

CHAPTER 17

WATER, SEWERS AND SEWAGE.

Sec. 17-1. Rules and regulations governing town water and sewer systems.

All ordinances and resolutions of the town council establishing regulations for the laying of water or sewer pipes or mains or for the maintenance thereof or fixtures thereto, or for the tapping thereof or making connections thereto, including charges and fees and the issuance of permits therefore and the supervision of work with respect thereto, or which in any other manner relate to the town water supply or sewer systems, including but not limited to rates and charges to and against persons and properties served thereby and the manner of determining such rates and charges, whether by meter or otherwise, and the equitable classification of persons and properties served thereby (resident or nonresident, commercial or industrial, residential, organizational, etc.), and the billing of persons served thereby and the due dates for the payment of such bills and the penalties for late payment or nonpayment thereof, shall be maintained by the town clerk, in current status, in his office at all times and shall there be available to the public for inspection and use during all regular business hours; and it shall be unlawful for any person to violate or fail to comply with any provision of any such ordinance or resolution.

Sec. 17-2. Landlord to pay for water and sewer.

All landlords, who have tenant houses and apartments for rent, are held responsible for the payment of all customary water and sewer rents for such tenant houses and apartments to the Town of Amherst. The Director of Public Utilities is hereby directed that water not be furnished to any rented premises without the express direction of the owner of such property.

(Code 1965, Sec. 3-6. Amended December 12, 2007)

Sec. 17-3. Buildings within two hundred feet of public sanitary sewer must be connected thereto.

Every building which abuts a street or right of way in which there is a public sanitary sewer, or within two hundred feet of a public sanitary sewer, shall be connected to the sewer by the owner of the premises, or his agent, in the most direct manner possible. Every new building not connected to a public sanitary sewer shall be connected to a sewage disposal system approved by the Virginia Department of Health and the Virginia Department of Environmental Quality.

(Code 1965, Sec. 3-5. Amended December 12, 2007.)

Sec. 17-4. Repealed. (Repealed on December 12, 2007.)

Sec. 17-5. General sanitary provisions as to sewage disposal.

No person shall maintain on any premises owned or occupied by him or under his control any arrangements for sewage disposal which is unsanitary, or in violation of any law or ordinance or any rule or regulation promulgated pursuant to authority of law or ordinance, or which in any way constitutes a hazard to the health or safety of persons or is otherwise a nuisance, or which is accessible to insects, rodents or animals. No person shall deposit any human excrement upon the surface of the ground or in any place where it may endanger a source of drinking water or food supply or be accessible to flies or animals. (Code 1965, Sec. 3-5.)

Sec. 17-6 Repealed. (Repealed on December 12, 2007.)

Sec. 17-7. Repealed. (Repealed on December 12, 2007.)

Sec. 17-8. Water to be shut off to properties for which adequate sewage disposal facilities are not provided.

If the owner of property which is in the town fails to properly and adequately dispose of the sewage from such property in order that it may not become obnoxious or offensive or a menace to public health, his water supply shall be cut off and stay so until such time as an approved method of the proper disposal of the sewage be made. (Code 1965, Sec. 3-4.)

Sec. 17-9. Repealed (Repealed on August 5, 2000)

Sec. 17-10. Disconnection of gutters in Town of Amherst sewer system.

No person, corporation, business or entity shall construct or maintain any gutter, basement underdrain, building perimeter drain or other stormwater system which discharges into the Town of Amherst sanitary sewer system. Any person, corporation, business, or entity that discharges into the Town of Amherst sanitary sewer system shall immediately disconnect from the Town of Amherst sanitary sewer system. Further, any person, business, corporation, or other entity which discharges into the Town of Amherst sanitary sewer system shall immediately disconnect such discharge from the Town of Amherst sewer system immediately upon notification by the Director of Public Utilities.

(Enacted June 8, 1988. Amended December 12, 2007.)

Sec. 17-11. Changes and Extensions of Municipal Water and Sewer Systems.

A. Authority and General Policy

The Town Council has the authority to promulgate such orders, rules, resolutions or regulations as it deems necessary for the protection, repair, extension or improvement of waterworks or sewerage facilities of the Town.

The Town Council shall have the sole authority to make or authorize such changes and extensions of the water and sewerage facilities as it may find to be necessary and proper. As such, the Town Council reserves the right to review each request for service and evaluate both requested service requirements and available system capacities. Should an application be made for a water or sewer connection where there is no water or sewer line in an adjoining street or right of way, such application shall be referred to the Town Council for consideration and such action as it deems appropriate.

Generally, the person or organization requesting the extension shall be required to bear all costs of the extension in addition to the connection and availability charges provided for herein so that such will not financially burden the Town in terms of bad investment, liability, or any other aspect. Such costs shall include engineering and permit acquisition costs, rights-of-way, machinery, equipment, labor, materials and inspection incident to such extension.

All extensions and changes to the Town of Amherst water and sewer systems shall be designed by a Professional Engineer licensed to practice in the Commonwealth of Virginia, according to good engineering practice and Virginia Department of Health and Town of Amherst standards, approved by the Town Council, and constructed by the Town or under the inspection of the Town Manager. Upon completion of construction and acceptance by the Town Council, the new facilities shall become property of the Town of Amherst as part of its water and sewer system. The Town of Amherst shall own and maintain all water lines and facilities up to and including the customer's water meter. Unless otherwise agreed upon in writing, the Town of Amherst shall own and maintain Town sewer mains where two or more users are connected to the same line or up to and including a cleanout installed at or near the property owner's property line.

The provisions of this section shall not limit the authority of the Town Council to finance reasonable utility extensions, whether inside or outside the Town of Amherst corporate limits, to improve fire and domestic service to existing customers, to support new business or industry, or to promote other beneficial impacts to the Town of Amherst or its utility systems.

B. Conceptual Planning Phase

In all cases where main utility pipe extensions and/or major new facilities are proposed, a complete schematic of proposed utilities, onsite easements needed, offsite easements needed, lot layouts, building locations and road routing diagrams as appropriate shall be submitted to the Town Manager by the developer. The Town Manager shall provide comments as to system design, layout, connection to the Town's system and such other matters as he may deem pertinent.

A developer may request in writing that the Town plan and design the water/sewer lines and facilities and undertake the construction. If the Town's work load permits undertaking planning and or construction, no work shall begin before a construction contract and payment of the estimated cost in advance, or acceptance of an irrevocable letter of credit or other guarantee of payment acceptable to the Town Attorney, have been approved by the Town Council.

C. Design Phase

Following the receipt of the Town Manager's comments on preliminary plans and the addition or amendment of necessary changes to the preliminary plans, the developer shall have appropriate drawings prepared by a Professional Engineer licensed to practice in the Commonwealth of Virginia. Such utility design drawings shall be submitted to the Town's Physical Development Committee or equivalent successor committee. The developer shall provide a letter of documentation as to whether he desires to install service connections during line construction as part of the plan submittal.

The Design Engineer shall incorporate all of the committee's requirements into the design drawings. Following the incorporation of all requirements, the developer's design engineer shall submit to the Town Manager two (2) sets of updated water/sewer plans for a formal engineering review and approval prior to the initiation of any construction.

Plans for water or sewer lines 12" in diameter and smaller shall be reviewed and approved by the Town Council unless additional review is required by the Virginia Department of Health.

Plans for water/sewer lines larger than 12", pump stations, or specialty structures must in addition to being reviewed and approved by the Town Council be submitted to the Virginia Department of Health (VDH) and approved by that agency. Plans shall be submitted for review by VDH only by the Town Manager.

All easements shall be at widths specified by the Town of Amherst but in no event less than 20' wide with an additional 1 foot of easement width for every foot deeper than 8 feet of cover.

Comments, clarifications, inquiries, additional requirements, and all other material concerning the plans will be sent to the developer or his design engineer from the Town, and, where appropriate, VDH.

After all required changes to the plans have been made and the comments of the Town and/or VDH have been addressed to the Town's satisfaction and three (3) sets of final plats and design plans have been provided, a unit cost-based water/sewer line cost estimate, to be used in establishing the limits of the irrevocable letter of credit will be generated by the developer's engineer. The Town Manager shall then prepare and forward the developer agreement and sample irrevocable letter credit as outlined here and below to the developer.

Except for the purposes of preliminary discussion, no request or proposal to extend or change the Town of Amherst water and sewer systems shall be considered by the Town Council until such is submitted in writing and accompanied by drawings clearly explaining the request or proposal along with a recommendation by the Physical Development Committee or equivalent successor committee. Decisions of the Town Council concerning the extension or change to the system shall be made within a reasonable period.

D. Developer Agreement Phase

Within the boundaries of the property requesting the extension, the cost of facilities shall be borne by the developer, except in such cases where the Town Council determines the line must be oversized to accommodate future development in nearby service areas. Where oversized on-site facilities are required, the developer may be compensated only for the added cost of oversizing at the sole discretion of the Town Council. Water and sewer facilities may be extended to the property requesting the extension by the Town of Amherst, provided the Town Council finds that it is fiscally prudent to extend the facilities.

The following items shall be addressed in the developer agreement and must be provided in proper form when the signed agreement is returned; failure to do so is grounds for the Town setting aside the agreement if executed, or refusing to execute it until these conditions are met.

1. An irrevocable letter of credit in the amount of 105% of the line estimate issued by a financial institution authorized to operate in Virginia. (The extra 5% are to cover market fluctuations and inflation with regard to costs during the letter of credit's two-year duration.) The irrevocable letter of credit shall be for a period of two years, follow the Town's format, and designate the Town as the sole beneficiary. (*Reference Section 18.1-1010 of the Town Code.*)
2. If the Town Council, in its sole discretion, determines it is in the best interest of the community to "oversize" the water/sewer line a cost sharing arrangement shall be included within the developer agreement.
3. Preliminary fees must be paid, as enumerated in the developer agreement. These fees shall include:
 - a. A Plan Review/Inspection Fee, usually in the range of 5% to 8% of the direct cost of construction, depending on the complexity of the project, of limit of the irrevocable letter credit.
 - b. Other fees, which may be assessed by the Town, to assure the proper design and construction of the water and/or sewer system.
4. Written designation of the approved public utilities contractor, other than the Town; which the developer wishes to have construct the water and/or sewer line. However, the developer shall enter into no agreement for such services unless and until the Town Council designates the contractor as qualified and approved to perform the work.
5. Easement information in recordable form, including adequate proof that adequate easements or rights of way have been or will be dedicated to the Town of Amherst. The easement

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documents shall allow electrical power and communications wires as appurtenances in a water or sewer easement.

This list is not exhaustive and the Town may condition entry into the developer agreement on the completion or other tasks that are necessary or appropriate.

Following the receipt of all of the above items, and after Town Council approval of their form and content and performance of all required tasks, the Town Manager shall sign the development plat for easement recording purposes.

