

ARTICLE I, General Provisions

§ 160-1. Purpose and policy.

Part 1 of this chapter sets forth requirements for users of the Publicly Owned Treatment Works of the Town of Amherst and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (United States Code 33 U.S.C. § 1251 et seq.) and the General Pretreatment Regulations (Code of Federal Regulations 40 CFR 403). It is further the explicit purpose of Part 1 of this chapter to achieve the following:

- A. To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation.
- B. To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works.
- C. To protect publicly owed treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public.
- D. To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works.
- E. To establish fees for the equitable distribution of the cost of operation, maintenance and improvement of the publicly owned treatment works.
- F. To enable the Town of Amherst to comply with its state pollutant discharge elimination system permit conditions, sludge use and disposal requirements and any other federal or state laws to which the publicly owned treatment works is subject.
- G. To eliminate the discharge of unpolluted waters into the POTW.

§ 160-2. Application and interpretation of provisions; administration.

- A. Part 1 of this chapter shall apply to all direct and indirect dischargers of wastes into the facilities of the Town of Amherst, including those users outside the town who are by contract or agreement with the town, users of the town's facilities. Part 1 of this chapter also authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- B. The Town Engineer and the Commissioner of Building, as provided herein, shall administer, implement and enforce the provisions of Part 1 of this chapter. The Town Engineer shall supervise the operation of the POTW and the pretreatment program.

- C. The provisions of Part 1 of this chapter shall be interpreted in accordance with the definitions set forth in § 160-4 hereof.

§ 160-3. Abbreviations.

The following abbreviations, when used in Part 1 of this chapter, shall have the designated meanings:

BOD	--	Biochemical oxygen demand.
40 CFR 403	--	Code of Federal Regulations.
COD	--	Chemical oxygen demand.
EPA	--	United States Environmental Protection Agency.
gpd	--	Gallons per day.
mg/l	--	Milligrams per liter.
ug/l	--	Micrograms per liter.
NPDES	--	National Pollutant Discharge Elimination System.
NYSDEC	--	The New York State Department of Environmental Conservation.
SPDES	--	State pollutant discharge elimination system.
POTW	--	Publicly-owned treatment works.
RCRA	--	Resource Conservation and Recovery Act.
SIC	--	Standard Industrial Classification.
TSS	--	Total suspended solids.
USC	--	United States Code.
OSHA	--	Occupational Safety and Health Act.

§ 160-4. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in Part 1 of this chapter shall be as follows:

ABNORMAL-STRENGTH SEWAGE OR WASTEWATER -- Sewage which, when analyzed, shows, by concentration, a daily average greater than the following; which may be acceptable into a sanitary sewer under terms of Part 1 of this chapter:

- A. Biological oxygen demand (BOD5): two hundred (200) mg/l.
- B. Total suspended solids (TSS): two hundred fifty (250) mg/l.
- C. Total phosphorous (P): four and four-tenths (4.4) mg/l.
- D. Total Kjeldahl nitrogen (TKN): twenty-one and seven-tenths (21.7) mg/l.

AUTHORIZED REPRESENTATIVE OF THE USER:

- A. If the user is a corporation:
 - (1) The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- C. If the user is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or his/her designee.
- D. The individuals described in Subsection A through C above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

APPROVAL AUTHORITY -- The Director of the State of New York Pretreatment Program or the Administrator of the United States Environmental Protection Agency (EPA).

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

BUILDING (HOUSE) DRAIN -- That part of the lowest piping of a drainage system which receives the discharge of soil, waste and other drainage pipes inside the walls of the building and conveys such discharges to the building sewer.

BUILDING COMBINED DRAIN -- A building drain which conveys both sewage and stormwater.

BUILDING SANITARY DRAIN -- A building drain which conveys sewage but does not convey storm water.

BUILDING STORM DRAIN -- A building drain which conveys stormwater but does not convey sewage.

BUILDING (HOUSE) SEWER -- That part of the drainage system which extends from the end of the building drain and conveys its discharges to a public sewer, private sewer, individual sewage disposal system or other approved point of disposal.

BUILDING COMBINED SEWER -- A building sewer which conveys both sewage and stormwater.

BUILDING SANITARY SEWER -- A building sewer which conveys sewage but does not convey stormwater.

BUILDING STORM SEWER -- A building sewer which conveys stormwater but does not convey sewage. The building storm sewer terminates at the public sewer.

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

COMMERCIAL ESTABLISHMENTS -- Private establishments such as restaurants, hotels, stores, automotive service stations, laundromats or recreational facilities and all other nonresidential occupancies. Private nonprofit entities such as churches, schools, hospitals or charitable organizations are considered to be "commercial establishments."

COMMISSIONER OF BUILDING -- The Commissioner of Building of the Town of Amherst or his assigns.

COMPOSITE SAMPLE -- A combination of individual samples of water or wastewater taken at selected intervals for some specified period of time in order to minimize the effect of the variability of the sample stream. Individual samples may have equal volume or may be proportioned to the flow at the time of sampling.

CONSTRUCTION SPECIFICATIONS FOR AMHERST SEWER DISTRICTS -- The standard list of materials, specifications and standard details of construction as provided by the Town of Amherst Engineering Department and approved by the Amherst Town Board.

DISTRICT -- A service area within or outside the boundaries of the Town of Amherst which is tributary to the Amherst Wastewater Facilities.

ENVIRONMENTAL PROTECTION AGENCY (EPA) -- The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized official of said agency.

EXISTING SOURCE -- Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

FLOW VOLUME -- The quantity of wastewater or liquid over a specified period of time.

GARBAGE -- Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

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

GROUNDWATER -- All subsurface water, that part which is in the zone of saturation.

HIS -- The masculine gender shall include the feminine, and the singular shall include the plural unless indicated otherwise.

INDIRECT DISCHARGE or DISCHARGE -- The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Clean Water Act.

INDUSTRIAL WASTES -- The solid and liquid wastes from industrial processes, as distinct from domestic or sanitary wastewaters.

INDUSTRIAL WASTE SURCHARGE -- A financial charge levied on industrial users of the wastewater system for the additional cost of treating abnormal-strength wastewater.

