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TOWN OF ESSEX BOARD OF PUBLIC WORKS SEWER REGULATIONS

USE REGULATIONS

PREAMBLE

With the successful passage of Article 10 at the May, 2000 Annual Town Meeting, the Town of Essex voted to construct a sewer system to serve over 800 properties in Town. Said sewer system conveys wastewater from Essex to the City of Gloucester Sewer System and, ultimately, to the City of Gloucester Wastewater Treatment Plant (see the Intermunicipal Agreement – IMA – between the City of Gloucester and the Town of Essex, effective date, June 6, 2000).

Pursuant to the successful passage of Article 14 at the May, 2000 Annual Town Meeting, the Town of Essex Board of Public Works (the Board), acting as Sewer Commissioners, has been empowered to promulgate and enforce regulations regarding the use of the Town's Sewer System which are embodied herein. Said regulations were adopted by the Board on June 13, 2001 after due public advertising and input and were further revised February 28, 2003, March 1, 2004, and November 19, 2012. The regulations may be amended from time to time at the discretion of the Board.

It is important to note that the intent of these regulations and of the Sewer Commissioners is to provide wastewater solutions for existing wastewater problems within the Town's Sewer Service Area (i.e. failed septic systems with poor site conditions for upgrades) as opposed to providing wastewater service for new development outside of the Sewer Service Area. The original Bylaw and Regulations contained a moratorium on increases in flow to accommodate expansions and changes in use of properties connected to the sewer system to allow the Town a period of time to study actual usage patterns to ensure that there was adequate capacity to meet the Town's needs as they existed when the sewer came on-line. As a result of that study, the Board believes that properties within the sewer service area should be permitted to purchase additional flow to accommodate expansions and changes in use. The Board, therefore, believes that the November 2012 amendments will promote the public interest in allowing reasonable growth within the sewer service area without compromising the Town's ability to treat the wastewater generated by such growth.

A combination of Statutes, State Regulations, Town By-laws, and Town regulations will govern various aspects of the Town's Sewer System including but not limited to the following:

- a) These Regulations (prescribing standards for connection to and use of the Town Sewer System)

- b) Town By-law 7-7 (defining the geographical area of sewer service and limits on wastewater flows)
- c) The Gloucester-Essex Intermunicipal Agreement (outlining provisions for out-of-Town wastewater conveyance and disposal)
- d) Article 11 of the May, 2000 Annual Town Meeting (creating a schedule of sewer betterment fees according to wastewater flow pursuant to the MEPA Special Procedures Report, Alternative 5, March 30, 2000)
- e) Article 1 of the November, 2012 Special Town Meeting (lifting the moratorium on increases in flow for changes and expansions in use)
- f) the Commonwealth of Massachusetts Uniform Plumbing Code – 248 CMR 2.00 (prescribing standards for all plumbing work)
- g) the Commonwealth of Massachusetts Environmental Code, Title 5 – 310 CMR 15.00 (serving as a basis for calculation of sewage flows and for aspects of on-site wastewater system management)
- h) Any local regulations regarding on-site wastewater systems or sewer connections duly adopted and revised from time to time by the Essex Board of Health and
- i) All applicable United States Department of Environmental Protection rules and guidelines.

ARTICLE I: DEFINITIONS

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

Act shall mean Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 ET seq.

Authorized Representative of Industrial User shall mean either:

- (a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
- (c) a duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the discharge of wastewater originates.

Average daily flow shall mean the total rate of flow of sewage in gallons per day measured at a metering station or other point during a set time period convenient to the Board normalized to a per-day flow. Such per-day flow shall be adjusted for the number of work days in a week over which a commercial user operates in the case of commercial users.

Board shall mean the Board of Public Works of the Town of Essex, or their authorized deputy, agent, or representative.

BOD (biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in water when tested in accordance with USEPA Method 405.1.

Building shall mean a structure enclosed within exterior walls, built, erected, or framed of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons and in which internal plumbing is required by the Massachusetts Uniform Plumbing Code.

Building drain shall mean that part of the lowest horizontal piping of a drainage system that receives flow from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain terminus is five (5) feet (1.5 meters) outside the inner face of the building wall at its connection with the building sewer.

