. of 5-1-2018, § 6-54)

Secs. 26-294—26-319. Reserved.

DIVISION 5. BUILDING SEWERS AND CONNECTIONS

Sec. 26-320. Connection prohibited without permit.

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. All permits except for those issued to significant industrial users shall be issued by the town. Permits for significant industrial users shall be issued by the authority.

(Ord. of 5-1-2018, § 6-55)

Sec. 26-321. Building sewer permit class.

- (a) There shall be two classes of building sewer permits:
 - (1) For residential and commercial service; and
 - (2) For service to significant industrial users.

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- (b) The owner or his agent shall make application on a special form furnished by the authority in the case of significant industrial users and by the town for other persons. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent or the authority.

(Ord. of 5-1-2018, § 6-56)

Sec. 26-322. Building sewer costs to be borne by owner.

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

(Ord. of 5-1-2018, § 6-57)

Sec. 26-323. Separate sewers required.

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 building sewer.

(Ord. of 5-1-2018, § 6-58)

Sec. 26-324. Use of old sewers for new construction.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this division.

(Ord. of 5-1-2018, § 6-59)

Sec. 26-325. Construction to code standards.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavation, 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.

(Ord. of 5-1-2018, § 6-60)

Sec. 26-326. Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. of 5-1-2018, § 6-61)

Sec. 26-327. Runoff connection to sewer 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 sanitary sewer.

(Ord. of 5-1-2018, § 6-62)

Sec. 26-328. Connections to be gastight and watertight.

The connection of the building sewer into the system 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.

(Ord. of 5-1-2018, § 6-63)

Sec. 26-329. Duty of applicant to request inspection.

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

(Ord. of 5-1-2018, § 6-64)

Sec. 26-330. Excavation.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Ord. of 5-1-2018, § 6-65)

Secs. 26-331—26-348. Reserved.*DIVISION 6. USE OF THE PUBLIC SEWERS***Sec. 26-349. Discharge of runoff to public sewers prohibited.**

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

(Ord. of 5-1-2018, § 6-66)

Sec. 26-350. Stormwaters to have designated sewer.

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

(Ord. of 5-1-2018, § 6-67)

Secs. 26-351—26-373. Reserved.***DIVISION 7. PROTECTION FROM DAMAGE*****Sec. 26-374. Disorderly conduct.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the system or introduce a substance to the system that causes damage to the system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. In addition, such person shall pay all reasonable costs to the town and the authority, including reasonable attorney's fees, fines, repair of damage, injury to personnel, degradation of sludge quality and violations of water, air and sludge standards caused by the violation.

(Ord. of 5-1-2018, § 6-68)

Sec. 26-375. Falsified documents; tampering with monitoring devices.

Any person who knowingly makes any false statement, representation or certificate in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or the discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device required under this article shall, upon conviction, be punished by a fine not exceeding \$2,500.00 per violation or confinement in jail not exceeding 12 months, either or both.

(Ord. of 5-1-2018, § 6-69)

Sec. 26-376. Penalties.

Any person who violates any provision of or fails to perform any duty imposed by this article or of any permit issued under this article shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine and not exceeding \$2,500.00 per violation per day or confinement in jail not exceeding 12 months, either or both.

(Ord. of 5-1-2018, § 6-70)

Secs. 26-377—26-395. Reserved.***DIVISION 8. CONNECTION FEES, MAINTENANCE, EXCEPTIONS TO CONNECTION,
REPEAL***

Sec. 26-396. Connection fees.

Before any person shall be allowed to connect to the system, such person shall pay a connection fee as established by the town council from time to time. (Persons seeking connections out-of-town shall pay 150 percent of the applicable connection fee, but this section is not authorization for any out-of-town connections.) Additionally, persons seeking connection to the system shall pay all of the town's costs for labor and materials (including any meter required by the town) plus a surcharge of ten percent. To the extent the requirements of this section are greater than those imposed by section 26-322, this section shall control.

(Ord. of 5-1-2018, § 6-72)

Sec. 26-397. Maintenance of building sewers.

The maintenance of building sewers shall be the responsibility of property owners or occupants.

(Ord. of 5-1-2018, § 6-73)

Sec. 26-398. Exemptions to mandatory connection.

In cases of unusual hardship and where alternate waste disposal mechanisms are in place, the town superintendent may exempt residence from the provisions of section 26-269, provided that the town may require connection at any time thereafter.

(Ord. of 5-1-2018, § 6-74)