A property owner, hereinafter sometimes referred to as "licensee", with the approval of the Town Council, may be allowed to construct water mains and sanitary sewer extensions benefiting not only the property owner making application but other property owners benefited by said construction, and said property owner shall be entitled to recapture that portion expended for the benefit of other property owners provided an agreement is executed between the Town and the property owner which includes provisions covering the following items:

- (1) Date of commencement and date of completion.
- (2) Legal descriptions of the properties benefited specifying which have and have not contributed to the costs.
- (3) Exact locations of mains and/or extensions.
- (4) The exact amount to be reimbursed under recapture. This amount is to be the exact, documented, direct expense of said construction less the amount of benefit to the licensee.
- (5) Construction shall be in accordance with plans and specifications approved by the Town Council and subject to inspection by the Town Manager.
- (6) The completed construction shall be deeded to the Town upon completion of the work.
- (7) Licensee shall be responsible for all repairs and maintenance for one year following the completion of the extension and bear the costs of the same during said period.
- (8) Licensee shall file with the Town Manager suitable evidence that the Town is protected by surety bond or by suitable liability insurance against all claims for personal injuries and property damage.
- (9) Provisions for disposition of amounts recaptured.

Funds collected by the Town in excess of normal, usual and customary availability, connection, and user fees collected by the Town shall be promptly paid to the licensee by the Town Treasurer up to the amount to be reimbursed. The Town Treasurer shall carry the amounts to be recaptured by the licensee as a liability on the Town's books.

E. Construction Phase

If the developer has decided to install water/sewer line work with an entity other than the Town, then the entity must qualify as a public utilities contractor with the Town. Such qualification will not be deemed accomplished unless the entity is licensed as a Class A contractor by the Commonwealth of Virginia and until the Town Council approves the entity on information submitted as to relevant experience. A list of pre-qualified utility contractors shall be maintained and made available by the Town Manager. If the developer elects to contract with an entity other than the Town for line construction, he may proceed as described herein below.

1. All construction must be in strict accordance with approved plans, standard Town of Amherst specifications and Virginia Department of Health and Virginia Department of Environmental Quality regulations.
2. Only utility installation contractors experienced in the installation of publicly owned pipelines, who have been approved as qualified by the Town, may be used to install lines that will go into public ownership.
3. No pipeline work is to be initiated unless road rough grading and ditch pulling is completed and the Town has received at least two weeks written notice of pending water/sewer line work. If work ceases for any reason it may not be begun again without at least two twenty-four hour business day's notice given to the Town, so that inspection work may be properly scheduled, during all work.
4. Testing required by the Town or VDH will be provided by the Contractor, and Town inspectors must be present during any testing unless otherwise noted. The Contractor shall submit a testing report for all utility testing. Such testing will include the following:
 - a. Bacteriological testing by a qualified laboratory. Results immediately forwarded to the Town Manager.
 - b. Pressure testing.
 - c. Vacuum testing.
 - d. Compaction testing. May be required by the Town on Virginia Department of Transportation (VDOT) right-of-ways, all new subdivision road right-of-ways, and areas where the Town's inspector determines it to be appropriate. Compaction tests shall be conducted by a Professional Engineer and the cost for such paid by the Developer.

All Contractor field notes and drawings are to be submitted to the developer's design engineer for the preparation of "as-built" drawings. The developer shall submit three (3) sets of "as-built" prints certified by a professional engineer and as-built/record drawings in Autocad format to the Town within 30 days of the end of construction.

F. Transfer of Ownership and Acceptance of New Facilities Phase.

Follow the successful completion of the items the Town shall submit to the developer a bill of sale/quit claim deed form.

Before any water meters can be installed or accounts activated the following must be provided to the Town:

1. The accepted and executed bill of sale/quit claim deed form.
2. A letter from the installation contractor that all their bills have been paid by the developer.
3. A Performance Bond, secured by an insurance company or other approved financial entity, licensed to conduct business in Virginia, warranting for fitness of all materials and quality workmanship in the amount of five percent (5%) of the limit of credit guaranteed in the irrevocable letter of credit, but not less than \$2,000, made payable to the Town, and effective for one (1) year from the date of the bill of sale/quit claim deed form document. When the bond is received the original irrevocable letter of credit will be released.

G. Form of Developer Agreement for Water/Sewer Line Extensions

The form of developer agreement for water/sewer line extensions shall be as follows:

THIS AGREEMENT, made this _____ day of _____, _____ by and between the Town of Amherst, (hereinafter referred to as the "Town"); and _____ (hereinafter referred to as the "Developer");

WITNESSETH:

WHEREAS the Developer desires to construct a water/sewer facilities project in or near the Town of Amherst, (hereinafter referred to as the "Project"); and

WHEREAS said Project will provide service to _____ lots located in the _____; subdivision; and

WHEREAS the Developer desires that said Project shall be accepted after construction and approval as to its construction, condition and materials, owned, operated, and maintained by the Town, and

WHEREAS the Developer has caused plans and specifications (hereinafter referred to as the "Plans"), that are titled _____, to be prepared by _____, a Professional Engineer licensed to practice in the Commonwealth of VA. (hereinafter referred to as the "Design Engineer"); and

WHEREAS the Town has after review approved the Plans to be used in construction of the project on _____, and

WHEREAS the Town and the Developer desire that construction of the Project proceed in a timely manner in accordance with Virginia and federal law and regulations, the County Code and the Town's policies and standard operating procedures, (hereinafter referred to as the "Policy").

NOW, THEREFORE, the parties agree as follows:

I. Representations and Warranties by the Developer: The Developer represents and warrants to the Town:

A. Developer has paid all applicable fees prior to entry into this agreement. These fees are:

1. Plan Review/Inspection Fee of \$ _____.
2. Availability fees for all units approved by the Town to be connected as part of this project in the amount of \$ _____.

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- B. *Construct the Project according to the approved Plans by using a licensed contractor, _____, who has been qualified by the Town based on credentials, prior work experience and other materials submitted; such qualification is a condition precedent to the beginning of the project and not a ratification of the services to be preformed by the contractor.*

- C. *Grant the Town access at all times to the Project for purposes of inspection and taking of samples, and provide copies of permits, test results, and other information that may be reasonably requested by the Town.*

- D. *Provide the Town an irrevocable letter of credit in the amount of \$ _____ which guarantees completion of the Project, including the acquisition of off-site easements by condemnation, according to the plans or plans of the Town. This letter of credit shall be issued by a financial institution authorized to operate in Virginia. The letter of credit shall be for a term of two years with annual periods of automatic renewal unless terminated by written notice of ninety days and will designate the Town as the sole beneficiary. A copy of the letter of credit is attached hereto and made a part hereof.*

- E. *Submit to the Town three sets of final “as-built” drawings as prepared by the Design Engineer.*

- F. *Be solely responsible for the costs for the design, construction, on-site easements and other related costs associated with the Project.*

- G. *Provide a letter from the construction contractor that the Developer has fulfilled all their financial obligations to the construction contractor and, additionally, provide any, and all copies of lien waiver documents as may be required by the Town.*

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- H. *Following the successful completion of all line testing and acceptance of the line, submit to the Town a Performance Bond securing a warranty against defects in materials and workmanship for a period of one (1) year from the date of the Bill of Sale/Deed document. This Performance Bond shall be equal to 5% of the maximum amount of credit guaranteed in the abovesaid irrevocable letter of credit. (Upon receiving the performance bond the original irrevocable letter of credit shall be released by the Town provided all bills, costs and expenses have been paid including the cost of acquisition of off-site easements by condemnation or otherwise).*
- I. *Provide any off-site easements required for the successful completion of the project. (Should condemnation proceedings to attempt to acquire any easement be required for success of the project, the Developer will pay all costs of said condemnation proceeding. The parties acknowledge that this agreement to bear costs and expenses of condemnation is not an agreement by the Town to use its power to condemn to aid a private purpose or to act other than in the public interest; the Town remains bound by law to proceed in condemnation proceedings according to law).*

It is understood by the Developer and Town that if progress is not made towards the completion of the items listed in Paragraph I, Section A through I, to the Town's satisfaction, the Town may deny or refuse to provide water and/or sewer service, or evidence of the availability of such service.

- II. *The Developer does hereby undertake and bind himself to convey to the Town with General Warranty and English covenants of Title, free and clear of all liens and encumbrances, title in and to the personality, realty, attachments, improvements, hereditaments, or other property of the Project as described in the Plans, with such interest in real estate as shall, in the opinion of the Town and its counsel, be reasonably necessary for the operation and maintenance of the Project for the provision of water and sewer services.*

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III. *The Town upon conveyance of the Project by the Developer, shall undertake, in the course and timeliness of normal Town business and service provision, to operate the systems constructed in the Project, to install meters as individual services are applied for, and to provide utility services to users whose properties are proximate to the systems subject to compliance with it's published rates and regulations and other established operating procedures.*

IV. Miscellaneous:

A. *This agreement shall be binding upon the successors and assigns of the parties hereto. It is expressly understood and agreed by and between the parties hereto that the acceptance by the Town of the documents conveying Developer's interest in the Project does not merge or extinguish any provision of this agreement or the duty to perform the same or the right of the Town to pursue any legal remedy for the breach of or failure to perform any such duty. All warranties contained herein shall survive the completion and closing of the transaction contemplated herein.*

B. *The Developer shall have the right to assign its rights hereunder to its lender. Developer shall not assign its rights hereunder to any party other than Developer's lender without obtaining the Town's prior consent in writing, which consent shall not be unreasonably withheld.*

C. *The making, execution, and delivery of this agreement have been induced by no representations, statements, warranties, or agreements other than those expressed therein. Unless other agreements, or understandings are attached in an appendix to this agreement and said appendix is identified in Section IV F. This agreement contains the entire understanding of the parties hereto and*

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there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. This agreement may be modified by an agreement of equal formality signed by the parties hereto or their duly authorized officers or representatives.

D. Neither this instrument, nor any other documents or oral communication should be construed as reservation or allocation of water and or sewer capacity for this particular project. The Town cannot reserve or allocate capacity for a particular owner or Project unless and until the applicable Town availability fees have been paid in full.

E. This agreement shall be governed in its entirety by the laws of the Commonwealth of Virginia.

F. Attached as part of this agreement are: _____

WITNESS the Following Signatures:

By: Town of Amherst Mayor _____

[DEVELOPER] _____

By: _____

STATE OF VIRGINIA

_____ of _____ TO WIT: The foregoing Agreement was acknowledged before me this _____ day of

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_____, by _____, Mayor of
the Town of Amherst.

My Commission Expires: _____
_____ Notary Public

STATE OF VIRGINIA

_____ of _____ TO WIT:

The foregoing Agreement was acknowledged before me this _____ day of
_____, _____, by _____ of
_____.

My Commission Expires: _____
_____ Notary Public

H. Form of Irrevocable Letter of Credit

The form of irrevocable letter of credit shall be as follows:

ISSUED BY:

ADDRESS:

TELEPHONE:



Date: _____

TO: Town of Amherst, beneficiary
P.O. Box 280
Amherst, VA 24521

*EACH DRAFT DRAWN RELATIVE HERETO MUST BE MARKED:
DRAWN UNDER LETTER OF CREDIT NUMBER: _____*

Customer

Amount/Credit Limit: \$ _____ U.S. Dollars

Subdivision Name: _____

Expiration Date: This letter of credit shall be valid for a period of two years from the date hereof and shall automatically renew from year to year thereafter unless the issuer shall give ninety (90) days prior written notice to the Town of Amherst of its intent to terminate the same at the expiration of said ninety-day period. During the last thirty (30) days in which credit is valid, the Town of Amherst may draw up to the full sum/amount if accompanied by the hereinafter mentioned letter or draft from the Town. This irrevocable letter of credit may also be terminated by the Town returning the original to the issuer with a letter stating that the abovenamed customer has completely performed the obligations to the water/sewer facilities project for the abovenamed subdivision.

