

SEWER PRETREATMENT AND PERMITS

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CODE OF ORDINANCES

CHAPTER 29.

SEWER PRETREATMENT AND PERMITS

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ARTICLE I. GENERAL PRETREATMENT REQUIREMENTS

Sec. 29-1. Purpose.

The purposes of this article are:

- A. To establish uniform requirements for direct and indirect contributors into the wastewater collection and treatment system owned and operated by the City of South Portland and to enable the POTW to comply with applicable State and Federal laws and the General Pretreatment Regulations (40 CFR Part 403);
- B. To prevent the introduction of pollutants into the municipality's wastewater system which will:
 - 1. interfere with the operation of the system;
 - 2. cause the treatment plant to violate its MEPDES Discharge Permit;
 - 3. contaminate the sludge;
 - 4. pass through the system, inadequately treated, into receiving waters or the atmosphere;
 - 5. pose a health threat to sewer workers; or
 - 6. be otherwise incompatible with the system.
- C. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- D. To provide for equitable distribution of the cost of the municipal wastewater system.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-2. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD₅	- Biochemical Oxygen Demand, 5-day
CBOD₅	- Carboneous Biochemical Oxygen Demand, 5-day
CFR	- Code of Federal Regulations
COD	- Chemical Oxygen Demand
DEP	- Maine Department of Environmental Protection
EPA	- Environmental Protection Agency
IU	- Industrial User
L	- Liter
mg	- Milligrams
mg/L	- Milligrams per liter
NOV	- Notification of Violation
MEPDES	- Maine Pollutant Discharge Elimination System
POTW	- Publicly Owned Treatment Works
RCRA	- Resource Conservation and Recovery Act
SIC	- Standard Industrial Classification
SNC	- Significant Noncompliance
SWDA	- Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
TSS	- Total Suspended Solids
USC	- United States Code

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-3. Definitions.

Unless otherwise stated in the section where the term is used in this article, the meaning of terms used in this article shall be stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. Shall is mandatory; may is permissive.

- A. **Act** - Federal Water Pollution Control Act, as amended by the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C. 1251 et. seq.
- B. **Administrative Order or Order** - Enforcement documents which direct industrial users to undertake or to cease specified activities. These include Consent Order, Compliance Order and Cease & Desist Order.
- C. **Approval Authority** - The Maine Department of Environmental Protection.
- D. **Authorized Representative of Industrial User** -
 - 1. In the case of a corporation, a president or vice president of the corporation in charge of a principal business function;
 - 2. In the case of a partnership or proprietorship, a general partner or proprietor; or
 - 3. An authorized representative of the individuals designated above if
 - (a) such representative is responsible for the overall operation of the facilities from which the discharge into the POTW originates;
 - (b) the authorization is in writing; and
 - (c) the written authorization is submitted to the POTW.
- E. **Best Management Practices or BMPs** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 29-4. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or wastes disposal, or drainage from raw materials storage.
- F. **Biochemical Oxygen Demand (BOD₅)** - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20 degrees centigrade, expressed in terms of weight and concentration (milligrams per liter).
- G. **Bypass** - The intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
- H. **Carboneous Biochemical Oxygen Demand, 5-Day (CBOD₅)** - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20 degrees centigrade using nitrification inhibitor, expressed in terms of weight and concentration (milligrams per liter).
- I. **City** - City of South Portland
- J. **Composite Sample** - A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.
- K. **Control Authority** - The term shall refer to the City which has an approved pretreatment program under the provisions of 40 CFR Part 403.11.
- L. **Control Manhole** - A manhole accessible to the Control Authority in or upstream

of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

- M. **Conventional Pollutant** - A pollutant that the POTW treatment plant was designed to treat, defined in accordance with the Act.
- N. **Cooling Water** -
 - 1. **Uncontaminated:** Water used for cooling purposes only which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the intake water.
 - 2. **Contaminated:** Water used for cooling purposes only which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.
- O. **DEP, MEDEP or Maine Department of Environmental Protection** The department of the state government charged with the administration and enforcement of state environmental laws, rules, and regulations.
- P. **Direct Discharge** - The discharge of treated or untreated wastewater directly to the Waters of the State of Maine.
- Q. **Director** - The director of the Water Resource Protection Department, the Compliance Administrator or designee.
- R. **End of Pipe** - For the purpose of determining compliance with limitations prescribed by Section 29-4 and 29-5, end of pipe shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.
- S. **End of Pipe Concentration** - The concentration of pollutants measured at the end of the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.
- T. **End of Process Concentration** - The concentration of pollutants measured at the end of a process as defined by the National Categorical Pretreatment Standards.
- U. **EPA, USEPA, or U.S. Environmental Protection Agency** - The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules, and regulations.
- V. **Flow Rate** - The quantity of liquid or waste that flows in a certain period to time.
- W. **Grab Sample** - A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater collected in less than 15 minutes, without regard for flow or time.
- X. **Indirect Discharge** - The introduction of wastewater into a POTW for treatment and ultimate discharge of the treated effluent to the State's waters.
- Y. **Industrial User or User** - Any person who introduces pollutants into a POTW from any non-domestic source regulated under the Act, State law or local ordinance.
- Z. **Industrial User Wastewater Discharge Permit or Permit** - A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this ordinance.
- AA. **Instantaneous Limit.** - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of sampling event.