INTERFERENCE -- A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal and, therefore, is a cause of a violation of the town's SPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the "Resource Conservation and Recovery Act (RCRA);" any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

MAY -- Is permissive.

MEDICAL WASTE -- Any red-bag wastes, including but not limited to isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NATURAL OUTLET -- An outlet that is present in and produced by nature.

NYSUFPBC -- The New York State Uniform Fire Prevention and Building Code, Title 9, Subtitle S, Chapter 1, of Volume 9 - Executive (B) of the "Official Compilation of the Codes, Rules and Regulations of the State of New York."

NEW SOURCE:

- A. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a "new source" if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection A(2) or (3) above but otherwise alters, replaces or adds to existing process or production equipment.
- C. Construction of a "new source," as defined herein, has commenced if the owner or operator has:
- (1) Begun, or caused to begin, as part of a continuous on-site construction program:
 - (a) Any placement, assembly or installation of facilities or equipment; or
 - (b) Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities, which is necessary for the placement, assembly or installation of new source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

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

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

PERSON -- Any individual, partnership, copartnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

pH -- The logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

PRETREATMENT -- The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT REQUIREMENTS -- Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARDS or STANDARDS -- Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES -- Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 160-6 of Part 1 of this chapter.

PROPERLY SHREDDED GARBAGE -- The wastes from preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

PUBLIC SEWER -- A sewer in which all owners of abutting properties have equal rights and which is controlled by the town.

PUBLICLY OWNED TREATMENT WORKS or POTW -- A treatment works, as defined by Section 212 of the Act (33 U.S.C. § 1292), which is owned by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

RECOMMENDED STANDARDS FOR WASTEWATER FACILITIES -- The recommended design, review and approval standards for wastewater collection and treatment facilities, as published by the New York State Health Education Services.

RECEIVING WATERS -- A natural watercourse or body of water into which treated or untreated wastewater is discharged.

SANITARY SEWER -- A pipe or conduit which carries wastewater and to which storm, surface and groundwaters are not intentionally admitted.

SEPTAGE -- The contents of a septic tank, cesspool or other nonpublic wastewater treatment facility which receives sanitary sewage or waste.

SERVICE AREA -- Any area contributing wastewater to the Town of Amherst Wastewater Facilities.

SEWER -- A pipe or conduit for carrying wastewater or drainage water.

SHALL -- Is mandatory.

SIGNIFICANT INDUSTRIAL USER:

- A. A user subject to categorical pretreatment standards; or
- B. A user that:
 - (1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (2) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (3) Is designated as such by the town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- C. Upon a finding that a user meeting the criteria in Subsection B(2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a "significant industrial user."

SLUG -- Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 160-6 of Part 1 of this chapter.

SPILL POTENTIAL USER -- Any user who uses or stores substances that may inadvertently be spilled into the Town of Amherst sewer system and which potentially have an adverse impact on the sewer system and/or the town's wastewater facilities.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (SPDES) -- A permit issued by the State of New York to discharge directly to surface water.

STORM SEWER -- A pipe or conduit which carries storm and surface waters and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling waters.

STORMWATER -- Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

SUSPENDED SOLIDS -- Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are largely removable by laboratory filtering.

TAMPER -- To interfere with or bring about an improper situation or condition, which includes, without limitation, covering or concealing a sanitary manhole cover, or any other practice which hinders access to the same.

TOWN -- The Town of Amherst.

TOWN BOARD -- The Town Board of the Town of Amherst and shall include the members of the Town Board acting in their capacities as Commissioners of the sewer districts.

TOWN ENGINEER -- The Town Engineer of the Town of Amherst or his assigns.

TOXIC POLLUTANT -- Any pollutant or combination of pollutants listed as toxic in any regulations promulgated by the Administrator of the Environmental Protection Agency.

UNPOLLUTED DRAINAGE -- Shall include but not be limited to, drainage from any catch basin, lake, swamp, pond, swimming pool, outlet for surface runoff or groundwater which contain no wastes or wastewaters.

USER OR INDUSTRIAL USER -- A source of indirect discharge.

WASTE -- Any liquid, solid or gaseous substance that might be discharged or discarded into a public sewer.

WASTEWATER -- A combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such groundwater, surface water and stormwaters that may be present.

WASTEWATER DISCHARGE PERMIT -- A permit to discharge industrial waste into any sanitary sewer under jurisdiction of the town or, in a contracted service area, under the jurisdiction of the town and the contracted service area.

WASTEWATER TREATMENT WORKS -- An arrangement of devices and structures used for treating wastewater, industrial waste and sludge.

WASTEWATER FACILITIES -- The structures, equipment and processes that collect, transport and treat domestic and industrial waste and dispose of the waste residuals.

WATERCOURSE -- A channel in which a flow of water occurs, either continuously or intermittently.

ARTICLE II, General Sewer Use Requirements

§ 160-5. Public sewers.

A. Use of public sewers required.

- (1) It shall be unlawful to discharge to any natural outlet within the Town of Amherst any sewage or polluted waters, except where suitable treatment has been provided in accordance with the provisions of Part 1 of this chapter, and except where an appropriate New York State pollutant discharge elimination system (SPDES) permit has been applied for and been received. A valid copy of such a permit and any modifications thereof must be filed with the Town Engineer.
- (2) 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 sewer of the town, is hereby required at his expense to install suitable toilet facilities therein as specified in the New York State Uniform Fire Prevention and Building Code and to connect such facilities directly with the proper public sewer in accordance with the provisions of Part 1 of this chapter within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the premises on which the building is located, measured along a street in the case of one- or two-family dwellings and within five hundred (500) feet for premises containing any other occupancies, and provided that a connection may be made lawfully thereto.
- (3) Buildings, constructed in areas of the town without public sewers, that can be readily connected to the public sewer when available shall have the plumbing so arranged. In the meantime, septic tanks, disposal fields or other private disposal facilities which meet the requirements of the New York State Health Department and the Erie County Health Department shall be installed.
- (4) Owners of buildings constructed under these provisions shall, when making application for a building permit, sign an agreement to immediately connect to a public sewer when available. Such agreement is to run with the land.