We hereby issue our irrevocable letter of credit NO _____ in favor of the Town of Amherst for the account of _____ (our customer) for a sum not exceeding U.S. \$ _____ available at any time during its term at sight by draft or a letter from an official of the Town of Amherst stating that our customer or one acting at the customer's employment request or contract has not completely performed its obligation to the water/sewer facilities project for the abovesaid subdivision and that the proceeds of the drawing will be used to provide funds to complete the project or some portion thereof or pay debts incurred in undertaking the project, and/or to correct problems, defect, or breaches covered by warranty.

We hereby engage with the Town of Amherst that all drafts or letters drawn or written under and in

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compliance with the terms of this credit shall be duly honored upon presentation and delivery at this office within the validity of the credit.

Sincerely ,

(Financial Institution)

By _____
(Name and Position)

I. Form of Bill of Sale and Quit Claim Deed.

The form of bill of sale and quit claim deed shall be as follows:

THIS AGREEMENT made and entered into this _____ day of _____, _____, by and between _____, Grantor, and the Town of Amherst, Grantee.

WITNESSETH

That for and in consideration of the Grantee operating and maintaining water and/or sewer system over easements and rights-of-way heretofore dedicated or otherwise conveyed, but the parties understand that this agreement does not require the Grantee to perform any particular service and that provisions of the service are within the Grantee's discretion, the Grantor does hereby grant, bargain, sell and convey to Grantee the water and/or sewer system more fully described below (including all service lines, equipment or other material which is attached to or made a part of said system) located in the rights-of-way and/or easements of the _____ subdivision located _____.

Grantor warrants and represents to Grantee:

- 1. That the reference water and/or sewer system consists of lines and appurtenances as shown on the plat of _____ subdivision prepared by _____, dated the _____ day of _____, _____, a copy of which is recorded in the Clerk's Office of the Circuit of Amherst County, Virginia, in Plat Cabinet/Book _____, at page _____. Further said system is that shown on plans made by _____, dated the _____ day of _____, _____, and approved by the Grantee, a copy of which is maintained at the offices of the Grantee.*
- 2. That Grantor has clear, perfect and unencumbered title to said water and/or sewer system and that there are no outstanding claims for services rendered, materials provided, or labor performed in connection with the installation and operation of said system or any lien or any adverse claim to title or possession of said system.*
- 3. That said system (s) lies entirely within property dedicated public rights-of-way/easements and that there are no portion of said system that is located on any private property or other property. Grantor warrants its authority to grant the property rights herein contained.*
- 4. Grantor warrants that said system has been constructed, and is currently, in accordance with the plans and specification which have been approved by the Grantee. The Grantor warrants that the materials used in the construction of the system was at least the quality of the materials approved by the Grantee in the plans*

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and specifications. Grantor additionally warrants that the system is fully operational and without defect and that it has complied with all applicable laws, rules, regulations, and licenses appertaining to the construction of said system.

WITNESS the following signatures:

Name/Representing *Grantor*

Name/Representing

STATE OF VIRGINIA

_____ of _____ *TO WIT:*

The foregoing Bill of Sale/Deed was acknowledged before me this _____ day of

_____, _____ by _____.

My commission expires the _____ day of _____, _____.

Notary Public

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I, _____, a Notary Public in and for the State of Virginia At
Large do hereby certify that _____ signed the foregoing instrument
before me this _____ day of _____, _____.

Notary Public

My Commission Expires: _____

K. Form of Developer Recapture Agreement.

The form of Developer Recapture Agreement shall be as follows:

THIS AGREEMENT made and entered into this _____ day of _____, _____, by and between _____, Grantor, and the Town of Amherst, Grantee.

RECITALS

WHEREAS, it is in the best interest of the Town of Amherst to cooperate with Developers in providing safety and adequate (water or sewer) facilities in the Town.

WHEREAS, the Town Council of the Town of Amherst has determined that sufficient funds are not available to develop unimproved areas in and around the Town but wants to encourage Developers to improve developing areas beyond improving just the property owned by them.

WHEREAS, the Town of Amherst can reimburse a Developer, for funds expended for improvement of properties not owned by the Developer, from funds to be received by the Town for changes, charges and fees as a result of the improvements.

WHEREAS, the Developer will dedicate the improvements to the Town of Amherst.

WHEREAS, the Developer, under the authority and direction of the Town of Amherst, has offered to install (water and/or sanitary sewer) facilities, in accordance with plans and specifications heretofore approved by the Town of Amherst, on (insert street name or project description, hereinafter referred to as Developer's Construction in or near the Town of Amherst.

NOW THEREFORE, the parties hereto agree as follows:

Section 1: A license is hereby granted unto (insert Developer's Name), the Developer, hereinafter referred to as "Licensee", for a period of ten years from the date of passage of this Agreement and automatically expiring at the expiration of such time unless renewed or extended by the Town Council of the Town of Amherst, for the construction of Developer's Construction.

Section 2: Licensee's property which will benefit from the Developer's Construction, is described as follows: (insert applicable language)

Section 3: The following described property, to wit: (insert property description(s)) is not owned by Licensee but it's owner has not contributed to the cost thereof and it's current or future owners may benefit by Developer's Construction.

Section 4: Licensee agrees to construct or cause to be constructed, at his expense, Developer's Construction.

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Section 5: Town agrees that the plans and specifications for Developer's Construction have been properly prepared and are hereby approved and that sufficient easements and rights of way have been deeded to the Town of Amherst so that upon the completion of all work and final inspection, approval and acceptance by the Town of Amherst will occur not sooner than one year following the date of satisfactory completion of such work.

Section 6: Licensee agrees that at all times Developer's Construction shall be subject to the inspection and approval of the Town of Amherst and that Licensee shall reimburse the Town for all direct expenses related thereto.

Section 8: That the Licensee and other owners desiring to connect with the proposed extension shall make application therefore to the Town of Amherst and shall pay therewith to the Town of Amherst availability and connection fees and as specified by the Town's then-current policy.

Section 9: That other owners desiring to connect with the proposed extension shall pay to the Town of, in addition to the then-current availability and connection fees,(insert amount) per equivalent residential connection. If a nonresidential user connects, then the fee shall be proportional to the availability fee charged to that customer.

Section 9: The Town Treasurer shall promptly remit to Licensee all funds collected by the Town in excess of normal, usual and customary availability, connection, and user fees in connection with Developer's Construction and associated with lands described under Section 3 hereinabove.

Section 10 The Town of Amherst shall have the sole ownership and control of any portion of Developer's Construction which is on the Town's side of a water meter or sewer cleanout, or other demarcation point as shown on the approved construction drawings and/or easement or permit documents.

Section 11: Licensee by executing this Agreement of guarantees that he binds himself and his heirs and assigns and successors in title, to all of the provisions of this Agreement. The rights and obligations of said Licensee shall be deemed to run with the land and shall inure to and be binding upon said lots now owned by the Licensee. This Ordinance shall be effective immediately upon its passage and approval and shall constitute an agreement, when accepted, between the Town of Amherst and said Licensee.

By: Town of Amherst Mayor _____

[DEVELOPER] _____

AMHERST TOWN CODE

By: _____

STATE OF VIRGINIA

_____ of _____ TO WIT: The
foregoing Agreement was acknowledged before me this _____ day of
_____, by _____, Mayor of
the Town of Amherst.

My Commission Expires: _____

Notary Public

STATE OF VIRGINIA

_____ of _____ TO WIT:
The foregoing Agreement was acknowledged before me this _____ day of
_____, _____, by _____ of
_____.

My Commission Expires: _____

Notary Public

(Amended December 12, 2007.)

Sec. 17-12. Water and sewer connections.

New connections to the Town of Amherst water and sewer system will be made under the following procedures:

- (a) **Adequacy of system.** The portions of the Town of Amherst water and sewer system serving the vicinity of the proposed connection must be large enough to retain adequate levels service, in the sole determination of the Town Council, for existing users as well as the new users.
- (b) **Availability fees.** Availability fees for residential water and sewer users are based on (a) the number of residences to be attached to the Town system and (b) the location of the new user. Nonresidential users are assessed based on the equivalent residential capacity of the water meter serving the user's new facility. Except for special assessment areas established by the Town Council, each new user of the Town of Amherst's water and sewer system shall be assessed an availability fee according to the following chart:

<u>Meter Size</u>	<u>80% Capacity, gpm</u>	<u>Factor</u>	<u>In Town</u>		<u>Out of Town</u>		Single Family Residential Service
			<u>Water</u>	<u>Sewer</u>	<u>Water</u>	<u>Sewer</u>	
5/8"	16	1	\$1,700	\$2,500	\$4,000	\$5,000	
3/4"	24	1.5	\$2,550	\$3,750	\$6,000	\$7,500	
1"	40	2.5	\$4,250	\$6,250	\$10,000	\$12,500	
1 1/2"	80	5	\$8,500	\$12,500	\$25,000	\$25,000	
2"	128	8	\$13,600	\$20,000	\$40,000	\$40,000	
3"	280	17.5	\$29,750	\$43,750	\$87,500	\$87,500	
4"	480	30	\$51,000	\$75,000	\$150,000	\$150,000	
6"	1000	62.5	\$106,250	\$156,250	\$312,500	\$312,500	

All availability fees and surcharges shall be paid in advance of zoning permit issuance or physical connection. Both water and sewer availability fees will be assessed in the event the size of a user's meter is increased. Existing users shall pay the difference between the larger meter fee and the fee that would be charged for the existing meter when larger meters are installed. No availability fee shall apply to a separate "irrigation" meter for a bona fide water customer where no water will be routed back to Town sewer. No refund will be made for the removal or downsizing of meters.

At the request of a property owner, the Town Council may authorize "prepaid" availability fees provided that:

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- i. the then-current property owner shall be guaranteed availability of water and/or sewer services for no more than four years,
- ii. after the four-year period the Town will have the option to assess minimum monthly fees to the property owner if no water or sewer is being used,
- iii. after the four-year period the Town will have the option to refund the availability fees with no interest to the then-current owner(s) of the lot(s) if no water or sewer has been used even if monthly minimum fees have been assessed, and
- iv. the Town Council shall have approved a contract appropriately articulating the terms of the prepayment agreement.

In order to encourage economic development or employment for the Town, the Town Council may, in its sole discretion and by resolution, authorize the availability fee to be paid from the general fund for those commercial or industrial owners (applicants) which the Town Council in its sole discretion determines would provide economic development or significant employment opportunities.