- BB. **Interference** - Any discharge which alone or in conjunction with a discharge or discharges from other sources, both:
1. inhibits or disrupts the POTW and any of its process or operations, or its sludge use or disposal; and
 2. therefore is the cause of violation of any requirement of the POTW's MEPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):
 - (a) Section 405 of the Clean Water Act,
 - (b) The Solid Waste Disposal Act (SWDA) including Title II, more commonly referred to as the Resource Conservation and Recovery Act - (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D or the SWDA,
 - (c) Clean Air Act,
 - (d) Toxic Substance Control Act, and
 - (e) Marine Protection Research and Sanctuaries Act.
- CC. **National Pollutant Discharge Elimination System (NPDES) or State Discharge Permit**
- A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).
- DD. **National Pretreatment Standard, Pretreatment Standard, or Standard** - Any regulation containing pollutant discharge limits promulgated by the EPA under Section 307 (b) and (c) of the Clean Water Act applicable to Industrial Users. Included in these terms are the General & Specific Prohibitions found in 40 CFR 403.5 and the National Categorical Pretreatment Standards.
- EE. **New Source** - Any building, structure, facility or installation of which the construction commenced after the publication of proposed Pretreatment Standards under 307 (c) (33 U.S.C. 1317) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:
1. the construction is a site at which no other source is located; or
 2. the process or production equipment that causes the discharge of pollutants at an existing source is totally replaced; or
 3. the production or wastewater generating processes are substantially independent of an existing source at the same site.
- FF. **Notice of Violation (NOV)** - An official enforcement document from the Control Authority to the noncompliant industrial user which informs the user that a pretreatment violation has occurred.
- GG. **Oil and Grease** - The result obtained when using an EPA approved laboratory procedure to determine the quantity of fats, wax, grease, and oil, in a sample, expressed in milligrams per liter.
- HH. **Ordinance (The)** - The City of South Portland's Sewers and Drains Ordinance.
- II. **Pass-Through** - A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- JJ. **Person** - Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal

entity, or their legal representatives, agent or assigns.

KK. **pH** - The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

LL. **Pollutant** - Any dredged spoil, 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, commercial, and agricultural waste or any other contaminant.

MM. **Pretreatment or Treatment** - The reduction, elimination, or alteration or pollutant properties to a less harmful state prior to or in lieu of discharge or introduction into a POTW. This can be accomplished by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR Part 403.6(d).

NN. **Pretreatment Requirement** - Any substantial or procedural requirement, other than a National Pretreatment Standard, applicable to industrial users.

OO. **Publicly Owned Treatment Works (POTW)** - A treatment works as defined by Section 212 of the Act including any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage and industrial waste. The systems include sewers, pipes, and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in Section 502(4) of the Act which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

PP. **Priority Pollutants** - The most recently revised or updated list, developed by EPA, in accordance with the Act.

QQ. **Severe property damage** - 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.

RR. **Significant Industrial User** - Any industrial user subject to National Categorical Pretreatment Standards or any industrial user of the City of South Portland's wastewater disposal system who:

1. Any categorical industrial user (CIU); or
2. Any other industrial user that:
 - (a) discharges an average of 25,000 gallons or more of process wastewater per day; or
 - (b) contributes a process wastewater discharge that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW; or
 - (c) is designated as such by the City on the basis that it has a reasonable potential to adversely affect the POTW's operation or to violate a pretreatment standard or requirement; or
 - (d) is found by the POTW or the State to have significant impact, either alone or in combination with other contribution industries, on the wastewater treatment system, the quality of sludge, the POTW's effluent discharge quality, or the air emissions generated by the system.

SS. **Significant Noncompliance (SNC)** -

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-(6) month period exceed (by a magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits;

- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-third percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six(6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
- (3) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Any other violation(s), which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.
- (6) Violations of compliance schedule milestones contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (7) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.
- (8) Failure to accurately report noncompliance.
- (9) Any other violation or group of violations that the director considers to be significant.

- TT. **Standard Industrial Classification (SIC)** - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President of Management and Budget, 1972, and subsequent revisions.
- UU. **Standard Methods** - Procedures contained in the latest EPA approved edition of "*Standard Methods for the Examination of Water and Wastewater*", published by the American Public Health Association pursuant to Section 304 (G) of the Act and contained in 40 CFR Part 136, and amendments thereto. (If 40 CFR Part 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.)
- VV. **State** - State of Maine.
- WW. **Street Lateral** - The sewer extension from the public sewer to the property line.
- XX. **Total Suspended Solids** - The total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering as prescribed in Standard Methods.
- YY. **Toxic Pollutant** - Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from the sewage treatment plant or overflow point. Any pollutant or combination of pollutants identified as toxic pursuant to Section 307(a) of the Federal Water Pollution Control Act or other Federal Statutes or in regulations promulgated by the State under State law.
- ZZ. **Wastewater** - The liquid and water-carried industrial or domestic wastes from

dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated.