B. Installation of sanitary drains.

- (1) The main sanitary drain for any building shall be hung below the first floor and exit through the foundation wall to allow six (6) inches between the basement floor and the pipe invert. All devices producing wastewater and installed in cellars shall discharge into the main sanitary drain at a point within the building above the level of the exterior finished grade.
- (2) All buildings having cellars shall have an adequate sump and sump pump to which any interior or exterior perimeter drain tile and floor drains shall discharge. The sump pumps shall discharge into a storm sewer. Weepers located above cellar floor level and through the cellar walls are not permitted.

- (3) All buildings shall have adequate roof gutters and downspouts connected to storm drains which also receive the discharge from sump pumps and from courts, yards and paved areas on the property. Such storm drains shall discharge into an existing stormwater sewer, otherwise it may discharge into an existing road or ditch or other general drainage ditch if approved by the town. Where such points of discharge are not available, the Commissioner of Building will decide the manner in which the stormwater shall be collected and disposed.
- (4) The building sewer shall not be connected to the building drain until all foundation wall backfill has been made and the roof construction of the building completed.
- (5) 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 of Amherst from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (6) A separate and independent building sewer shall be provided for every building except where special permission is received from the Commissioner of Building.
- (7) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Commissioner of Building, to meet all requirements of Part 1 of this chapter.
- (8) Septic or holding tanks which are abandoned shall be required to be removed or filled with select fill, concrete or other material approved by the Commissioner of Building. Commercial and industrial facilities may need to be sampled and tested prior to abandonment, in accordance with New York State or Erie County regulations. Abandoned septic or holding tanks may be converted for use in a stormwater disposal system approved by the Commissioner of Building.
- (9) The following items and/or operations shall comply with the provisions of the New York State Uniform Fire Prevention and Building Code, town specifications and/or Recommended Standards for Wastewater Facilities.
 - (a) Building and sewer materials.
 - (b) Slope of building sewers.
 - (c) Angle, grade and bedding for building sewers.
 - (d) Pipe laying and backfilling.
 - (e) Connection of the building sewer to the sanitary sewer.
- (10) No footing drains, roof drains or other drains carrying surface or groundwater shall be connected to the building or sanitary sewer. A sump pump shall be provided wherever required to carry ground and surface water to a natural outlet or storm sewer.

- (11) The use of a main house trap to buildings shall be required. The main trap must be provided with a fresh-air inlet to ventilate the system in which plumbing fixtures are to be placed. The main trap may be placed either within the cellar or outside of the building. If an outside trap is used, a wye with a cleanout must be provided inside the building. A fresh-air pipe must be carried to gradeline and provided with a suitable vent cap. If an inside trap is used, the fresh-air vent must connect to the top of the trap with a wye and one-eighth bend and must run to the outside of the building above grade. The fresh-air vent shall be at least four (4) inches in diameter. The fresh-air vent on a trap shall not be placed within ten (10) feet of an openable window or door. Traps must be placed at a minimum depth of thirty-six (36) inches, or frost protection must be provided.
- (12) Saddle-type connections to the main sewers shall be made in a smooth, round hole, machine drilled. The fitting used shall be made to ensure that it will not protrude into the main sewer. The fitting shall fit the contour of the inside of the main sewer and be designed for the size of pipe into which construction is being made. One-eighth-inch clearance shall be provided between the fitting and the hole and between the shoulder of the fitting and face of the main pipe. These spaces shall be completely filled with waterproof joint material capable of withstanding any stress or strain likely to be encountered in normal sanitary sewer construction or maintenance. The fitting shall be manufactured of either cast aluminum alloy, vitrified clay pipe or other material acceptable to the Town Engineer and shall be capable of receiving all types of pipe normally used for house service connections.
- (13) All excavations for building or sanitary sewer installations 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 work shall be restored in a manner satisfactory to the Town Engineer. Ditches and culvert pipes for storm and surface water or other utilities disturbed during the installation of sewers shall be replaced to their original condition. All driveways and parking areas shall be backfilled with select fill.
- (14) Before commencing work in a highway right-of-way, the appropriate highway department shall be notified and a permit taken out. Utility companies as appropriate shall also be notified.
- (15) No connection of sanitary sewer extensions shall be permitted to a main sewer of the district until infiltration, deflection or other tests and final inspections have been made and approved by the Town Board, in writing. The allowable rate of infiltration shall not exceed two hundred (200) gallons per inch of pipe diameter per mile of sewer per day. Sewers may be connected to the main sewer system when they are found upon examination and test to comply with town specifications.
- (16) Whenever pipe laying is not in progress, the end of the pipe shall be securely closed with a tight-fitting cover or plug. Any earth or other material entering the main sewer due to operations of the plumber, contractor or building owner shall be removed at his expense. All trenches must be protected by sufficient sheeting and bracing or other acceptable methods as required by the town specifications.

- (17) Within the highway right-of-way, backfilling and restoration of the surface shall be in accordance with requirements of the highway agency having jurisdiction.
- (18) An earthen dam made of suitable clay material shall be installed in the trench of the building sewer per town specifications. The dam shall be twenty-four (24) inches in length and located midway between the main sewer and the house trap. The purpose of this dam is to prevent the conduction of the groundwater through the stone trench of the building sewer. Additional dams as ordered by the Plumbing Inspector may be required where poor ground conditions or high groundwater elevations exist.

§ 160-6. Prohibited discharge standards.

A. General prohibitions.

- (1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage or uncontaminated cooling water to any sanitary sewer.
- (2) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to other approved drainage facilities. Industrial noncontact cooling water or unpolluted process waters may be discharged, on approval of the Town Engineer, to a storm sewer or other drainage facilities. It must be strictly understood that where approval is given for discharge, a NYSSPDES permit may be required.
- (3) No user shall discharge, or cause to be discharged, either directly or indirectly to any public sewers, any substance or wastewater which causes pass-through or interferes with the operation or performance of the town's wastewater facilities. In addition, no user shall discharge any substance which will cause the town to violate its SPDES permit, receiving water quality standards, or contaminate the town's sewage sludge to an extent which restricts sludge disposal options. These general prohibitions also apply to all nondomestic users of the town's facilities whether or not the user is subject to Categorical Pretreatment Standards or any other national, state or local pretreatment requirements.