- (c) **Connection fees.** For both water and sewer connections, the cost of construction to the Town in making the connection will be assessed to the owner of the property requesting the connection in the form of a connection fee. Actual connection to Town lines shall be done by the Town or by contractor following written approval for same under inspection by the Town Manager. For usual and customary water and sewer connections to serve a single family residence or similar user and involving no more than 20' of service pipe between an existing main and the demarcation point, the connection fee shall be \$1,000.00 for water and \$700.00 for sewer paid prior to the issuance of a zoning certificate. The estimated connection fee shall be escrowed in cash with the Town if the projected cost of installing new facilities is in excess of \$1,000.00.

The Town Council may, in its sole discretion waive a portion of the availability or connection fees for facilities installed under federal or state funded projects. At the Town's request, the portion waived shall be indicated as Town financial participation in the project.

(Amended December 12, 2007, June 9, 2010 and June 10, 2015.)

Sec. 17-13. New water and sewer users located outside the corporate limits.

A. Connections to the Town of Amherst water and sewer system by users located outside the corporate limits may be authorized by the Town Council under the following circumstances.

- 1.) The applicant shall be a property owner who makes a written application to the Town Manager for Town water or sewer service after voluntarily petitioning for his property to be included within the Town of Amherst corporate limits. The petitions shall be in a form acceptable to the Town Attorney for filing in the Amherst County Clerk of the Circuit Court's

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office with the land records to run with the property and be binding on future owners for a period not to exceed 20 years.

- 2.) The applicant shall agree in writing to the following conditions regarding water and sewer use:
 - a. That his successors and assigns in title to the property will pay Town all water and sewer bills against such property.
 - b. That the user fees for water and sewer used outside the Town's corporate limits shall be established by the Town Council and may be amended at any time at the sole discretion of the Town Council.
 - c. That the petitioner will observe and perform all the rules, regulations and ordinances now in force or that may be hereafter passed or enacted by the Town Council in reference to the use of Town water and sewer.
 - d. That the Town reserves the right to temporarily interrupt the water and sewer service at any time from any and all persons using same for maintenance, nonpayment of bills, or any other reasonable purpose.
 - e. That upon approval of the application by the Town Council the procedure for the introduction of water and sewer shall be the same as provided for inside the Town of Amherst corporate limits.

The provisions of this section shall not limit the authority of the Town Council to support economic development outside the Town of Amherst corporate limits by providing water and sewer service on negotiated terms to new or existing institutions, business or industry if inclusion of such new business or industry within the corporate limits in the opinion of the Town Council is not a practical requirement.

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B. Form of Petition for Inclusion in the Town of Amherst.

The form of petition for inclusion in the Town of Amherst shall be as follows:

*On this the ___ day of _____, 20____, _____, **GRANTOR**, owner of certain real estate, hereby petitions the **Town of Amherst, GRANTEE**, a municipal corporation of the Commonwealth of Virginia, sometimes hereinafter referred to as "Town", to include certain real estate within the corporate limits of the Town of Amherst. Applicant certifies that he/she/they/it is the owner of subject real estate which is described in detail as follows:*

It being the desire of GRANTOR, this petition shall be recorded in the land records in the Amherst County Clerk of the Circuit Court's office, to bind the current and future owners of the property described above to the terms of this petition for twenty (20) years from the date first written above.

Such inclusion may be initiated by the Town of Amherst via boundary line adjustment agreement between the Town of Amherst and Amherst County pursuant to §15.1-1031.1 of the Code of Virginia, as amended; by annexation procedure; or by any other proper process at such time as is convenient to the Town of Amherst.

WITNESS the following signatures and seals, as of the day and year first above written.

*STATE OF VIRGINIA AT LARGE, TO WIT:
CITY/COUNTY OF _____*

I, _____, a Notary Public in and for the State of Virginia At Large do hereby certify that _____ signed the foregoing instrument before me this _____ day of _____, 2_____.

Notary Public

My Commission Expires _____

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C. Form of out of town water and/or sewer user agreement.

The form of out of town water and/or sewer user agreement shall be as follows:

Date: _____

Re: _____ Property/ _____ (Street Address)
DB _____ PG _____

To the Town Council of the Town of Amherst:

In accordance with §17-13 of the Town Code of the Town of Amherst, I agree to the following conditions regarding water use for the above-referenced property:

- (1) My successors and assigns in title to the property will pay Town all water bills against this property.
- (2) User fees for water used outside the Town's corporate limits shall be established by the Town Council and may be amended at any time at the sole discretion of the Town Council.
- (3) I will observe and perform all the rules, regulations and ordinances now in force or that may be hereafter passed or enacted by the Town Council in reference to the use of Town water.
- (4) The Town reserves the right to temporarily interrupt the water service at any time from any and all persons using same for maintenance, nonpayment of bills, or any other reasonable purpose.
- (5) That upon approval of this application by the Town Council the procedure for the introduction of water and sewer shall be the same as provided for inside the Town of Amherst corporate limits.

Further, I acknowledge that the filing of a petition to be included within the Town of Amherst's corporate limits petition does not grant utility service privileges to the property referenced therein.

Owner/Applicant Signatures _____

Address _____

Telephone Number _____

(Amended December 12, 2007.)

Sec. 17-14. Title

This ordinance shall be referred to as the **Cross Connection Control Ordinance**.

(Adopted October 13, 1999)

Sec. 17-14.1. Intent

This ordinance provides for the establishment and enforcement of a program of cross connection control and backflow prevention in accordance with the Commonwealth of Virginia, Virginia Department of Health, Waterworks Regulations. The purpose of this section is to abate or control actual or potential cross connections and protect the public health in a manner consistent with state and federal law.

Sec. 17-14.2. Definitions

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

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture, or other device and the rim of the receptacle.

Auxiliary Water System means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from another purveyor's waterworks; or water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

Backflow means the flow of contaminants, pollutants, process fluids, used water, untreated waters, undesirable chemicals or gases, or nonpotable waters into any part of a waterworks.

Backflow Prevention Device means any approved device, method, or type of construction intended to prevent backflow into a waterworks.

Consumer means the owner or person in control of any premises supplied by or connected in any manner to a waterworks.

Consumer's water system means any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

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Contamination means any introduction into pure water of micro-organisms, wastes, wastewater, undesirable chemicals or gases.

Cross-connection means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard is derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

Double gate-double check valve assembly means an approved assembly composed of two (2) single, independently acting check valves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.

Health hazard means any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

Interchangeable connection means an arrangement or device that will allow alternate but not simultaneous use of two (2) sources of water.

Pollution means the presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Process Fluids means any kind of fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollutional, or system hazard if introduced into the waterworks. This includes, but is not limited to:

1. Polluted or contaminated water,
2. Process waters,
3. Used water, originating from the waterworks which may have deteriorated in sanitary quality.
4. Cooling waters,
5. Contaminated natural waters taken from wells, lakes, streams, or irrigation systems,

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6. Chemicals in solution or suspension, and
7. Oils, gases, acids, alkalis, and other liquid and gaseous fluid used in industrial or other processes, or for fire fighting purposes.

Pure Water or Potable Water means water fit for human consumption and domestic use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.

Reduced Pressure Principle Backflow Prevention Device (RPZ device) means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two (2) check valves. During normal flow and at the cessation of normal flow, the pressure between these two (2) checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

Service Connection means the terminal end of a service line from the waterworks. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.

System Hazard means a condition posing a threat of or actually causing damage to the physical properties of the waterworks or a consumer's water system.

Used Water means water supplied by a waterworks to a consumer's water supply system after it has passed through the service connection.

Water purveyor means an individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county, or authority which supplies water to any person within this state from or by any means of any waterworks.

Waterworks means all structures and appliances used in connection with the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential consumers as set forth in Title 32.1, Chapter 6, Article 2, Section 32.1-167, Code of Virginia.

Sec. 17-14.3. Status of section

This section is a supplement to the applicable plumbing codes.

Sec. 17-14.4. Adoption of regulation

12 VAC 5-590-580 et seq., *Cross-Connection Control and Backflow Prevention in Waterworks*, Virginia Department of Health Waterworks Regulations, is hereby adopted by reference.

Sec. 17-14.5. Inspection for cross-connections

It shall be the duty of the Town Manager, or his duly authorized representative, to cause inspection to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections, and reinspections, based on potential health hazards involved, shall be established by the Town Manager in a cross connection control and backflow prevention program consistent with Virginia Department of Health guidelines.

Sec. 17-14.6. Right for entry for inspection

The Town Manager, or his duly authorized representative, bearing proper credentials and identification, shall be permitted to enter at any reasonable time properties served by a connection to the waterworks of the Town for the purpose of inspecting the piping system or systems for cross-connections. Upon request, the owner or occupants of property served shall furnish to the inspection agent pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

Sec. 17-14.7. Denial or discontinuance of water service

The water purveyor may deny or discontinue the water service to a consumer if the required backflow prevention device is not installed. If it is found that the device has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below 10 psi gauge, the purveyor shall take positive action to insure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with Commonwealth of Virginia, Virginia Department of Health, Waterworks Regulations and to the satisfaction of the purveyor.

Sec. 17-14.8. Labeling unsafe outlets

The potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this chapter and the Uniform Statewide

Building Code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as “Water Unsafe for Drinking” in a conspicuous manner.

Sec. 17-15. Title (Wastewater Pretreatment Ordinance)

This section of the Town Code of the Town of Amherst shall be referred to as the **Wastewater Pretreatment Ordinance**.

Sec. 17-15.1 General provisions.

Sec. 17-15.1.1 Purpose and policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the Town of Amherst and enables the Town to comply with all applicable State and Federal laws, including the VPDES Permit Regulation (9VAC 25-321-10 *et seq.*, Part VII), Clean Water Act (33 United States Code Section 1251 *et seq.*) and the General Pretreatment Regulations (Title 40 Code of Federal Regulations [CFR] Part 403). The objectives of this ordinance are:

- 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 both Publicly Owned 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 provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the Town to comply with its Virginia 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.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits or general permit; 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.

Sec. 17-15.1.2 Administration

Except as otherwise provided herein, the Town Manager shall administer, implement and enforce the provisions of this ordinance. Any authority granted to or duties imposed upon the Town Manager may be delegated by the Town Manager to a Pretreatment Coordinator or other Town personnel.

Sec. 17-15.1.3 Abbreviations

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

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report
- CFR - *Code of Federal Regulations*
- CIU - Categorical industrial User
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- NAICS- North American Industry Classification System
- NPDES/VPDES - National Pollutant Discharge Elimination System/Virginia Pollution Discharge Elimination System
- NSCIU-Non-Significant Categorical Industrial User
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIU - Significant industrial User
- SIC - Standard Industrial Classification
- SNC - Significant Noncompliance

- TSS - Total Suspended Solids
- U.S.C. - United States Code

Sec. 17-15.1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. *Act or The "Act."* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*

B. *Approval Authority.* Department of Environmental Quality, Commonwealth of Virginia, Richmond, Virginia.

C. *Authorized or Duly Authorized Representative of the User*

(1) If the user is a corporation:

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

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

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

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

(4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position

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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.

D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 17-15.2.1 A and B [40 CFR 403.5 (a)(1) and (b)] BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. *Categorical Industrial User.* An Industrial User subject to categorical Pretreatment Standard or categorical standard.