Building sewer shall mean the pipe connecting the building drain to the public sewer.

Bylaw shall mean Chapter 7-7 of the Town's General Bylaws, as may be amended from time-to-time.

Categorical pretreatment standards shall mean discharge limitations for industrial users subject to the provisions of 40 CFR Subchapter N.

Certificate of Compliance shall mean a certificate issued by the Town of Essex Board of Public Works stating that such real property has been inspected and found to be in compliance with these Regulations.

Change in Use shall mean any undertaking on a property, whether involving material changes to structures or not, which results in a difference in classification of the type of use of the property from the conditions existing on February 1, 2000, as determined pursuant to 310 CMR 15.203 and which results in an increase in the design flow of a sewer connection.

City shall mean City of Gloucester, Massachusetts.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

DEP shall mean the Massachusetts Department of Environmental Protection.

Design Flow shall mean the theoretically-generated flow for uses of property as determined in accordance with 310 CMR 15.203.

Domestic Wastewater shall mean normal water-carried household and toilet wastes discharged from any improved property, excluding ground, surface or stormwater.

EPA shall mean the Environmental Protection Agency of the U.S. Government.

Excessive shall mean amounts or concentrations of any constituent of wastewater that by its concentration or other characteristic will cause damage to the sewer collection system, its pump stations or the wastewater facility, or which will increase the difficulty or costs of sludge disposal, or which will be harmful to a wastewater treatment process, or which cannot be removed in the wastewater treatment works of the City of Gloucester to the degree required to meet the NPDES permit limits or which cannot be removed to the degree required by the classification standard of the receiving water, or which can otherwise endanger life, limb, environment, public property, or which constitutes a nuisance.

Expansion of Use shall mean any undertaking on a property, whether involving material changes to structures or not, which results in an increase in the design flow of a sewer connection, above the Design Flow existing on February 1, 2000.

Facilities shall include all structures and conduits for the purpose of collecting, conveying treating, neutralizing, or disposing of domestic wastewater and/or industrial or other wastewater, including treatment and disposal works, necessary intercepting, outfall, and outlet sewers, and pumping stations integral to such facilities with sewers, equipment, furnishings thereof and other appurtenances connected therewith.

Garbage shall mean the animal and vegetable wastes resulting from the handling, preparation, cooking, and serving of food and from the handling, storage and sale of produce. It is composed largely of putrescible organic matter and its natural moisture content.

Illegal Connection shall mean any connection not properly permitted by the Board. This definition includes, but is not limited to inflow and infiltration as defined below.

IMA shall mean the June 6, 2000 intermunicipal agreement between the Town and the City, as may be amended from time-to-time.

Improved Property shall mean any property located within the Town upon which there is erected a structure intended for continuous or periodic habitation, occupancy, or use by human beings or animals and from which structure domestic wastewater and/or industrial wastewater shall be or may be discharged.

Incompatible Pollutant shall mean any pollutant, other than biochemical oxygen demand, suspended solids, pH, coliform bacteria, or other pollutants identified in the permit, which the POTW was not designed to treat and does not remove to a substantial degree.

Infiltration shall mean water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground

through means that include, but are not limited to defective pipes, pipe joints, connection, or manholes. Infiltration does not include, and is distinguished from, inflow.

Inflow shall mean water other than wastewater that enters a sewer system (including sewer service connections) from sources which include, but are not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

Industrial Establishment shall mean any room, group of rooms, building or other enclosure used or intended for use in the manufacturing, processing, cleaning, laundering, assembling or preparing of any product, commodity or article or from which any process waste, as distinct from domestic wastewater, may be discharged.

Industrial user shall mean a manufacturing, processing, or other non-residential facility, which discharges non-sanitary industrial wastewater into a public sewer.

Industrial wastewater shall mean the liquid wastes from industrial establishments distinct from sanitary sewage.

Interference shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources that:

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (b) Is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State regulations); the Clean Water Act, the Solid Waste Disposal Act (SWDA), State regulations contained in any State Sludge management plan prepared pursuant to Subtitle D or the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Invert shall mean the bottom inside of the sewer pipe.

Maximum daily flow shall mean the highest flow rate in gallons per minute measured at a metering station or other point during any twenty-four (24) hour period.