B. Specific prohibitions. The following substances and wastewater are specifically prohibited from discharge into the town's facilities:

- (1) Any water or wastes having a pH lower than six point zero (6.0) or higher than nine point five (9.5), or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel involved with the town's wastewater facilities.
- (2) Any liquid or vapor containing heat in amounts which will inhibit biological activity in the wastewater treatment facility and cause interference with the treatment process, but in no case shall heat be in such quantities that the temperature at the town's wastewater treatment works influent exceeds forty degrees Centigrade (40° C.) [one hundred four degrees Fahrenheit (104° F.)].

- (3) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at zero degrees Centigrade (0° C.) [thirty-two degree Fahrenheit (32° F.)]; also, petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (4) Any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
- (5) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (6) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred degrees Fahrenheit (104° F.) [sixty degrees Centigrade (60° C.)] using the test methods specified in 40 CFR 261.21.
- (7) Solid or viscous substances in quantities, or of such size, capable of causing obstruction to the flow in the POTW resulting in interference, but in no case solids greater than one-half (1/2) inch in any dimension.
- (8) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Town Engineer.
- (9) Wastewater which imparts color which cannot be removed by the treatment process, such as but not limited to dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the town's SPDES permit.
- (10) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- (11) Volumes of flow or concentrations of wastes constituting slugs.
- (12) Trucked or hauled pollutants, except at discharge points designated by the Town Engineer in accordance with § 160-15 of Part 1 of this chapter.
- (13) Sludges, screenings or other residues from the pretreatment of industrial wastes.
- (14) Medical wastes, except as specifically authorized by the Town Engineer in a wastewater discharge permit.
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (16) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW.

- (17) At the point of discharge into the POTW, wastewater causing two (2) readings on an explosion hazard meter of more than ten percent (10%) or any single reading over twenty percent (20%) of the lower explosive limit of the meter.

§ 160-7. National categorical pretreatment standards.

- A. Any promulgated national categorical pretreatment standard shall immediately supersede the limitations imposed under Part 1 of this chapter if more stringent than these limitations for sources in a particular industrial category. The Town Engineer shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.
- B. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated. As new categorical pretreatment standards are promulgated or existing categorical standards modified, the Town Engineer, within thirty (30) days of publication in the Federal Register, shall seek Town Board approval for incorporation into Part 1 of this chapter.
 - (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Town Engineer may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
 - (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Town Engineer shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
 - (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the EPA when developing the categorical pretreatment standard.
 - (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

§ 160-8. State pretreatment standards.

(Reserved)

§ 160-9. Local limits.

Local limits will be based on a mass allocation system contained in the Town of Amherst Mass Allocation Manual approved by the Town Board of the Town of Amherst. Mass-based limits shall be included in all industrial discharge permits, where necessary, for all users required to be permitted. Any user discharging a pollutant greater than the unallocated reserve for that pollutant, at any time, shall be considered to be in violation of Part 1 of this chapter and shall cease the discharge of the violating pollutant immediately. The Town of Amherst Mass Allocation Manual and any limits developed through the use of such manual are duly enforceable by Part 1 of this chapter. Any changes to the manual must comply with all applicable requirements of 40 CFR 403. The Town of Amherst Mass Allocation Manual is available at the Town of Amherst Engineering Department.

§ 160-10. Right of revision.

The town reserves the right to establish more stringent limitations or requirements on discharges to its wastewater facilities if deemed necessary to comply with the objectives set forth above.

§ 160-11. Dilution.

- A. No industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.
- B. The town may impose mass discharge limits on users who are using dilution to meet any requirement of Part 1 of this chapter or in other cases where the imposition of mass limits is appropriate.

ARTICLE III, Pretreatment of Wastewater

§ 160-12. Pretreatment facilities.

The user shall provide necessary wastewater treatment as required to comply with the provisions of Part 1 of this chapter, any applicable federal categorical pretreatment standards, and all other applicable federal, state and local pretreatment standards within the time limitations as specified by the applicable pretreatment standards, whichever is more stringent. All facilities required to pretreat wastewater to an applicable level acceptable to the town shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town Board for review, and shall be approved by the Town Engineer, subject to the requirements of applicable codes, ordinances and laws, prior to construction of the facility. The approval 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 town under the provisions of Part 1 of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the Town Engineer prior to the user's initiation of the changes.

§ 160-13. Additional pretreatment measures.

- A. Whenever deemed necessary, the Town Engineer may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of Part 1 of this chapter.
- B. The Town Engineer may require any person discharging into the POTW to install and maintain, on his/her property and at his/her expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

- C. Grease, oil and sand interceptors shall be provided, replaced and maintained by industrial or commercial users as required by the Town Engineer. All interceptors shall be sized in accordance with the specific sizing criteria established by the manufacturer, based on calculated loads with future expansion taken into consideration. All required units must be approved by the town and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, by the user at his/her expense, to the satisfaction of the town. If, in the opinion of the Town Engineer, any existing interceptor units are undersized, inadequate or in need of repair, the Town Engineer can order the industrial or commercial user to replace that existing unit with a new interceptor meeting the town's requirements.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

§ 160-14. Accidental discharge/slug plans.

At least once every two (2) years, the Town Engineer shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Town Engineer may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Town Engineer may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Description of stored chemicals.
- C. Procedures for immediately notifying the Town Engineer of any accidental or slug discharge, as required by § 160-36 of Part 1 of this chapter.
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

§ 160-15. Hauled wastewater.

- A. All waste haulers and generators must comply with the Town of Amherst Hauled Wastewater Discharge Permit Application and Treatment Schedule Manual.
- B. All hauled waste shall be introduced into the POTW only at locations designated by the Town Engineer and at such times as are established by the Town Engineer. Such waste discharge shall not violate any provision of Part 1 of this chapter or any other requirements established by the town. The Town Engineer may also prohibit the disposal of hauled waste at any time for any operational, environmental or safety reason.
- C. The Town Engineer shall require all haulers and generators of hauled waste to obtain Town of Amherst waste hauler discharge permits.