AAA. Waters of the State -

1. Both surface and underground waters within the boundaries of this State subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
2. The flood plain of free-flowing waters determined by the Department of Natural Resources on the basis of 100-year flood frequency.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-4. General Discharge Prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant which will pass through or cause interference with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards, or any other National, State or Local Pretreatment Standards or Requirements.

No user shall contribute the following substances to the POTW:

- A. Any substances which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to create a fire or an explosion or be injurious, in any way, to the POTW, or to the operation of the POTW. Under no conditions or circumstances shall a permit be issued that allows the discharge of substances that create a fire or explosive hazard.
- B. Any solid or viscous substances which may cause obstruction to the flow in a sewer, equipment used to convey wastewater to the wastewater treatment facility or otherwise interfere with the operation of the wastewater treatment facilities. Such substances include, but are not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass grinding or polishing wastes. Under no conditions or circumstances shall any permit be issued that allows the discharge of solid or viscous pollutants in amounts that will obstruct POTW flow.
- C. Any wastewater having a pH less than 5.0 or greater than 12.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW.
- D. Any wastewater containing a toxic pollutant in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW.

A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307 (A) of the Act.

- E. Any noxious or malodorous solids, liquids or gases which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into sewers for their maintenance or repair.
- F. Any wastewater having a temperature greater than 130° F (55° C).
- G. Any heat sufficient to raise the temperature of the wastewaters at the POTW

treatment facility above 104° F (40° C).

- H. Any slug load or release of pollutants, including oxygen demanding pollutants, which may cause interference to the POTW.
- I. Any radioactive wastes or isotopes in excessive amounts or such half-life or concentration as may exceed limits established in applicable State or Federal regulations or by the City.
- J. Any wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- K. Oils and grease - any commercial, institutional, or industrial wastes containing floatable fats, waxes, grease or oils, or which become floatable when the wastes cool to the temperature prevailing in the wastewater at the POTW treatment plant; also any commercial, institutional, or industrial wastes containing more than 100 mg/L of emulsified oil or grease; also any substances which will cause the sewage to become substantially more viscous, at any seasonal sewage temperature in the POTW.
- L. Any wastewater having a closed-cup flashpoint of less than 140° F (60° C) using the test method in 40 CFR Part 261.21.
- M. Any and all hauled waste into the POTW except hauled household waste into a designated site at the POTW.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 11-00/01, 12/04/00 [Fiscal Note: Less than \$1000])

Sec. 29-5. Concentration Based Limitations.

A. Limitations

1. The local concentration based limitations are established in the *Local Limit Development Document* which is incorporated by reference herein as if fully set forth. These concentrations shall not be exceeded on either a daily or an instantaneous basis. The Director may impose mass limitations in addition to the concentration-based limitations.
 - (a) All concentrations listed for metallic substances shall be as "total metal", which shall be defined as the value measured in a sample acidified to a pH value of 2 or less, without prior filtration.
 - (b) As determined on a composite sample taken from the user's daily discharge over a typical operational and/or production day.
 - (c) As determined on a grab sample taken from the user's discharge at any time during the daily operational and/or production period.

2. Other Limitations.

Other substances which may be limited are:

- (a) antibiotics;
- (b) chemical compounds which, upon acidification, alkalization, oxidation or reduction, in the discharge or after admixture with wastewater and its components in the POTW produce toxic, flammable, or explosive compounds;
- (c) pesticides, algicides, fungicides, herbicides, insecticides, rodenticides;
- (d) polyaromatic hydrocarbons (PAH);
- (e) polychlorinated biphenyls (PCB);
- (f) volatile organic compounds (VOC);

- (g) hazardous waste;
- (h) viable pathogenic organisms from industrial processes or hospital procedures.

3. Calculations of Limitations

To assure that none of the above noted limitations are violated, the Director shall issue permits to industrial users limiting the discharge of the substances noted above. In determining what concentration of each substance that any industrial user shall be allowed to discharge, the Director shall consider:

- (a) the quantities of each substance that are uncontrollable because they occur naturally in wastewater;
- (b) the quantities of each substance that are anthropogenic but are nonetheless uncontrollable;
- (c) historical discharge trends;
- (d) potential for growth in the POTW service area;
- (e) potential for more restrictive regulatory requirements to be placed on the POTW discharge or sludge disposal or sludge reuse method and;
- (f) treatability of the substance. The Director shall apply a safety factor protective of the POTW.
- (g) Mass-Based Limitations. Users implementing process changes may request that compliance be determined based on mass limitations in lieu of concentration limitations. Such mass-based limitations will be calculated from the permitted concentration-based limitations and current flows, and shall be equivalent to or less than the mass discharge in effect at the time of the request. The intent of a mass-based limit is to encourage and allow pollution prevention and/or water conservation measures that may cause a facility to increase pollution concentrations in its discharge even though the total mass of the pollutant discharged does not increase, and may in fact decrease. Decisions on granting requests for mass-based compliance limitations will be based on user-specific information and current operating conditions of the POTW, and will be at the discretion of the Director. Implementation of mass-based limitations may not contravene any requirements of federal or State laws and/or regulations implemented thereunder, and may not waive applicable categorical pretreatment standards.