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

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

I. Existing Source. Any source of Discharge that is not a “New Source”

J. 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.

K. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

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

M. Interference. A discharge that, 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

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violation of the Town 's VPDES 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.

- N. *Local Limit*. Specific discharge limits developed and enforced by the Town upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b)
- O. *Medical Waste*. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding; surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- P. *Monthly Average*. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during the month.
- Q. *Monthly Average Limit*. The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during the month.
- R. *New Source*.
 - (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (c) The production or wastewater generating process of the building, structure, facility, or installation is 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

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new facility is engaged in the same general type of activity as the Existing Source, should be considered.

- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Sec. 17-15.(1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

T. *North American Industry Classification System (NAICS).* Is an economic classification system that replaces the 1987 Standard Industrial Classification (SIC) for statistical purposes. NAICS is a system for classifying establishments by type of economic activity. Its purposes are: (1) to facilitate the collection, tabulation, presentation, and analysis of data relating to establishments, and (2) to promote uniformity and comparability in the presentation and analysis of statistical data describing the economy. NAICS will be used by the Federal statistical agencies that collect or publish data by industry. It is also expected to be widely used by State agencies, trade associations, private businesses, and other organizations.

U. *Pass Through.* A discharge which exits the POTW into waters of the United States in

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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 VPDES permit, including an increase in the magnitude or duration of a violation.

- V. *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.
- W. *PH*. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- X. *Pollutant*. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- Y. *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.
- Z. *Pretreatment Coordinator*. The person designated by the Town of Amherst who is charged with certain duties and responsibilities by this policy, including the operation of the POTW, or a duly authorized representative of that person.
- AA. *Pretreatment Requirements*. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- BB. *Pretreatment Standards or Standards*. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- CC. *Prohibited Discharge Standards or Prohibited Discharges*. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sec. 17-15.2.1 of this ordinance.
- DD. *Publicly Owned Treatment Works or POTW*. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. section 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.
- EE. *Septic Tank Waste*. Any sewage from holding tanks such as vessels, chemical toilets,

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campers, trailers, and septic tanks.

FF. *Sewage*. Human excrement and gray water (household showers, dishwashing operations, etc.).

GG. *Significant Industrial User*. (SIU)

Except as provided in paragraphs (3) and (4) of this section, a Significant Industrial User is:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of twenty five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down wastewater);
 - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) 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
- (3) Intentionally Left Blank
- (4) Upon a finding that a User meeting the criteria in Subsection (2) of this part 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 an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a Significant Industrial User.

HH. *Slug Load or Slug*. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Sec. 17-15.2.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

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

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- JJ. *Storm Water*. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- KK. *Total Suspended Solids or Suspended Solids*. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid; and which is removable by laboratory filtering.
- LL. *Town*. Refers to the Town of Amherst, Virginia and its acting personnel.
- MM. *Town Manager*. The person designated by the Town of Amherst who is charged with certain duties and responsibilities by this policy, or a duly authorized representative of that person.
- NN. *User or Industrial User*. A source of indirect discharge.
- OO. *Wastewater*. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities; and institutions, whether treated or untreated, which are contributed to the POTW.
- PP. *Wastewater Treatment Plant or Treatment Plant*. That portion of the POTW that is designed to provide treatment of municipal sewage and industrial waste.

Sec. 17-15.1.5 Town's authority to amend ordinance

Pursuant to the Code of Virginia, the Town Council of the Town of Amherst, having the responsibility to take all necessary measures to ensure the integrity of the Town's wastewater collection and treatment operation and the authority to create and adopt this ordinance, shall have the authority to amend or repeal this ordinance or any section thereof.

Sec. 17-15.2 General sewer use requirements.

Sec. 17-15.2.1 Prohibited discharge standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) 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 140°F (60°C) using the test methods specified in 40 CFR 261.21;

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- (2) Wastewater having a pH less than 5.0 or more than 10, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts that will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than 2 inches in any dimension;
- (4) 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;
- (5) Wastewater which will inhibit biological activity in the treatment plant resulting in interference, specifically including wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (7) Pollutants 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;
- (8) Trucked or hauled pollutants, except at times and discharge points designated by the Pretreatment Coordinator in accordance with Sec. 17-15.3.4 of this ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) 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 VPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, unconcentrated non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Town Council of the Town of Amherst;

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- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Pretreatment Coordinator in an Individual wastewater discharge permit; general 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) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l; or
- (18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

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

Sec. 17-15.2.2 National categorical pretreatment standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 .

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Pretreatment Coordinator may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical Pretreatment Standards is mixed with wastewater not regulated by the same Standard, the Pretreatment Coordinator shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- C. 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 EPA when developing the categorical pretreatment standard.
- D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this section .
 - (1) Categorical Pretreatment Standard may be adjusted to reflect the presence

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of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Town Pretreatment Coordinator. Upon request of the Industrial User, the applicable Standards will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

- a. Either (i) The applicable categorical Pretreatment Standard contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
- b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section
- d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as to which the POTW discharges. The Town may waive this requirement if it finds that no environmental degradation will result.

E. Intentionally Left Blank

F. Intentionally Left Blank

Sec. 17-15.2.3 State pretreatment standards

State Pretreatment Standards are located at 9VAC25-31-10 et. seq., specifically Part VII.

Sec. 17-15.2.4 Local limits

A. Intentionally Left Blank

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B. Local pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits outlined below:

<u>Parameter</u>	<u>Daily Maximum Concentration</u>
Total Toxic Organics (TTO)	2.13 mg/1
Cadmium	0.014 mg/1
Chromium (+6)	0.14 mg/1
Chromium (+3)	1.0 mg/1
Copper	0.10 mg/1
Cyanide	0.06 mg/1
Lead	0.18 mg/1
Mercury	0.0002 mg/1
Nickel	0.25 mg/1
Oil and Grease	100 mg/1
Silver	0.05 mg/1
Zinc	0.72 mg/1
PH	Range (6-9)

The above limits for cadmium, chromium, copper, cyanide, lead, mercury, nickel, selenium, silver and zinc are based on present water quality standards and an allotment of 10 percent of total POTW flow for industrial dischargers. All other limits have been established based on the POTW design criteria.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for “total” metal unless indicated otherwise. The Town Manager may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

C. Intentionally Left Blank

Sec. 17-15.2.5 Town 's right of revision

The Town reserves the right to establish, by ordinance or in wastewater individual discharge permits or in general permits, more stringent Standards or Requirements on discharges to the POTW

consistent with the purpose of this ordinance.

Sec. 17-15.2.6 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Pretreatment Coordinator may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirement, or in other cases when the imposition of mass limitations is appropriate.

Sec. 17-15.3 Pretreatment of Wastewater.

Sec. 17-15.3.1 Pretreatment facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Sec. 17-15.2.1 of this ordinance within the time limitations specified by EPA, the State, or the Pretreatment Coordinator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Pretreatment Coordinator for review, and shall be acceptable to the Pretreatment Coordinator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this ordinance.

Sec. 17-15.3.2 Additional pretreatment measures

- A. Whenever deemed necessary, the Pretreatment Coordinator may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- B. The Pretreatment Coordinator may require any person discharging into the POTW to install and maintain, on the owner's property and at its expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be issued solely for flow equalization.
- C. Grease and sand interceptors shall be provided when, in the opinion of the Pretreatment Coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All

interceptors units shall be of a type and capacity approved by the Pretreatment Coordinator, shall comply with Section 17-15.3.5 of this ordinance and shall be located easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with Section 17-15.3.5 of this ordinance by the User at their expense.

- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Sec. 17-15.3.3 Accidental discharge/slug control plans

At least once every two (2) years, the Pretreatment Coordinator shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other actions to control Slug Discharges. The Pretreatment Coordinator may require any User to develop, submit for approval, and implement such a plan. Alternatively, the Pretreatment Coordinator may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Pretreatment Coordinator of any accidental or Slug Discharge, as required by Sec. 17-15.6.6 of this ordinance; and
- E. 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.

Sec. 17-15.3.4. Hauled wastewater.

A. Policy.

Persons desiring to routinely discharge used or untreated untreated liquid wastes, hereinafter referred to as septage, taken from septic tanks, cesspools or other sewage containers into the sewage system of the Town shall possess a valid septage hauler discharge permit. Permits will be issued by the Town Manager or his designee for a term not to exceed one (1) year and will specifically identify the types of septage which can be discharged. For purposes of classification, there are two (2) types of septage:

- (1) Septage collected from establishments where only household type activities have occurred and delivered to the sewage system by a Sewerage Handler licensed by the Commonwealth of Virginia.

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- (2) All other types of hauled septage. Such other types of septage will be subject to the conditions of contractual agreements between the Town of Amherst and the septage generator. All requests for such other types of hauled septage shall be accompanied by an appropriate laboratory analysis showing the concentration of pollutants to be discharged.

B. Conditions.

All persons discharging a hauled septage to the sewage system of the Town will adhere to the following conditions:

- (1) Each vehicle transporting septage must have a copy of the current discharge permit identifying the full tank capacity and the Virginia Department of Health Sewerage Handling Permit in the vehicle at all times and provide same to the pretreatment coordinator or other Town official upon demand.
- (2) All septage will be brought to the designated discharge location at the wastewater treatment plant.
- (3) A completed manifest form, containing the appropriate signatures and identifying the source of the septage, shall be presented to the wastewater treatment plant operator prior to discharge.
- (4) No truckload will exceed twenty-five hundred (2,500) gallons unless prior permission has been granted by the Town Manager or his designee.
- (5) Any truckload which contains any amount of restaurant-generated septage or grease will be rejected and not allowed to unload.
- (6) Contractual loads cannot be mixed with any other type of waste.
- (7) Changes to information supplied with a permit application or in an approved permit shall be grounds for suspension of a permit and so must be reported immediately to the pretreatment coordinator.

C. Administration.

The Pretreatment Coordinator shall establish reasonable rules and procedures to facilitate the implementation of this Section 17-15.3.4, including the development of informational documents, application forms, permit forms, and manifest forms.

D. Fees and charges.

To cover the administrative cost of the septic hauler discharge permit, fifty dollars (\$50.00) per year of permit term will be charged.

All fees and charges will be accumulated over each calendar month and be billed on a monthly basis. In the case of contractual agreements payment will be subject to the conditions of the contract.

Disposal services will be suspended for customers with an outstanding bill not paid by due date.

Disposal costs for residential septage will be assessed at the rates established by the Town Council along with other rates during the budgetary process.

Whenever the Town utilizes the services of an attorney or a collection agency to collect any delinquent fees, rents or charges for the use and services of the Town's sewage disposal system, reasonable attorney's fees or collection agency's fees shall be added to the delinquent bill. The attorney's fees or collection agency's fees shall not exceed twenty (20) per cent of the delinquent bill and may be recovered by the Town by action at law or suit in equity. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity.