- D. The Town Engineer may collect samples, and analyze such collected samples, of each hauled load to ensure compliance with applicable standards and charge the hauler or generator, all costs attributed to such sampling and analysis. The Town Engineer may require the waste hauler to provide a waste analysis of any load prior to discharge.
- E. All waste haulers must obtain a NYSDEC wastehaulers permit.

ARTICLE IV, Wastewater Discharge Permit Application

§ 160-16. Wastewater analysis.

When requested by the Town Engineer, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Town Engineer is authorized to prepare a form for this purpose and may periodically require users to update this information.

§ 160-17. Wastewater discharge and sewer connection permit requirements.

- A. Building sewer connection permits. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town. The owner or his agent shall make application on a special form furnished by the town, supplemented by any plans, specifications or other information considered pertinent in the judgment of the town. Such plans are required for single, multiple dwellings, commercial, industrial or public buildings. The application becomes a permit when signed by the Town Board or its designated representative. Application is to be made by the contractor, who must show authorization from the owner. The contractor must show coverage with such insurance as may be required by the Town Board.
- B. Wastewater discharge permits.
 - (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Town Engineer, except that a significant industrial user that has filed a timely application pursuant to § 160-18 of Part 1 of this chapter may continue to discharge for the time period specified therein.
 - (2) The Town Engineer may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of Part 1 of this chapter.
 - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of Part 1 of this chapter and subjects the wastewater discharge permittee to the sanctions set out in Articles X through XII of Part 1 of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

§ 160-18. Existing connections.

All existing users connected to or contributing to the town's wastewater facilities shall apply for a wastewater discharge permit within one hundred eighty (180) days after notification by the Town Engineer. After review and evaluation of the industrial user's application, the town may issue that user a wastewater discharge permit. At a minimum, all significant industrial users and spill potential users shall be issued permits.

§ 160-19. New connections.

All new industrial users proposing to connect to or to contribute to the town's wastewater facilities shall apply for a wastewater discharge permit before connecting to or contributing to these facilities.

§ 160-20. Application contents.

- A. All users required to obtain a wastewater discharge permit must submit a permit application. The Town Engineer may require all users to submit, as part of an application, the following information:
 - (1) All information required by Part 1 of this chapter; and
 - (2) Any other information as may be deemed necessary by the Town Engineer to evaluate the wastewater discharge permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

§ 160-21. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

§ 160-22. Approval or denial of application.

The Town Engineer will evaluate the data furnished by the user and may require additional information. Within fourteen (14) days of receipt of a complete wastewater discharge permit application, the Town Engineer will determine whether or not to issue a wastewater discharge permit. The Town Engineer may deny any application for a wastewater discharge permit. Any denial or approval will be given in writing to the applicant.

ARTICLE V, Wastewater Discharge Permit Issuance Process

§ 160-23. Duration of permit.

Permits shall be issued for a specified time period, not to exceed three (3) years. A permit may be issued for a period less than one (1) year or may be stated to expire on a specific date. The user shall apply to renew his permit a minimum of one hundred eighty (180) days prior to expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, as determined by the Town Engineer.

§ 160-24. Permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Town Engineer to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed three (3) years.
- (2) A statement that the wastewater discharge permit is nontransferable in accordance with § 160-27 of Part 1 of this chapter.
- (3) Effluent limits based on applicable pretreatment standards.
- (4) Self monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law.
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

B. Wastewater discharge permits may contain but need not be limited to the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization.
- (2) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works.

- (3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices, necessary to adequately prevent accidental, unanticipated or nonroutine discharges.
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- (8) Other conditions as deemed appropriate by the Town Engineer to ensure compliance with Part 1 of this chapter, and state and federal laws, rules and regulations.

§ 160-25. Permit appeals; effect of other regulations.

- A. An industrial user may petition the Town Engineer to reconsider the terms of a wastewater discharge permit within fourteen (14) days of notice of its issuance.
 - (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (2) In its petition, the industrial user must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the Town Engineer fails to act within fourteen (14) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- B. Wastewater discharge permits shall be expressly subject to all provisions of Part 1 of this chapter and all other applicable ordinances, regulations, user charges and fees established by the town.

§ 160-26. Permit modification.

The Town Engineer may modify a wastewater discharge permit for good cause, including but not limited to the following reasons:

- A. To incorporate any new or revised federal, state or local pretreatment standards or requirements.
- B. To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance.
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the town's POTW, town personnel or the receiving waters.
- E. Violation of any terms or conditions of the wastewater discharge permit.
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the wastewater discharge permit.

§ 160-27. Permit transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred to a new owner, new user, different premises or a new or changed operation.

§ 160-28. Permit suspension or revocation.

- A. Suspension.
 - (1) The Town Engineer shall suspend a wastewater discharge permit when such suspension is necessary in order to stop a discharge which violates any provision of Part 1 of this chapter or causes the town to violate any condition of its SPDES permit. This suspension will normally be given in writing; however, in an emergency, the suspension shall be verbal.
 - (2) Any discharger notified of a suspension of his permit shall immediately stop such discharge. In the event of a failure of the discharger to comply voluntarily with the suspension order, the Town Engineer shall take all steps necessary to ensure compliance.
 - (3) The town may reinstate the permit upon written proof of satisfactory compliance with all discharge requirements of Part 1 of this chapter.

B. Revocation.

- (1) Any user who violates any of the following conditions of Part 1 of this chapter, or applicable state and federal regulations, is subject to having his permit revoked.
- (2) The Town Engineer may revoke a wastewater discharge permit for good cause, including but not limited to the following reasons:
 - (a) Failure to notify the Town Engineer of significant changes to the wastewater prior to the changed discharge.
 - (b) Failure to provide prior notification to the Town Engineer of changed conditions pursuant to § 160-35 of Part 1 of this chapter.
 - (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
 - (d) Falsifying self-monitoring reports.
 - (e) Tampering with monitoring equipment.
 - (f) Refusing to allow the Town Engineer timely access to the facility premises and records.
 - (g) Failure to meet effluent limitations.
 - (h) Failure to pay fines.
 - (i) Failure to pay sewer charges.
 - (j) Failure to meet compliance schedules.
 - (k) Failure to complete a wastewater survey or the wastewater discharge permit application.
 - (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility.
 - (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or Part 1 of this chapter.
- (3) Wastewater discharge permits shall be deemed null and void upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user. The town may reinstate the permit upon written proof of satisfactory compliance with Part 1 of this chapter.