B. Modification of Limitations

1. Limitations on wastewater strength contained in this ordinance may be modified with more stringent limitations when, in the opinion of the Director:
 - (a) The limitations in this ordinance are not sufficient to protect the POTW,
 - (b) The limitations in this ordinance are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's NPDES or Maine State Discharge Permit,
 - (c) The POTW sludge will be rendered unacceptable for disposal or reuse as the Director desires, as a result of discharge of wastewaters at the above prescribed concentrations limitations,
 - (d) Municipal employees or the public will be endangered, or

- (e) Air pollution and/or groundwater pollution will be caused.
2. The limitations on wastewater strength shall be recalculated not less frequently than one every five (5) years. The result of these calculations shall be reported to the City Manager and the City Council. This ordinance shall then be amended appropriately. Any issued industrial user discharge permits, which have limitations, which were changed, shall be revised and amended as appropriate.
 3. The Director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and any general discharge prohibitions as defined in Section 29-4.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-6. Pretreatment Requirements.

- A. Industrial users shall provide necessary wastewater treatment as required to comply with this article, Federal Pretreatment Standards, and permit conditions, and shall achieve compliance with the National Categorical Pretreatment Standards, located in 40 CFR Chapter 1, Subchapter N, Parts 405-471, and as amended from time to time, which are incorporated by reference herein as if fully set forth.
- B. Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review. The review of plans and operating procedures does not relieve the industrial user from complying with the provisions of this article and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the Director prior to the industrial user's initiation of the changes.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-7. Dilution Prohibition.

No industrial user shall increase the use of process water or dilute a discharge as a substitute for adequate treatment to achieve compliance with this article.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-8. Slug/Spill Prevention Plans.

- A. Industrial users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing Slug/Spill Prevention Plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Slug/Spill Prevention Plans, including the facilities and the operation procedures shall be submitted to the Director. Industrial users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge.

The Slug/Spill Prevention Plan shall contain at a minimum, the following elements:

1. description of discharge practices, including non-routine batch discharges;
2. description of stored chemicals;
3. procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR Part 403.5(b), National Pretreatment Standards: Prohibited discharges, with procedures for follow-up written notification within five days;

4. 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.

B. Industrial users that store hazardous substances shall not contribute to the POTW after the effective date of this ordinance unless a Slug/Spill Prevention Plan has been submitted to the Director. Submittal of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-9. Notification.

- A. In the case of any discharge in violation of this article or permit conditions, the industrial user shall immediately notify the POTW by telephone of the discharge. The notification shall include:
1. the date, time, location, and duration of the discharge;
 2. the type of waste including concentration and volume; and
 3. any corrective action(s) taken by the user.
- B. Within five days following such a discharge the user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.
- C. Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this ordinance or other applicable State or federal law.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-10. Employee Training.

The industrial user shall permanently post a notice in a prominent place advising all employees to call the treatment plant at 767-7675 in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-11. Records.

- A. Users shall retain and make available upon request of authorized representatives of the POTW, the DEP, or the EPA all records, including documentation associated with BMPs required to be collected by the user pursuant to this article or any permit or order issued pursuant to this article.
- B. These records shall remain available for a period of at least three (3) years after their collection.
- C. This period shall be extended during any litigation concerning compliance with this ordinance or permit conditions or when otherwise requested by the Approval Authority.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-12. Analytical Requirements.

All analyses, including sampling techniques, submitted in support of any application reports, evidence or required by any permit or order shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-13. Confidential Information.

- A. Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permit and monitoring programs and from inspection shall be available to the public during regular business hours unless the user specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time submission of the information or data. Effluent data shall be available to the public without restriction.
- B. When the person furnishing a report satisfies the Director that such person has made the demonstration required by (A), the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except upon written request by the DEP or EPA for uses related to this ordinance. DEP and EPA shall have immediate and unrestricted access (including unrestricted uses) to all data (including confidential) gathered by the City under its Pretreatment Program.

Effluent data will not be recognized as confidential information.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-14. Right of Entry.

Representatives of the City of South Portland, the DEP and EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this article. Industrial users required to obtain wastewater contribution permits shall allow authorized representatives of the POTW, DEP and EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, State and EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable authorized representatives of the City of South Portland, DEP and EPA to enter and inspect the premises as guaranteed by this paragraph. Refusal by the industrial user to permit entry according to this paragraph may result in immediate termination of sewer service by the POTW.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-15. Industrial Waste Survey.

The Director shall conduct an Industrial Waste Survey to identify all significant industrial users.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-16. Annual Inspection.

The Director shall at a minimum inspect each significant industrial user and significant industrial user process annually to determine compliance with this

article.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-17. Interjurisdictional Agreements.

The POTW may enter into interjurisdictional agreements to provide service to users outside of the City, provided that any user outside of the City shall agree to comply with all requirements of this article and ordinance, including any implementing regulations and any amendments or revisions thereto.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-18. Severability.

If any provision, paragraph, work, or section of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and divisions shall not be affected and shall continue in full force and effect.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-19. Conflict.