Sec. 17-15.3.5 Grease and sand traps

Background and Policy

Fats, oils, and greases, hereinafter collectively referred to as grease, are problem substances in wastewater that can be effectively controlled by properly maintained interceptors (traps). Adequate grease interceptor installation and maintenance will lower the number of grease stoppages in the Town of Amherst sewage collection system. Preventing grease from entering the sewerage system also benefits the Wastewater Treatment Plant since the Plant's biological treatment processes more effectively remove pollutants when not inhibited by high grease concentrations. Grease itself is difficult for Plant microorganisms to digest and, therefore, is only partially removed during the wastewater treatment process, and grease can contribute to foaming problems experienced at the Plant. Grease buildups also cause sewage pump station maintenance problems. Grease interceptors shall be provided by users at their expense when, in the opinion of the Pretreatment Coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease. All restaurants, cafeterias, and similar uses shall have a grease interceptor and associated maintenance plan approved by Pretreatment Coordinator.

Similarly, excessive amounts of sand can build up and cause line stoppages in the sewage collection system. Sand interceptors shall be provided by users at their expense when, in the opinion of the Pretreatment Coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of sand or grit. All car washes shall have a sand trap and associated maintenance plan approved by Pretreatment Coordinator. Grease and sand interceptors shall not be required for residential users.

A. Design and Installation

All interceptor units shall be of a type and size approved by the Pretreatment Coordinator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at its expense.

A grease or sand interceptor already in place must be properly sized or be replaced or improved to meet the Town's requirements. The Town of Amherst Pretreatment Program Coordinator shall determine by inspection and through information provided by the user whether the existing interceptor is properly sized. A change in the nature or scale of the user's operation may require a reinspection of the interceptor and a redetermination of whether the interceptor and associated maintenance plan is adequate.

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Grease interceptors shall be located on plumbing lines downstream from wash sinks and other primary sources of grease and shall be isolated from blackwater. Retrofit installations shall have interceptors with a minimum of 100 pounds grease capacity. New installations shall have outdoor grease interceptors with a minimum capacity of 1,000 gallons. However, in lieu of these minimum requirements, a sewer user may elect to provide an alternate design along with a maintenance plan as prepared by professional engineer licensed to practice in the Commonwealth of Virginia. The Pretreatment Coordinator may approve such alternate proposal if the intent of this Section 17-15.3.5 is met. All applicable local plumbing and construction codes shall be followed during interceptor installation.

B. Operation, Maintenance and Inspection

A user must adequately clean the interceptor as needed but at least once every thirty (30) days. The Pretreatment Coordinator may require more frequent cleaning if conditions warrant.

A facility must keep written interceptor cleaning records on file for a minimum of one year. These records must be on the premises and readily available and subject to inspection by the Pretreatment Coordinator. Information documenting the location of the interceptor, responsible parties, and actual maintenance performed shall be submitted to the Pretreatment Coordinator on a quarterly basis on a form provided by him.

Emulsifier, de-greaser, and enzyme use in grease interceptors is prohibited. Hot water flushing to clear the interceptor is prohibited.

C. Exemptions

Any contributor covered by this Section 17-15.3.5 who is able to prove that compliance would be economically or physically infeasible on the particular facts and circumstances of his case, may apply on that ground to the Town Council for an exemption from any portion of this Ordinance.

D. Compliance

Upon a finding by the Pretreatment Coordinator that a user has failed to comply with the provisions of this Section 17-15.3.5 the user shall be subject to the permit provisions of this Section 17-15, including ongoing laboratory sampling of his effluent, and reimbursement of the Town for pretreatment program expenses.

Sec. 17-15.4 Individual wastewater discharge permits and general permits

Sec. 17-15.4.1 Wastewater analysis

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

Sec. 17-15.4.2 Individual wastewater discharge permit and general permit requirement

- A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or a general permit from the Pretreatment Coordinator, except that a Significant Industrial User that has filed a timely application pursuant to Sec. 17-15.4.3 of this ordinance may continue to discharge for the time period specified therein.
- B. The Pretreatment Coordinator may require other Users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of an individual wastewater discharge permit or general permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 17-15.10 through 17-15.12 of this ordinance. Obtaining an individual wastewater discharge permit or general 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.

Sec. 17-15.4.3 Wastewater discharge permitting: existing connections

Any User required to obtain a individual wastewater discharge permit or general permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Pretreatment Coordinator for an individual wastewater discharge permit or general permit in accordance with Sec. 17-15.4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one hundred twenty (120) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit or general permit issued by the Pretreatment Coordinator.

Sec. 17-15.4.4 Individual wastewater discharge and general permitting: New connections

Any User required to obtain an individual wastewater discharge permit or a general permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with Sec. 17-15.4.5 of this ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

Sec. 17-15.4.5 Wastewater discharge permit application contents

- A All Users required to obtain an individual wastewater discharge permit or a general permit must submit a permit application. Users that are eligible may request a general

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permit under section 17-15.4.6. The Pretreatment Coordinator may require all Users to submit all or some of the following information as part of a permit application:

(1) Identifying information

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any control permits held by or for the facility.

(3) Descriptions of operations.

- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) and North American Industry Classification System (NAICS) identifier of operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from regulated processes.
- b. Types of waste generated, and a list of raw materials and chemicals used or stored at the facility which are, or could be accidentally or intentionally be discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operations;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharge

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams, as necessary, to allow use of the combined wastestream formula set out in Sec.17-15.2.2C (40 CFR 403.6(e)).

(7) Measurements of Pollutants

- a. The categorical Pretreatment Standard applicable to each regulated process and any new categorically regulated processes for Existing Sources.

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- b. The result of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, Daily, Maximum, and long-term average concentrations, or mass where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Sec. 17-15.6.10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Pretreatment Coordinator or the applicable Standards to determine compliance with the Standard
 - e. Sampling must be performed in accordance with procedures set out in Sec. 17-15.6.11 of this ordinance.
- (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Sec. 17-15.6.4 B [40 CFR 403.12(e)(2)].
- (9) Any request to be covered by a general permit based on Sec. 17-15.4.6
- (10) Any other information as may be deemed necessary by the Pretreatment Coordinator to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

Sec. 17-15.4.6 Wastewater discharge permitting: General permitting

- A. At the discretion of the Pretreatment Coordinator the Pretreatment Coordinator may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:
- (1) Involve the same or substantially similar types of operations;
 - (2) Discharge the same types of wastes;
 - (3) Require the same effluent limitations;
 - (4) Require the same or similar monitoring; and
 - (5) In the opinion of the Pretreatment Coordinator, are more appropriately controlled under a general permit than under individual wastewater discharge permits.
- B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, types of wastes generated, the location for monitoring all wastes covered by the general

permit, any requests in accordance with Sec. 17-15.6.4 B for a monitoring waiver for a pollutant neither present or expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the Discharge is not effective in the general permit until after the Pretreatment Coordinator has provided written notice to the SIU that such a waiver request has been granted in accordance with Sec. 17-15.6.4 B.

- C. The Pretreatment Coordinator will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Sec. 17-15.4.6 A (1) to (5) and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit.
- D. The Pretreatment Coordinator may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharge per day or for Ius whose limits are based on Combined Wastestream Formula (Sec. 17-15.2.2 C) or Net/Gross calculations (Sec. 17-15.2.2 D)

Sec. 17-15.4.7 Application signatories and certification

- A. 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."

- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Pretreatment Coordinator prior to or together with reports to be signed by an Authorized Representative.

Sec. 17-15.4.8 Individual Wastewater discharge and general permit decisions

The Pretreatment Coordinator will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Pretreatment Coordinator will determine whether to issue an individual wastewater discharge permit

or general permit. The Pretreatment Coordinator may deny any application for an individual wastewater discharge permit or a general permit.

Sec. 17-15.5 Individual wastewater discharge and general permit issuance.

Sec. 17-15.5.1 Individual wastewater discharge and general permit duration

An individual wastewater discharge permit or general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or general permit may be issued for a period less than five (5) years, at the discretion of the Pretreatment Coordinator. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

A wastewater discharge permit may be administratively extended by the Town past its expiration date in the event that through no fault of the industrial user, in submitting a complete and timely application the permit is not reissued prior to the expiration date.

Sec. 17-15.5.2 Individual Wastewater discharge permit and general permit contents

An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the Pretreatment Coordinator 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. Individual Wastewater discharge permits and general permits must contain:
- (1) A statement that indicates wastewater discharge permit issuance date, expiration date and effective date. [**Note: See section 5.1**]
 - (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Town in accordance with Sec. 17-15.5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - (3) Effluent limits, including Best Management Practices, based on applicable pretreatment standards;
 - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
 - (5) Intentionally left Blank
 - (6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements and any applicable

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compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

- (7) Requirements to control Slug Discharge, if determined by the Pretreatment Coordinator to be necessary

B. Individual Wastewater discharge permits or general 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 non-routine 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 individual wastewater discharge permit or the general 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 individual wastewater discharge permit or the general permit ; and
- (8) Other conditions as deemed appropriate by the Pretreatment Coordinator to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Sec. 17-15.5.3 Permit issuance process

- A. Intentionally left blank.
- B. The Pretreatment Coordinator shall provide public notice of the issuance of an individual wastewater discharge permit or a general permit. Any person, including

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the user, may petition the Pretreatment Coordinator to reconsider the terms of an individual wastewater discharge permit or a general permit within 30 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 appealing party must indicate the individual wastewater discharge permit or a general permit provisions objected to, the reasons for the objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit or a general permit.
- (3) The effectiveness of the individual wastewater discharge permit or a general permit shall not be stayed pending the appeal.
- (4) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit or a general permit decision must do so by filing a complaint with the Town Council of the Town of Amherst.
- (5) Aggrieved parties seeking judicial review of the Town Council's wastewater discharge permit decision must do so by filing a complaint with the Circuit Court for the County of Amherst.

Sec. 17-15.5.4 Permit modification

- A. The Pretreatment Coordinator may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
 - (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of individual wastewater discharge permit issuance;
 - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses a threat to the Town's POTW, Town personnel, or the receiving waters;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of or a grant of variance from categorical Pretreatment Standards

pursuant to 40 CFR 403.13;

- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Sec. 17-15.5.5.

B. The Pretreatment Coordinator may modify a general permit for good cause, including but not limited to, the following reason:

- (1) To incorporate any new or revised Federal State or local Pretreatment Standards or Requirements
- (2) A change in the POTW that requires either a temporary or permanent reduction or elimination of authorized discharges;
- (3) To correct typographical or other errors in the individual wastewater discharge permit; or
- (4) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Sec. 17-15.5.5.

Sec. 17-15.5.5 Wastewater discharge permit and general permit transfer

Individual Wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the Pretreatment Coordinator and the Pretreatment Coordinator approves the individual wastewater discharge permit or the general permit transfer. The notice to the Pretreatment Coordinator must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

Failures to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the general permit void as of the date of facility transfer.

Sec. 17-15.5.6 Individual wastewater discharge permit and general permit revocation

The Pretreatment Coordinator may revoke an individual wastewater discharge permit or coverage under the general permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Pretreatment Coordinator of significant changes to the

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wastewater prior to the changed discharge;

- B. Failure to provide prior notification to the Pretreatment Coordinator of changed conditions pursuant to Sec. 17-15.6.5 of this ordinance;
- C. Misrepresentation or failures 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 Pretreatment Coordinator 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; or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the individual wastewater discharge permit or the general permit or this ordinance.