§ 160-29. Permit reissuance.

- A. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application within a minimum of one hundred eighty (180) days prior to the expiration of the user's existing wastewater discharge permit.
- B. The town may deny or condition any new or increased discharge to its system or discharges which have changed with respect to their physical or chemical character if, in the opinion of the town, such discharge would not be in compliance with applicable federal or state or local pretreatment standards and requirements or where such discharge would cause the town to violate its SPDES permit, inhibit or interfere with the operation and maintenance of the town's collection and treatment facilities or concentrate in the sludge and interfere with its disposal by approved methods.
- C. All users required to obtain a wastewater discharge permit shall complete and file an application with the Town Engineer.

§ 160-30. Regulation of waste received from other jurisdictions.

- A. If another municipality contributes wastewater to the POTW, the Town Board shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by Subsection A above, the Town Board shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality.
 - (2) An inventory of all users located within the contributing municipality that are discharging to the POTW.
 - (3) Such other information as the Town Board may deem necessary.
- C. An intermunicipal agreement, as required by Subsection A above, shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as Part 1 of this chapter and local limits which are at least as stringent as those set out in § 160-9 of Part 1 of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the town's local law or local limits.
 - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis.
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Town Engineer; and which of these activities will be conducted jointly by the contributing municipality and the Town Engineer.

- (4) A requirement for the contributing municipality to provide the Town Engineer with access to all information that the contributing municipality obtains as part of its pretreatment activities.
- (5) Limits on the nature, quality and volume of the contributing municipality's wastewater at the point where it discharges to the POTW.
- (6) Requirements for monitoring the contributing municipality's discharge.
- (7) A provision ensuring the Town Engineer access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Town Engineer.
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

ARTICLE VI, Reporting Requirements

§ 160-31. Baseline monitoring reports.

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Town Engineer a report which contains the information listed in Subsection B below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Town Engineer a report which contains the information listed in Subsection B below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below:
 - (1) Identifying information: the name and address of the facility, including the name of the operator and owner.
 - (2) Environmental 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 standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow measurement: information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

- (5) Measurement of pollutants:
 - (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Town Engineer, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 160-40 of Part 1 of this chapter.
 - (c) Sampling must be performed in accordance with procedures set out in §§ 160-40 through 160-43 of Part 1 of this chapter.
- (6) Certification: a statement, reviewed and signed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance schedule: if additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 160-32 of Part 1 of this chapter.
- (8) Signature and certification: all baseline monitoring reports must be signed and certified in accordance with § 160-21 of Part 1 of this chapter.

§ 160-32. Compliance schedules and compliance schedule progress reports.

- A. Compliance schedules. If any industrial user is required to install and operate a pretreatment or control system for any requirement of Part 1 of this chapter, the industrial user shall develop and submit a compliance schedule in accordance with the compliance schedule requirements in Article VI, § 160-32.
- B. Compliance schedule progress reports. The following conditions shall apply to compliance schedules required by Article VI, § 160-31B(7) of Part 1 of this chapter:
 - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. (Such events include but are not limited to hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operation.)
 - (2) No increment referred to above shall exceed nine (9) months.

- (3) The user shall submit a progress report to the Town Engineer no later than fourteen (14) days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule.
- (4) In no event shall more than nine (9) months elapse between such progress reports to the Town Engineer.

§ 160-33. Reports on compliance with categorical pretreatment standards deadline.

Within ninety (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 user subject to such pretreatment standards and/or requirements shall submit to the Town Engineer a report containing the information required by § 160-31B(1) through (6) of Part 1 of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment 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. All compliance reports must be signed and certified in accordance with § 160-21 of Part 1 of this chapter.

§ 160-34. Periodic compliance reports.

- A. All significant industrial users shall, at a frequency determined by the Town Engineer but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 160-21 of Part 1 of this chapter.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to 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.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Town Engineer, using the procedures prescribed in §§ 160-40 through 160-43 of Part 1 of this chapter, the results of this monitoring shall be included in the report.

§ 160-35. Reports of changed conditions.

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

- A. The Town Engineer may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- B. The Town Engineer may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include but are not limited to flow increases of twenty percent (20%) or greater and the discharge of any previously unreported pollutants.

§ 160-36. Reports of potential problems.

- A. In the case of an accidental discharge or slug discharge, it is the responsibility of the user to immediately telephone and notify the Town of Amherst Wastewater Treatment Plant of the incident. [The Treatment Plant telephone number during the day is (716) 691-9771 or (716) 691-9776 at any other time.] The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions being taken. Within five (5) days following an accidental/slug discharge, the user shall submit to the Town Engineer a written report describing the cause of discharge and the measures which will be taken by the user to prevent recurrence of the noncompliance.
- B. Compliance with this section of Part 1 of this chapter shall not relieve the user of other liability or expense for damage to the Town of Amherst facilities or other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this Article or other applicable law. For facilities with multiple outfalls to the sewer, the slug restriction applies to each individual outfall.

§ 160-37. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Town Engineer as the Town Engineer may require.

§ 160-38. Notice of violation; repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the Town Engineer within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town Engineer within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Town Engineer monitors at the user's facility at least once a month or if the Town Engineer samples between the user's initial sampling and when the user receives the results of this sampling.

§ 160-39. Notification of discharge of hazardous waste.

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than one hundred (100) kilograms [two hundred twenty (220) pounds] of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent that such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of other changed conditions must also be submitted under § 160-35 of Part 1 of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 160-31, 160-33 and 160-34 of Part 1 of this chapter.
- B. Dischargers are exempt from the requirements of Subsection A above, during a calendar month in which they discharge no more than fifteen (15) kilograms [thirty-three (33) pounds] 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 fifteen (15) kilograms [thirty-three (33) pounds] of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Town Engineer, the EPA Regional Waste Management Waste Division Director and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by Part 1 of this chapter, a permit issued thereunder or any applicable federal or state law.