All other articles, ordinances and parts of other ordinances inconsistent or conflicting with any part of this article are hereby superseded for the purpose of applying this chapter to the extent of such inconsistency or conflict.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-20--29-99. Reserved

(Ord. No. 5-94/95, 9-19-94)

ARTICLE II. WASTEWATER CONTRIBUTION PERMIT APPLICATION**Sec. 29-100. Requirements to Apply for a Permit.**

- A. The following industrial users are required to apply for a wastewater contribution permit:
 - 1. Any significant industrial user;
 - 2. Any user required by state and/or federal pretreatment requirements to obtain a permit;
 - 3. Any user providing pretreatment; and
 - 4. Any other user directed by the POTW to apply for a permit.
- B. Existing users required to obtain a permit by subsection (A) must apply for a wastewater contribution permit within 90 days of the effective date of this ordinance.
- C. New sources required to obtain a permit by subsection (A) must apply for and receive a wastewater contribution permit prior to discharging pollutants into the POTW.
- D. Any user not required to obtain a permit for existing discharges must apply for and receive a wastewater contribution permit prior to changing the user's discharge in such a manner that the resulting discharge would require a permit.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-101. Permit Application.

Users required to apply for a wastewater contribution permit shall complete and file with the Director an application in the form prescribed by the POTW and accompanied by a fee of \$200.00.

In support of the application, the user shall submit, in units and terms appropriate for evaluations, the following information:

- A. Name, address, and location (if different from the address);
- B. SIC code of both the industry and any categorical processes;
- C. List of any environmental control permits held by or for the facility;
- D. Wastewater constituents and characteristics including but not limited to those mentioned in Sections 29-4 & 29-5.
- E. Time and duration of discharge, including hours, times and days of discharge;
- F. Average daily, maximum daily and 30 minute peak wastewater flow rates in gallons per day, including daily, monthly, and seasonal variation if any;
- G. Site plans, floor plans, mechanical and plumbing plans along with details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
- H. Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- I. The results of sampling and analysis identifying the nature and concentration of any pollutants in the discharge which are limited by any National Categorical

Pretreatment Standards or which are described in Sections 29-4 and 29-5. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations. Samples should be taken immediately downstream of pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with wastewater regulated by a National Categorical Pretreatment Standard prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR Part 403.6(e) in order to evaluate compliance with pretreatment standards;

- J. The shortest schedule by which the user will provide additional pretreatment or operation and maintenance if required to meet pretreatment standards. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. In no case shall the increments of progress in the schedule exceed nine months;
- K. Each product produced by type, amount, process or processes, process materials, additions, resulting constituents and rate of production;
- L. A listing of any toxic pollutant which the applicant uses or manufactures as an intermediate or final product or byproduct and a Slug/spill Control Plan for handling toxics;
- M. Type and amount of raw materials processes (average and maximum per day);
- N. Number and type of employees as well as hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- O. Signature of an authorized representative of the user and certified to by a qualified professional indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and additional pretreatment is required;
- P. Description, capacity and schematic drawings of pretreatment system;
- Q. Proposed monitoring locations;
- R. Any other information deemed by the POTW to be necessary to evaluate the permit application.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-102--29-149. Reserved.

(Ord. No. 5-94/95, 9-19-94)

ARTICLE III. WASTEWATER CONTRIBUTION PERMIT REQUIREMENTS**Sec. 29-150. Permit Required.**

Within 180 days of the effective date of this ordinance, it shall be unlawful for a user subject to a National Categorical Pretreatment Standard or other significant industrial user or any other user directed to apply with a permit by the City of South Portland to discharge wastewater into the POTW except in accordance with the terms and conditions of a Wastewater Contribution Permit.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-151. Permit Contents.

Permit may contain the following:

- A. Requirements to pay fees for the wastewater to be discharged to the POTW;
- B. Effluent limitations on the average and maximum wastewater constituents and characteristics;
- C. Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- D. Requirements for installation and maintenance of inspection and sampling facilities;
- E. Requirements and specifications for monitoring programs including sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- F. Compliance schedules;
- G. Requirements for submission of technical reports (i.e. Baseline Monitoring Reports, 90-Day Reports, and Periodic Compliance Reports) and discharge reports. These include any reporting requirements contained in a National Categorical Standard or Pretreatment Requirement;
- H. Requirements for collecting/retaining and providing access to plant records relating to the user's discharge;
- I. Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the user's wastewater discharge;
- J. Requirements to control slug discharges, if determined by the POTW to be necessary;
- K. Requirements for installation, operation, and maintenance of pollution control equipment;
- L. A statement of duration;
- M. A statement of nontransferability;
- N. A statement of applicable civil and criminal penalties;
- O. A requirement for submission of a certification statement attesting to the integrity of the analytical data submitted. Such certification will contain the following language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the

information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

This statement shall be signed by an authorized industrial representative.

- P. Applicable Federal, State and/or local effluent limitations, including Best Manage Practices;
- Q. Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, State and Federal Pretreatment Standards and requirements.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-152. Notification of Changed Discharge.

All Industrial Users shall provide prior notification to the POTW of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes; any changes at it's facility affecting potential for Slug Discharges.