Individual wastewater discharge permits or coverage under the general permit shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or general permit issued to a particular User are void upon the issuance of a new individual wastewater discharge permit or general permit to that User.

Sec. 17-15.5.7 Individual wastewater discharge permit and general permit reissuance

A User with an expiring individual wastewater discharge permit or general permit shall apply for an individual wastewater discharge permit or a general permit reissuance by submitting a complete permit application, in accordance with Sec. 17-15.4.5 of this ordinance, a minimum of one hundred twenty (120) days prior to the expiration of the User's existing individual wastewater discharge permit or general permit.

Sec. 17-15.5.8 Regulations of waste received from other jurisdictions

- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, The Pretreatment Coordinator shall enter into an inter-

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municipal agreement with contributing municipality.

- B. Prior to entering into an agreement required by paragraph A, above the Pretreatment Coordinator 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; and
 - (3) Such other information that the Pretreatment Coordinator may deem necessary.
- C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Town's ordinance 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 individual wastewater discharge permit or general permit issuance, inspection and sampling, and enforcement, will be conducted by the pretreatment Coordinator; and which of these activities will be conducted jointly by the contributing municipality and the Pretreatment Coordinator;
 - (4) A requirement for the contributing municipality to provide the Pretreatment Coordinator 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 Pretreatment Coordinator 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 Pretreatment Coordinator; and
 - (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

Sec. 17-15.6 Reporting requirements.

Sec. 17-15.6.1 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 Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Pretreatment Coordinator a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Pretreatment Coordinator a report which contains the information listed in paragraph 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) All information required in Sec. 17-15.4.5A (1) (a), Sec. 17-15.4.5A (2), Sec. 17-15.4.5A (6) of this ordinance.
 - (2) Measurements of pollutants:
 - a. The User shall provide the information required in Sec 17-15.4.5A (7) (a) through (d) of this ordinance.
 - b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewater's are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Pretreatment Coordinator;
 - d. Sampling and analysis shall be performed in accordance with Sec. 17-15.6.10;
 - e. The Pretreatment Coordinator may allow the submission of a baseline

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report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures

- f. The baseline report shall indicate the time, date and place of the sampling and the methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expectant pollutant Discharges to the POTW.
- (3) (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as define in Sec. 17-15.1.4C of this ordinance and certified by a qualified professional, indicating whether addition operations and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment measures and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and or O&M must be provided. The completion date in the schedule shall not be later than the compliance date established from the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements of Sec 17-15.6.2 of this ordinance.
- (5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Sec. 17-15.6.14 A of this ordinance and signed by an Authorized Representative as defined in Sec. 17-15.1.4C of this ordinance.

Sec. 17-15.6.2 Compliance Schedule progress reports

The following conditions shall apply to the compliance schedule required by Sec. 17-15.6.1(B) (4) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (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);
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Pretreatment Coordinator 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; and

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

Sec. 17-15.6.3 Reports on compliance with categorical pretreatment standard 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 Requirements shall submit to the Pretreatment Coordinator a report containing the information described in Sec. 17-15.4.5 A (6) and (7) and 17-15.6.1(B) (2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 17-15.2.2 or see 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 Sec. 17-15. 6. 14A of this ordinance. All sampling will be done in accordance with Sec. 17-15.6.11 of this ordinance.

Sec. 17-15.6.4 Periodic compliance reports

[Note: All SIUs are required to submit periodic compliance reports even if they have been designated a Non-Significant Categorical Industrial User under the Provision of 17-15.6.4C.]

- A. Except as specified in Sec. 17-15.6.4 C, all Significant Industrial Users must at a frequency determined by the Pretreatment Coordinator submit no less than twice per year (June and December), reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In case where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Pretreatment Coordinator or the Pretreatment Standard necessary to determine the compliance status of the User.
- B. Intentionally left blank.
- C. Intentionally left blank.
- D. Intentionally left blank.
- E. 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 its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

- F. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Pretreatment Coordinator, using the procedures prescribed in Sec. 17-15.6.11 of this ordinance, the results of this monitoring shall be included in the report.
- G. Intentionally left blank.

Sec. 17-15.6.5 Reports of changed conditions

Each user must notify the Pretreatment Coordinator of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- A. The Pretreatment Coordinator may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Sec. 17-15.4.5 of this ordinance.
- B. The Pretreatment Coordinator may issue an individual wastewater discharge permit or general permit under Sec. 17-15.5.7 of this ordinance or modify an existing wastewater discharge permit or general permit under Sec. 17-15.5.4 of this ordinance 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.

Sec. 17-15.6.6 Reports of potential problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, Slug Discharge or Slug Load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the Pretreatment Coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. Within five (5) days following such discharge, the User shall, unless waived by the Pretreatment Coordinator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the

User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant Industrial Users are required to notify the Pretreatment Coordinator immediately of any changes at its facility affecting the potential for a Slug Discharge.

Sec. 17-15.6.7 Reports from unpermitted users

All Users not required to obtain An individual wastewater discharge permit or general permit shall provide appropriate reports to the Pretreatment Coordinator as the Pretreatment Coordinator may require.

Sec. 17-15.6.8 Notice of violation/repeat sampling and reporting

If sampling performed by a User indicates a violation, the User must notify the Pretreatment Coordinator 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 Pretreatment Coordinator within thirty (30) days after becoming aware of the violation. The User is not required to re-sample if the Pretreatment Coordinator monitors at the User's facility at least once a month, or if the Pretreatment Coordinator samples between the User's initial sampling and when the User receives the results of this sampling or the Pretreatment Coordinator has performed the sampling and analysis in lieu of the Industrial User.

Sec. 17-15.6.9 Notification of the 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 Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents 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 and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Sec. 17-15.6.5 of this ordinance. 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 Sections Sec. 17-15.6.1, Sec. 17-15.6.3, and Sec. 17-15.6.4 of this ordinance.

- B. Discharges are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms 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 Section 3001 of RCRA identify additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Pretreatment Coordinator, the EPA Regional waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 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 this ordinance, a permit issued thereunder, or any applicable Federal or State law.

Sec. 17-15.6.10 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 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that Part 136 sampling and analytical techniques shall be performed by using validated analytical methods or any other

applicable sampling and analytical procedures, including procedures suggested by the Pretreatment Coordinator or other parties approved by EPA .

Sec. 17-15.6.11 Sample collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period

- A. Except as indicated in Section B and C, below, the User must collect wastewater samples using 24-hourflow- proportional composite sampling techniques, unless time –proportional composite sampling or grab sampling is authorized by the Pretreatment Coordinator. Where time- proportional composite sampling or grab sampling is authorized by the Pretreatment Coordinator, the samples must be representative of the discharge. Using protocols (including appropriate preservations) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: cyanide, total phenols, sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Pretreatment Coordinator, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sec.17-15.6.1 and 617-15.6.3 of this ordinance [40 CFR 403.12(b) and (d)], a minimum of four (4) samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Pretreatment Coordinator may authorize a lower minimum. For reports required by this paragraphs Sec. 17-15.6.4 (40 CFR 403.12(e) and 403.12 (h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

Sec. 17-15.6.12 Date of receipts of reports

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.

Sec. 17-15.6.13 Record keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Sec. 17-15.2.4C of this ordinance. 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 Pretreatment Coordinator.

Sec. 17-15.6.14 Certification statements

- A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver- The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Sec. 17-15.4.7; Users submitting a baseline monitoring reports under Sec 17-15.6.1B (5); Users submitting reports on compliance with categorical Pretreatment Standards deadlines under Sec. 17-15.6.3; Users submitting periodic compliance reports required by Sec. 17-15.6.4A-D, and Users submitting an initial request to forego sampling of a pollutant on the basis of Sec. 17-15.6.4B(4). The following certification statement must be signed by an Authorized Representative as define in Sec. 17-15.1.4C:

I certify under the penalty of law that this document and all attachments were prepared under my direct 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.

- B. Annual Certification for Non-Significant Categorical Industrial Users- A facility determined to be a Non-Significant Categorical Industrial User by the Pretreatment Coordinator pursuant to Sec. 17-15.1.4GG(3) and 17-15.4.7 must annually submit the following certification statement signed in accordance with the signatory requirements in Sec.17-17.1.4C. This certification must accompany an alternative report required by the Pretreatment Coordinator:

Based on my inquiry of the person or persons directly responsible for managing

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compliance with the Categorical Pretreatment Standards under 40 CFR _____, I Certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]

- a. The facility described as _____ [facility name] met the definition of a non significant Categorical Industrial User as described in 17-15.1.4GG
- b. The facility complied with all applicable Pretreatment Standards and Requirements during this reporting period; and
- c. The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance is based on the following information

C. Intentionally left blank.

Sec. 17-15.7 Compliance monitoring.

Sec. 17-15.7.1 Right of entry: inspection and sampling

The Pretreatment Coordinator shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the Pretreatment Coordinator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. 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 Pretreatment Coordinator will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Pretreatment Coordinator 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 operation
- C. The Pretreatment Coordinator may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by

the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least 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 Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays in allowing the Pretreatment Coordinator access to the User's premises shall be a violation of this ordinance.

Sec. 17-15.7.2 Search warrants

If the Pretreatment Coordinator 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 this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Pretreatment Coordinator may seek issuance of a search warrant from the Circuit Court of the County of Amherst, Virginia or from such other court which has jurisdiction over the matter.

Sec. 17-15.8 Confidential information.

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits and monitoring programs, and from the Pretreatment Coordinator' 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 Pretreatment Coordinator, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the 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 NPDES/VPDES 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 reorganized as confidential information and will be available to the public without restriction.

Sec. 17-15.9 Publication of users in significant noncompliance.

The Pretreatment Coordinator shall publish annually, in the largest daily newspaper published 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. The term significant noncompliance shall be applicable to all Significant Industrial Users (or any othe Industrial User that violates Paragraphs (C), (D) or (H) of this Section) and shall

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mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period exceed the (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Sec. 17-15.2 of this ordinance.
- B. 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 (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined in Sec. 17-15.2 of this ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation of a Pretreatment Standard or Requirement as defined by Sec.17-15.2 of this ordinance (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Pretreatment Coordinator determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Pretreatment Coordinator's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty five (45) 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;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) which may include a violation of Best Management Practices, which the Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 17-15.10 Administrative enforcement remedies.

Sec. 17-15.10.1 Notification of violation

When the Pretreatment Coordinator finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator may serve upon that User a written Notice of Violation. Within fourteen (14) 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 Pretreatment Coordinator. 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 Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Sec. 17-15.10.2 Consent orders

The Pretreatment Coordinator 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 the administrative orders issued pursuant to Sections Sec. 17-15.10.4 and Sec. 17-15.10.5 of this ordinance and shall be judicially enforceable.

Sec. 17-15.10.3 Show cause hearing

The Pretreatment Coordinator may order a user which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Pretreatment Coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Sec.17-15.1.4C and required by Sec. 17-15.4.7A.. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

Sec. 17-15.10.4 Compliance orders

When the Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator 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.