§ 160-40. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. All analysis must be done by a laboratory certified by the New York State Department of Health for the specific parameters analyzed. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

§ 160-41. Sample collection.

- A. Except as indicated in Subsection B below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event that flow proportional sampling is infeasible, the Town Engineer may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

§ 160-42. Monitoring facilities.

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

§ 160-43. Sampling.

All sampling shall be performed at the control manhole provided. In the event that no special manhole is available, the Town Engineer may consider the control manhole to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. This sample point must be approved in writing by the Town Engineer. All measurements tests and analysis shall be performed by a town-approved laboratory at the expense of the user.

§ 160-44. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

§ 160-45. Recordkeeping.

Users subject to the reporting requirements of Part 1 of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by Part 1 of this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the Town Engineer.

ARTICLE VII, Compliance Monitoring

§ 160-46. Right of entry for inspection and sampling.

Authorized representatives of the Town of Amherst and representatives from the USEPA and NYSDEC bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and review and copying of records, analytical data and charts related to wastewater discharge monitoring in accordance with the provisions of Part 1 of this chapter.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town Engineer will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Town Engineer shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Town Engineer may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a minimum of once per year to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Town Engineer and shall not be replaced. The costs of clearing such access shall be borne by the user.
- E. Unreasonable delays in allowing the Town Engineer access to the user's premises shall be a violation of Part 1 of this chapter.

§ 160-47. Search warrants.

If the Town Engineer has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of Part 1 of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Amherst designed to verify compliance with Part 1 of this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town Engineer may seek issuance of an order or warrant from a court of appropriate jurisdiction.

ARTICLE VIII, Confidential Information

§ 160-48. Availability of information to public; restrictions.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the Town Engineer's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Town Engineer, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state or federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the SPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

ARTICLE IX, Significant Noncompliance

§ 160-49. Publication of users in significant noncompliance.

- A. The Town Engineer shall publish annually, in the largest daily newspaper delivered in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- B. The term "significant noncompliance" shall mean:
 - (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
 - (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria [one and four-tenths (1.4) for BOD, TSS (unless approved as surchargeable by

the Town Engineer), fats, oils and grease and one and two-tenths (1.2) for all other pollutants except pH];

- (3) Any other discharge violation that the Town Engineer believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town Engineer's exercise of his emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the Town Engineer determines will adversely affect the operation or implementation of the local pretreatment program.

ARTICLE X, Administrative Enforcement Remedies

§ 160-50. Notification of violation.

When the Town Engineer finds that a user has violated, or continues to violate, any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town Engineer may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Town Engineer. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Town Engineer to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

§ 160-51. Consent orders.

The Town Engineer may enter, into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as any other administrative orders issued pursuant to §§ 160-53 and 160-54 of Part 1 of this chapter and shall be judicially enforceable.

§ 160-52. Show-cause hearings.

The Town Engineer may order a user which has violated or continues to violate any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement to appear before the Town Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user or its representative or representatives show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least twenty (20) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show-cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

§ 160-53. Compliance orders.

When the Town Engineer finds that a user has violated or continues to violate any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town Engineer may issue an order, to the user responsible for the discharge, directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

§ 160-54. Cease-and-desist orders.

When the Town Engineer finds that a user has violated or continues to violate any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Town Engineer may issue an order to the user directing it to cease and desist all such violations and directing the user to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

§ 160-55. Administrative fines.

- A. When the Town Engineer finds that a user has violated or continues to violate any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town Engineer may fine such user in an amount not to exceed ten thousand dollars (\$10,000.). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

- B. Unpaid charges, fines and penalties shall, after fifteen (15) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of nine percent (9%) per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.
- C. Users desiring to dispute such fines must file a written request for the Town Engineer to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the Town Engineer may convene a hearing on the matter. In the event that the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Town Engineer may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- E. In determining the amount of the above fines, the Town Engineer may consider factors such as, but not limited to, the nature of the violations; the magnitude of impact on human health, the environment and/or the town's collection and treatment operations caused by the violation; the user's past violation record; and other relevant factors.
- F. Each day on which a violation is found to occur or continue shall be deemed a separate and distinct offense. A day shall consist of a twenty-four-hour period beginning at 12:01 a.m. and ending the following 12:01 a.m.

§ 160-56. Emergency suspensions.

- A. The Town Engineer may immediately suspend a user's discharge, after oral, telephone or other notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Town Engineer may also immediately suspend a user's discharge that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.
 - (1) Any user notified of an immediate suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Town Engineer may take such steps as deemed necessary, including immediate severance of the sewer connection, at no cost to the town, to prevent or minimize damage to the POTW or its receiving stream or endangerment to any individuals. The Town Engineer may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town Engineer that the period of endangerment has passed and payment is made for all damages resulting from the discharge.
 - (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Town Engineer prior to the date of any show-cause hearing.
- B. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

§ 160-57. Termination of discharge.

- A. In addition to the provisions in § 160-28 of Part 1 of this chapter, any user who violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
 - (5) Violation of the pretreatment standards in Article II of Part 1 of this chapter.
- B. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, under § 160-52 of Part 1 of this chapter, why the proposed action should not be taken. Exercise of this option by the Town Engineer shall not be a bar to, or a prerequisite for, taking any other action against the user.

ARTICLE XI, Judicial Enforcement Remedies

§ 160-58. Injunctive relief.

When the Town Engineer finds that a user has violated or continues to violate any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Town Engineer may commence an action in a court of appropriate jurisdiction through the Town Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by Part 1 of this chapter on activities of the user. The Town Engineer may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

§ 160-59. Civil penalties.

- A. A user who has violated or continues to violate any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the town for a civil penalty of up to ten thousand dollars (\$10,000.) per day of violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Town Engineer may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the town.

- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

§ 160-60. Criminal prosecution.

Any person who shall maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities shall be subject to prosecution and a penalty not to exceed one thousand dollars (\$1,000.) per day of violation or imprisonment for not more than one (1) year, or both, in addition to civil damages incurred with such acts.