The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other).

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-153. Basis for Effluent Limitations.

Effluent limitations shall be based upon the more stringent of the following:

- A. National Categorical Pretreatment Standards;
- B. State pretreatment requirements; or
- C. Local limitations calculated by mass balance or other valid scientific methods as described in EPA's guidance manual for the pretreatment program, **Local Limits Development Guidance Manual, July 2004**, necessary to protect the POTW from prohibited discharges described in Section 29-4.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 9-04/05, 1/19/05 [Fiscal Note: Less than \$1000])

Sec. 29-154. Baseline Monitoring Reports (BMRs), 90-Day Reports, and Periodic Compliance Reports (PCRs).

Any user subject to a National Categorical Pretreatment Standard, shall submit to the Director a baseline monitoring report, a 90-day report and semi-annual reports that meet Federal pretreatment requirements at 40 CFR Part 403.12(b), Sec. 29-101 of this ordinance, or any revision thereto indicating the nature and concentration of pollutants in the discharge.

Compliance schedules submitted as part of a BMR must meet requirements at 40 CFR Part 403.12(c) and shall therefore contain increments of progress, not to exceed nine months, 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 Pretreatment Standards. 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 Control 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 9 months elapse between such progress reports to the Control Authority.

Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing information relative to flow measurement, measurement of pollutants and certification of whether pretreatment standards are being met, and, if not, a description of needed additional O&M or pretreatment to attain compliance as described at 40 CFR Part 403.12(d).

Any Significant Industrial User or other user required to have a permit shall submit to the Director semiannual reports, indicating the nature and concentration of pollutants in the discharge. The specific standards or the POTW itself may require this report to be filed more frequently. In addition, this report shall include a record of measured or estimated average and maximum daily flows.

BMR's, 90-Day Reports and Periodic Compliance Reports must contain the same certification statement described in 29-151(O).

Reports required in Sec. 29-154 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 Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable 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 Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control 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 or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to 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 Control Authority, as appropriate.

For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historic sampling data do not exist; for facilities for which historic sampling data are available, the Control Authority may authorize a lower minimum. For the other reports required, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by the Industrial User with applicable Pretreatment Standards and Requirements.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: less than \$1000])

Sec. 29-155. Permits Duration.

Permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit reissuance at least 180 days prior to the expiration of the user's existing permit.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-156. Permit Modifications.

- A. The Wastewater Contribution Permit of a user subject to the promulgation of a National Categorical Pretreatment Standard or pretreatment requirements will be modified as soon as possible (e.g. within 90 days) subsequent to a change in Federal Standards or requirements.
- B. A user must re-apply for a permit:
 1. whenever the mass loading of pollutants contained in the permitted discharge exceeds the average daily quantity applied for by greater than ten percent and/or
 2. prior to any new introduction of pollutants or any substantial change in the volume or character of pollutants introduced into the POTW.
- C. A user may re-apply for a Wastewater Contribution Permit whenever the user believes that some of the permit requirements no longer apply.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-157. Permit Transfer.

Wastewater Contribution Permits are issued to a specific user for a specific process or operation. A Wastewater Contribution Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Director.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-158. Monitoring.

- A. Users shall provide and maintain in safe and proper condition, at their own expense, facilities to allow the authorized representatives of the POTW, EPA, or the State to inspect, sample or measure flows from wastewater subject to this ordinance.
- B. There shall be ample room in or near such facilities to allow accurate sampling and preparation of samples for analysis.
- C. If locating such facilities on a user's property would be impractical, the user may apply to the City for a right of way or for permission to construct on public property.
- D. Significant Industrial Users must, at a frequency determined by the Director submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution Prevention alternative, the User must submit documentation required by Director or Pretreatment Standard necessary to determine the compliance status of the User.
- E. All wastewater samples must be representative of the Users discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. Failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- F. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, the results of this monitoring shall be included in the report.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-159. Notification and Resampling.

If sampling performed by an Industrial User indicates a violation, the user shall notify the Control 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 Control Authority within 30 days after becoming aware of the violation.

If the City performs sampling in lieu of the industrial user, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: less than \$1000])

Sec. 29-160. Bypass.**A. Bypass not violating applicable pretreatment standards or requirements.**

An Industrial User may cause a bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to subsections (B) and (C).

B. Notice.

1. If an Industrial User knows in advance of the need for a bypass, it shall submit notice to the POTW, if possible at least ten days before the date of the bypass.
2. An Industrial User shall orally notify the POTW of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within 24 hours of becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, 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.

C. Prohibition of bypass.

1. Bypass is prohibited and the POTW 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 bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The Industrial User submitted notices as required by paragraph (B) of this section.
2. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (C)(1) of this section.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-161. Right to Refuse Permit.

The POTW reserves the right to refuse to grant or renew a permit to any Industrial User that the Director reasonably believes will not or cannot comply with pretreatment standards, this article, local ordinance, or its permit conditions.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-162. Signatory Requirements.