Sec. 17-15.10.5 Cease and desist orders

When the Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Pretreatment Coordinator may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. 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.

Sec. 17-15.10.6 Intentionally left blank.

Sec. 17-15.10.7 Emergency suspensions

The Pretreatment Coordinator may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Pretreatment Coordinator may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any user notified of a 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 Pretreatment Coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Pretreatment Coordinator may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Pretreatment Coordinator that the period of endangerment has passed, unless the termination proceedings in Sec. 17-15.10.8 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Pretreatment Coordinator prior to the date of any show cause or termination hearing under Sec. 17-15.10.3 and Sec. 17-15.10.8 of this ordinance. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Sec. 17-15.10.8 Termination of discharge

In addition to the provisions in Sec. 17-15.5.6 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit or general permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Sec. 17-15.2 of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Sec. 17-15.10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Pretreatment Coordinator shall not be a bar to, or a prerequisite for, taking any other action against the User.

Sec. 17-15.11 Judicial enforcement remedies.

Sec. 17-15.11.1 Injunctive relief

When the Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator may petition the Circuit Court of the County of Amherst, Virginia or other court of competent 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 individual wastewater discharge permit, the general permit order, or other requirement imposed by this ordinance on activities of the User. The Pretreatment Coordinator 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.

Sec. 17-15.11.2 Civil penalties

- A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Town for civil and criminal penalty in the amount of at least \$1,000 per violation per day. 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 Pretreatment Coordinator 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.

Sec. 17-15.11.3 Criminal prosecution

- A. A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or a general permit]or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500.00) per violation, per day, or imprisonment for not more than twelve (12) months, or both.
- B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least two thousand five hundred dollars (\$2,500.00) per violation, per day, or imprisonment for not more than twelve (12) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual

wastewater discharge permit, or a general permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00) per violation, per day, or imprisonment for not more than twelve (12) months, or both.

- D. In the event of a second conviction, a User shall be punished by a fine not more than two thousand five hundred dollars (\$2,500.00) per violation, per day, or imprisonment for not more than twelve (12) months, or both.

Sec. 17-15.11.4 Remedies nonexclusive

The remedies provided for in this ordinance are not exclusive. The Pretreatment Coordinator may take any, all, or any combination of these actions against any user that is not in compliance. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Pretreatment Coordinator may take other action against any User when the circumstances warrant. Further, the Pretreatment Coordinator is empowered to take more than one enforcement action against any User not in compliance with this ordinance.

Sec. 17-15.12 Supplemental enforcement action.

Sec. 17-15.12.1 Intentionally left blank.

Sec. 17-15.12.2 Performance bonds

The Pretreatment Coordinator may decline to issue or re-issue an individual wastewater discharge permit or a general permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement unless such User first files a satisfactory secured bond, payable to Town, in a sum not to exceed a value determined by the Pretreatment Coordinator to be necessary to achieve consistent compliance.

Sec. 17-15.12.3 Liability insurance

The Pretreatment Coordinator may decline to issue or re-issue an individual wastewater discharge permit or a general permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or a general permit or order issued here under 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.

Sec. 17-15.12.4 Intentionally left blank.

Sec. 17-15.12.5 Water supply severance

Whenever a User has violated or continues to violate any provision of this ordinance, an

individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

Sec. 17-15.12.6 **Intentionally left blank**

Sec. 17-15.12.7 **Intentionally left blank**

Sec. 17-15.12.8 **Intentionally left blank**

Sec. 17-15.13 **Affirmative defenses to discharge violations.**

Sec. 17-15.13.1 **Upset**

- 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 paragraph (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 workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The User has submitted the following information to the Pretreatment Coordinator 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; and
 - (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.

Sec. 17-15.13.2 Prohibited discharge standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Sec. 17-15.2.1(A) of this ordinance or the specific prohibitions in Sec. 17-15.2.1 (B)(3) through (7) of this ordinance 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 VPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Sec. 17-15.13.3 Bypass

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

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

C. Bypass notifications

- (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Pretreatment Coordinator, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Pretreatment Coordinator 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 Pretreatment Coordinator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

- (1) Bypass is prohibited, and the Pretreatment Coordinator 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 paragraph (C) of this section.
- (2) The Pretreatment Coordinator may approve an anticipated bypass, after considering its adverse effects, if the Pretreatment Coordinator determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

Sec. 17-15.14 Wastewater treatment rates

Users of the Town of Amherst wastewater collection and treatment utility service are subject to rates which may be changed from time to time. In addition to the usual facility charges, debt service charges, monthly “base” charges, and volume charges, users contributing wastewaters characterized by unusual quantity, quality, content or flow pattern are subject to special assessments which may be established or changed at the sole discretion of the Town Council of the Town of Amherst.

Sec. 17-15.15 Miscellaneous provisions.

Sec. 17-15.15.1 Pretreatment charges and fees

The Town Council of the Town of Amherst may assess reasonable fees for reimbursement of the out-of-pocket costs of operating the Town 's Pretreatment Program that may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals and defending filed appeals; and
- E. Fees to recover administrative costs not included in Sec. 17-15.15.1B associated with the enforcement activity take by the Pretreatment Coordinator to address IU non-compliance; and
- F. Other fees as the Town Council of the Town of Amherst may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties charged by the Town.

Sec. 17-15.15.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

(Readopted on August 13, 2008)

Sec. 17-16. Repealed. (Repealed on August 10, 2011.)

Sec.17-16.1. Drought Management Ordinance.

- A. **Short Title.** This ordinance shall be known and may be cited as the Drought Management Ordinance.
- B. **Authority to declare water emergencies.** During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the Town of Amherst may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail nonessential water use may be necessary.

The Town Manager is authorized to declare drought stages and appropriately restrict the use of water in the Town's service area. All drought stages are built upon and require compliance with previous drought stages. For example when a drought warning is declared all provisions of a drought watch are in effect. Also the Town Manager may declare any of the three stages; they do not have to be declared sequentially.

- C. **Water use considerations.** Upon the declaration of a water shortage or emergency, the Town Manager is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth hereof, the Town Manager shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands.
- D. **Limitation of restrictions.** The provisions of this ordinance shall not apply to any governmental activity, institution, business or industry which shall be declared by the Mayor or designee, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any person aggrieved by any decision of the Mayor or designee pursuant to this ordinance may appeal that decision to the Town Council in writing.
- E. **Drought stages.** Upon a determination by the Town Manager of the existence of the following conditions, the Town Manager shall take the following actions that shall apply to any person whose water supply is furnished from the public water system:

- (a) **Drought Watch:** A drought watch stage is defined as those times when the flow of water in

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Buffalo River falls below 1,000,000 gallons per day at the Town of Amherst Water Treatment Plant Intake Pump Station. Insofar as there is insufficient water in Buffalo River to efficiently operate the water plant, the Town Manager shall initiate the appropriate procedures to augment this flow from reservoirs located in the Buffalo River watershed above the Town's intake point. This stage will include identification of potential water conservation measures that could be employed by Town water users and other activities in anticipation of more severe drought stages.

Upon the declaration of a drought watch, the Town Manager shall immediately notify the Town Council.

- (b) **Drought Warning:** A drought warning stage is defined as when the water level in Mill Creek Reservoir falls to 4 feet below the spillway or if the Amherst County Board of Supervisors has established voluntary water conservation measures. When moderate but limited supplies of water are available and a drought warning is declared, the Town Manager shall, through appropriate means, ask the general population to employ prudent restraint in water usage and to conserve water voluntarily by whatever methods available with the goal of reducing water use by 10%.

Upon the declaration of a drought warning, the Town Manager shall immediately notify the Town Council, post a written notice of the declaration at the Town Hall and on the Town's web site, issue a public service announcement to the local news media, and promulgating the declaration via any other appropriate means.

- (c) **Drought Emergency:** A drought emergency stage is defined as when the water level in Mill Creek Reservoir falls to 8 feet below the spillway or if the Amherst County Board of Supervisors has established mandatory water conservation regulations. When a drought emergency is declared, the Town Manager shall restrict the use of water to purposes which are absolutely essential to life, health and safety. Mandatory water conservation activities shall be identified with the goal of reducing water use by 15%. When a drought warning is declared, the Town Manager shall order curtailment of less essential usages of water, including, but not limited to, one or more of the following:

- (1) The watering of outside shrubbery, trees, lawns, grass, plants, or any other vegetation except from a watering can or container not exceeding three (3) gallons in capacity, except indoor plantings, greenhouse or nursery stocks and except limited watering for new lawns and watering by commercial nurseries of freshly planted plants upon planting and once a week for five (5) weeks following planting.
- (2) The washing of automobiles, trucks, trailers, boats, buses, airplanes, or any other type of mobile equipment, except in facilities operating with a water recycling system. The facility shall post a notice in public view that a recycling system is in operation.

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Exceptions may be approved by the Town Manager or his designee when they are demonstrated to be necessary for the purposes of health and safety.

- (3) The washing of sidewalks, streets, driveways, parking lots, service stations aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces, unless the use is approved by the Town Manager or his designee for the purposes of health and safety.
- (4) The operation of any ornamental fountain or other structure making a similar use of water.
- (5) The filling of swimming or wading pools requiring more than five gallons of water, or the refilling of swimming or wading pools which were drained after the effective date of the declaration of a drought warning except that pools may be filled to a level necessary to protect the structure from hydrostatic damage.
- (6) The use of water from fire hydrants for any purpose other than fire suppression unless the use has been approved by the Town Manager.
- (7) The serving of drinking water in restaurants, except upon request.
- (8) Water service lines from the meter box to the home or structure shall be maintained and have no visible leaks.
- (9) Any additional water use restriction deemed necessary.

Upon the declaration of a drought emergency, the Town Manager shall immediately notify the Town Council, post a written notice of the declaration at the Town Hall and on the Town's web site, issue a public service announcement to the local news media, and promulgating the declaration via any other appropriate means.

F. Penalty and enforcement.

- (a) Any person who violates any provision of this ordinance shall be subject to the following:
 - (1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the Town.
 - (2) For the second offense, violators shall be fined fifty dollars (\$50.00), the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.
 - (3) For the third and each subsequent offense, violators shall be fined one hundred dollars (\$100.00) for each offense, the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.
 - (4) Each violation by a person shall be counted as a separate violation by that person,

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irrespective of the location at which the violation occurs.

(5) The Town Manager may suspend water service to any person continuing to violate the provisions of this article or the regulations promulgated thereunder. If such water service is terminated, the person shall pay any reconnection fee established by the Town Council before service is restored.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the Town Manager within ten (10) days of the date of the assessment of the penalty. The Town Council shall determine whether the penalty was properly assessed and notify the complaining person in writing of its determination.

(c) The Town Council may waive the penalty if it determines that the violation occurred due to no fault of the person.

G. Notification of end of water emergency. The Town Manager shall notify the Town Council when, in his opinion, the drought stage condition no longer exists. When this declaration is made, the information shall be conveyed to the general public through the news media.

*Reference: §§ 62.144.15 and 62.144.38:1 of the Code of Virginia and 9VAC25-780-120
(Adopted on August 11, 2011)*