§ 160-61. Remedies nonexclusive.

The remedies provided for in Part 1 of this chapter are not exclusive. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. The Town Engineer may take any, all or any combination of these actions against a noncompliant user.

ARTICLE XII, Supplemental Enforcement Action

§ 160-62. Performance bonds.

The Town Engineer may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of Part 1 of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Town of Amherst, in a sum not to exceed a value determined by the Town Engineer to be necessary to achieve consistent compliance.

§ 160-63. Liability insurance.

The Town Engineer may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of Part 1 of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

§ 160-64. Public nuisances.

A violation of any provision of Part 1 of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Town Engineer. Any person(s) creating a public nuisance shall be liable to the Town of Amherst for any costs incurred in removing, abating or remedying said nuisance.

§ 160-65. Contractor listing.

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the town. Existing contracts for the sale of goods or services to the town held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Town Engineer.

ARTICLE XIII, Affirmative Action to Discharge Violations

§ 160-66. Upsets.

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection C below, are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset.
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
 - (3) The user has submitted the following information to the Town Engineer within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - (a) A description of the indirect discharge and cause of noncompliance.
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

§ 160-67. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 160-6A of Part 1 of this chapter or the specific prohibitions in § 160-6B of Part 1 of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its SPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

§ 160-68. Bypass.

- A. For the purposes of this section, the following terms shall have the meanings indicated:

BYPASS -- The intentional diversion of wastestreams from any portion of a user's treatment facility.

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.

- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsections C and D of this section.
- C. Notice to Town Engineer.
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town Engineer, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the Town Engineer of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass.

The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Town Engineer may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Conditions for bypass.

- (1) Bypass is prohibited and the Town Engineer may take an enforcement action against a 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 preventive maintenance; and
 - (c) The user submitted notices as required under Subsection C of this section.
- (2) The Town Engineer may approve an anticipated bypass, after considering its adverse effects, if the Town Engineer determines that it will meet the three (3) conditions listed in Subsection D(1) of this section.

ARTICLE XIV, Wastewater Treatment Rates

§ 160-69. Manual of charges and fees.

The Town Board may adopt a manual of service, tap-in and pretreatment charges and fees from time to time by resolution.

§ 160-70. District charges.

- A. Annual district charges for Sanitary Sewer Districts No. 1 and No. 16 and all other districts and areas tributary to Districts No. 1 and No. 16 are to be composed of a frontage charge, an assessed valuation charge and a water consumption charge. These charges may be varied and revised annually.
- B. The water consumption shall be the last annual amount reported by the Erie County Water Authority. If the source of the water is other than that from mains of the Erie County Water Authority, the owner shall install a meter as directed by the Town Engineer, and the amount shall be read and certified by the Town Engineer or his representative at intervals not to exceed one (1) year.

- C. When there is no previous annual record, the amount of water consumption shall be determined by the Town Engineer and the assessment adjusted on the next tax roll to cover actual water consumption and discharge into the public sewer.

§ 160-71. Pretreatment charges and fees.

The town may adopt charges and fees which may include:

- A. Fees for reimbursement of costs for establishing, operating and maintaining the town's pretreatment program.
- B. Fees for monitoring, inspection and surveillance procedures.
- C. Fees for reviewing accidental discharge procedures and construction.
- D. Fees for filing appeals.
- E. Fees for consistent removal (by the town) of pollutants otherwise subject to federal pretreatment standards.
- F. Fees for industrial wastewater discharge permits.
- G. Fees for the acceptance of trucked-in waste.
- H. Other fees as the town may deem necessary to carry out the requirements contained herein.

§ 160-72. Industrial agreements.

No statement contained in Part 1 of this chapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby abnormal industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial user. However, in no event will a waiver be granted which could result in a violation of any federal, general or categorical standard or prohibition.

§ 160-73. Deleterious or surchargeable waste.

If any water or wastes are discharged or proposed to be discharged to the public sewers, which waters contain abnormal-strength sewage or which, in the judgment of the Town Engineer, may have a deleterious effect upon the wastewater facilities or receiving waters, or which may otherwise create a hazard to life or constitute a public nuisance, the Town Board may:

- A. Reject the wastes;
- B. Require pretreatment to an acceptable condition for discharge to the public sewers;
- C. Require control over the quantities and rates of discharge; and/or

- D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. BOD, TKN, TSS and phosphorous may be considered as surchargeable parameters, if prior approval is given by the Town Engineer. When the Town Engineer determines the volume and character of such wastes to otherwise be in compliance with all pertinent federal, state and local regulations and all other provisions of Part 1 of this chapter, and not to cause overloading of the town's facilities, then approval for such discharge may be granted subject to payment of a surcharge determined by the Town Engineer.

ARTICLE XV, Miscellaneous Provisions

§ 160-74. Liability to district.

Any person violating any of the provisions of Part 1 of this chapter shall become liable to the district for any expense, loss or damage occurred by the district due to such violation.

§ 160-75. Excessive sewer maintenance expense.

Sewer or sewerage maintenance expenses which result from a user violation of any of the prohibited or limited discharge requirements in Part 1 of this chapter will be charged to the user in violation. Such maintenance may include but shall not be limited to stoppage, plugging, breakage, any reduction in sewer capacity or any other damage to sewers or sewerage facilities of the town. The costs charged to the user in violation may include the costs and expenses for complete restoration of the impaired facilities to a functional condition.

§ 160-76. Unpaid sewer charges.

Unpaid sewer charges, including fines, shall become a lien upon the real property upon which or in connection with which sewer services were provided as of and from the first day fixed for payment of such charges. Interest shall be due and payable in the same manner as other county taxes.

§ 160-77. Severability.

If any section, clause or provision of Part 1 of this chapter or the application thereof to any persons is adjudged invalid, the adjudication shall not affect other sections, clauses or provisions or the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses or provisions of Part 1 of this chapter are declared to be severable.

§ 160-78. Conflicts with other regulations.

In the event of a conflict between any portion of Part 1 of this chapter and any other town regulation or local law now in effect, the more restrictive portion shall apply.

§ 160-79. When effective.

Part 1 of this chapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.