Signatory requirements for Industrial user reports. The reports required by Sec. 29-154 shall include the certification statement as set forth in Sec. 151 (O), and shall be signed as follows:

1. By a responsible corporate officer, if the Industrial User submitting the reports required by Sec. 29-154 is a corporation. For the purposes of this paragraph, a responsible corporate officer means (i) a president, secretary, treasurer, or vice -president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility. This authorization shall include having the explicit or implicit duty of making major capital investment recommendations, and the initiation and direction of other comprehensive measures to assure long-term compliance with environmental laws and regulations. Additionally the manager shall ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism required; finally, authority to sign documents and thus bind the corporation has been assigned or delegated to the manager in accordance with corporation procedures.
2. By a general partner or proprietor if the Industrial User submitting the reports required by Sec. 29-154 is a partnership or soul proprietorship respectively.
3. By a duly authorized representative of the individual designated in paragraph (1) or (2) of this Section if:
 - (i) The authorization is made in writing by the individual described in paragraph (1) or (2);
 - (ii) 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
 - (iii) The written authorization is submitted to the Control Authority.
4. If an authorization under paragraph (3) of this section is no longer accurate because a different individual or position has responsibility for overall operation of the faculty, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements in paragraph (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.

(Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-163--29-199. Reserved.

(Ord. No. 5-94/95, 9-19-94)

ARTICLE IV. FEES

Sec. 29-200. Charges and Fees.

The City of South Portland may adopt charges and fees which may include:

- A. Fees for reimbursement of costs of setting up and operating the City of South Portland's Pretreatment Program;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of reviewing monitoring reports submitted by the Industrial User;
- C. Fees for reviewing accidental discharge procedures and construction;
- D. Fees for permit applications including the cost of processing such applications;
- E. Other fees as the City of South Portland may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the City of South Portland.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-201--29-209. Reserved.

(Ord. No. 5-94/95, 9-19-94)

ARTICLE V. ENFORCEMENT**Division 1. Enforcement Response Plan Objective****Sec. 29-210. Enforcement Response Plan.**

The Director shall prepare an Enforcement Response Plan. The Enforcement Response Plan, in a step-by-step fashion, shall outline the procedures to be followed to identify, document, and respond to violation by users of the POTW. All violations by users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.

A. The Enforcement Response Plan shall:

1. describe how the Director will investigate instances of noncompliance.
2. describe the types of escalated enforcement actions that the Director will take in response to all anticipated types of user violations and the time periods within which to initiate and follow-up these actions.
3. adequately reflect the City's responsibility to enforce all applicable standards and requirements.

B. The Enforcement Response Plan shall contain:

1. forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence.
2. systems to track due dates, compliance schedule milestones, and pending enforcement actions.
3. criteria, responsible personnel, and procedures to select and initiate an enforcement action.

C. Enforcement Actions

The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors such as:

1. Magnitude of the violation
2. Duration of the violation
3. Effect of the violation on the receiving water
4. Effect of the violation on the POTW
5. Compliance history of the Industrial User
6. Good faith of the Industrial User

and shall promote consistent and timely use of enforcement remedies.

The Enforcement Response Plan provides for a consistent and timely approach to enforcement. The Enforcement Response Plan shall be reviewed at least every five years.

Sec. 29-211--29-249. Reserved.

(Ord. No. 5-94/95, 9-19-94)

Division 2. Enforcement Response Plan Pretreatment Requirements**Sec. 29-250. Administrative Enforcement Remedies.****A. Notification of Violation (NOV)**

Whenever the Director finds that any user has violated or is violating the ordinance, or any permit, order, prohibition, limitation, or requirement permitted by the ordinance, the Director may serve upon such person a written notice stating the nature of the violation. Within 10 calendar days of the date of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Director, by the user. The correction and prevention plan shall include specific action. Submission of this plan in no way relieves the user of liability for any violations caused by the user before or after receipt of the Notice of Violation.

B. Consent Orders

The Director is hereby empowered to enter into a Consent Order, assurances of voluntary compliance, or other similar documents establishing an agreement with the Industrial User responsible for the noncompliance. Such orders will include specific action to be taken by the Industrial User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as a Compliance Order.

C. Compliance Orders

When the Director finds that an Industrial User has violated or continues to violate the ordinance or a permit or order issued hereunder, he/she may issue an order to the Industrial User responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Compliance Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

D. Cease and Desist Orders

When the Director finds that an Industrial User has violated or continues to violate the ordinance or any permit or order issued hereunder, the Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

1. Comply forthwith; and/or
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operation and terminating the discharge.

E. Administrative Fines

Notwithstanding any other section of the ordinance, any user who is found to have violated any provision of the ordinance, or permits and orders issued hereunder, shall be fined in an amount not to exceed one thousand dollars (\$1000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Director shall have such other collection remedies as he/she has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual

user's property. Industrial User's desiring to dispute such fines must file a request to the Director by registered mail to reconsider the fine within 10 days of being notified of the fine. Where the Director believes a request has merit, he/she may convene a meeting on the matter within 15 days of receiving the request from the Industrial User. The Director may:

1. reject any request;
2. modify or suspend the fine; or
3. request additional information from the user.

F. *Emergency Suspensions*

1. The Director may suspend the wastewater treatment service and/or permit of an Industrial User (after informal notice to the discharger) whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent endangerment to the health or welfare of persons, the environment or that threatens to interfere with the POTW's operation. In the event of an actual discharge presenting or causing an imminent endangerment to the health or welfare of persons, the POTW or the environment, the Director shall immediately take such steps as deemed necessary, including, but not limited to, immediate severance of the sewer connection to protect the POTW, its receiving stream, or an individual or individuals.
2. Any user notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate its contribution. In the event of the user's failure to immediately comply voluntarily with the administrative order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the user to recommence its discharge when the endangerment has passed.
3. An Industrial User which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director.
4. Whenever the Director takes steps, including the severance of a sewer connection, to protect the POTW, its receiving stream or an individual or individuals, the Industrial User is liable to the POTW or individuals for any damages directly or indirectly attributable to the Industrial User's violation, including but not limited to indemnification for sewer overflows or back-ups onto public or private property.

G. *Summary Abatement*

Notwithstanding any inconsistent provisions of the ordinance, whenever the Director finds, after investigation, that any user is causing, engaging in, or maintaining a condition or activity which, in his/her judgement, present an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to delay action until notice, the Director may, order such user by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity; or where the giving of notice is impracticable, or in the event of a user's failure to comply voluntarily with an emergency order, the Director may take all appropriate action to abate the violating condition.

The Director, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his/her duties to protect the public health, safety, or welfare, or to preserve the POTW.

When the Director acts to abate a violating condition, the Industrial User is liable for any damages directly or indirectly attributable to the violation, including but not limited to indemnification for sewer overflows or back-ups onto public or private property.

H. *Termination of Permit*

Significant Industrial Users proposing to discharge into the POTW, must first obtain a permit from the Control Authority. Any user who violates the following conditions of the ordinance or a permit or order, or any applicable or State and Federal law, is subject to permit termination upon:

1. Violation of permit conditions; or
2. Failure to accurately report the wastewater constituents and characteristics of its discharge; or
3. Failure to report significant changes in operations or wastewater constituents or characteristics; or
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant Industrial Users will be notified, by registered mail, of the proposed termination of their Wastewater Contribution Permit.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-251. Judicial Remedies.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of the ordinance, or any order or permit issued hereunder, the Director, through the Corporation Counsel or other attorney retained by the City, may commence an action for appropriate legal and/or equitable relief.

A. *Injunctive Relief*

Whenever an Industrial User has violated or continues to violate the provisions of the ordinance or permit or order issued hereunder, the Director, through Counsel may petition the Court for the issuance of a temporary restraining order, preliminary injunction and/or permanent injunction which restrains or compels the activities on the part of the Industrial User. The Director shall have the same remedies to collect these fees as he/she has to collect other sewer service charges.

B. *Civil Penalties*

Any Industrial User who has violated or continues to violate the ordinance or any order or permit issued hereunder, shall be liable to the City for a civil penalty of not more than \$25,000 plus actual damages incurred by the POTW per violation per day as long as the violation continues. In addition to the above described penalty and damages, the Director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. The Director, through Counsel, shall petition the Court to impose, assess, and recover these sums.

C. *Criminal Penalties*

Any Industrial User who willfully or negligently violates any provisions of the ordinance, or any orders or permit issued hereunder shall be referred to the Attorney General's Office for prosecution.

(Ord. No. 5-94/95, 9-19-94)

Sec. 29-252. Supplemental Enforcement Remedies.**A. Annual Publication of Significant Violations**

The Director shall publish, at least annually in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the city, a description of those Industrial Users which are found to be in significant violation and/or Significant Noncompliance, as defined in Section 29-3 of the ordinance, with any provisions of the ordinance or any permit or order issued hereunder during the last year.

(Ord. No. 5-94/95, 9-19-94; Ord. No. 15-07/08, 5/19/08 [Fiscal Note: Less than \$1000])

Sec. 29-253. Affirmative Defenses.**A. Treatment Upsets**

1. Any Categorical Industrial User which experiences an upset in operation that places it in a temporary state of noncompliance with Categorical Pretreatment Standards, which is not the result of operational error, improperly designed treatment of facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the Director thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five days. The report shall contain:
 - (a) A description of the upset, its cause(s), and impact on the discharger's compliance status; and
 - (b) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored; and
 - (c) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.
2. A Categorical Industrial User which complies with the notification provisions of this section in five (5) days shall have an affirmative defense to any enforcement action brought by the Director for noncompliance with Categorical Pretreatment Standards which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

B. Treatment Bypass

1. A bypass of the treatment system is prohibited unless all of the following conditions are met:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - (c) The Industrial User properly notified the Director as described in paragraph (2) below.
2. Industrial Users must provide immediate notice to the Director upon discovery of an unanticipated bypass. If necessary, the Director may require the Industrial User to submit a written report explaining the cause(s), nature, and duration of the bypass, and steps being taken to prevent its recurrence.
3. An Industrial User may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial Users anticipating a bypass must submit notice to the Director at least 10 days in advance. The Director may only approve the anticipated

bypass if the circumstances satisfy those set forth in paragraph (a) above.

(Ord. No. 5-94/95, 9-19-94)