National Categorical Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by EPA under Sections 307(b) and (c) of the Clean Water Act

applicable to industrial users including the general and specific prohibitions found in 40 CFR 403.5 and the National categorical pretreatment standards promulgated by EPA that are set out in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

National Pollutant Discharge Elimination System (NPDES) permit shall mean a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

Old building sewer shall mean any building sewer which has never been used to carry sewage specifically to the Town sewer system about its entire length or inspected pursuant to a Board of Public Works sewer connection permit.

Owner shall mean the person who owns a building that is served by the sewer

Pass through shall mean a discharge which exits the City of Gloucester's wastewater treatment facility into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

Person shall mean any individual, firm, company, association, society, corporation or group, partnership, the Chief Executive Officer or General Manager of any firm, including heir, executor, administrator, and/or successor and assign or any Federal, State or local governmental agencies or their representatives, or other entity.

pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration.

Pollutant shall mean any material or substance that may cause an alteration of the chemical, physical, biological or radiological integrity of the POTW or its receiving waters.

POTW (Publicly Owned Treatment Works) shall mean the treatment works operated by the Town (or City) and its agents, including any devices and systems, whether owned by the Town or City under its control, used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastewater and also including without limiting the generality of the foregoing, the City of Gloucester's Wastewater Treatment Plant and appurtenances, the sewers, pipes, pumping stations and other devices conveying wastewater to the treatment plant, and sludge processing systems whether operated by the Town / City directly or by a contractor or agent of the Town / City.

Pretreatment requirement shall mean any substantive or procedural requirement, other than a national pretreatment standard, applicable to industrial users.

Property, Parcel, or Lot shall mean an area of land as marked on the assessment drawings in the office of the Town Assessor, Town of Essex, Massachusetts.

Public sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by Town or City.

Real Property shall mean any property on which is situated any building that has been improved with a connection to the public wastewater collection and treatment system operated by the Town

Receiving Water Quality Standards shall mean the Massachusetts Water Quality Standards, as provided by M.G.L. Chapter 21, Section 27.

Receiving Waters shall mean any watercourse, river, pond, ditch, lake, aquifer, or other body of surface or groundwater receiving discharge of wastewaters.

Reserve Capacity shall mean the difference between the total treatment capacity available to the Town pursuant to the IMA, as may be amended in the future, currently 225,000 gpd, and the total amount of flow allocated to sewer users in accordance with these Regulations and the Bylaw. The Town shall maintain 16,600 gpd of Reserve Capacity for the sole purpose of serving future municipal buildings.

Sanitary sewer shall mean a sewer that carries sewage, and from which storm, surface and groundwaters are prohibited.

Septage shall mean the wastes, primarily of sewage origin, that are removed from a cesspool, septic tank, or similar receptacle.

Sewage shall mean a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments.

Sewage Treatment Plant or Wastewater Treatment Facility shall mean any arrangement of devices and structures used for treating sewage.

Sewage works shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

Sewer Service Area shall mean the lots identified in Section 7-7.2 of the Bylaw, as amended pursuant to Article 13 of the 2001 Annual Town Meeting and as may be further amended in the future.

“**Shall**” is mandatory; “**May**” is permissive.

Significant Industrial User or Significant User shall mean any industrial sewer user who (i) has a discharge flow of five thousand (5,000) gallons or more per normal operating day or (ii) discharges wastes containing toxic pollutants as defined pursuant to Section 307 of the Act or (iii) is found by the Town, the City, DEP or the EPA to have a significant impact, either singly or

in combination with other contributing industries, on the POTW, the quality of sludge, the POTW effluent quality, or air emissions generated by the sewage works.

Sewer service connection shall mean the extension of the pipe, used only for discharge of sewage, from a point of five (5) feet outside the foundation wall of the building served to its junction with the sanitary sewer. The term shall have the same meaning as the term “building sewer” or “particular sewer “ in M.G.L. c. 83.

Significant noncompliance (SNC) An industrial user is in significant noncompliance if its violations meet one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (b) Technical Review Criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for any pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit times the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH), or in the case of pH, when at least one-third (1/3) of all measurements taken during a six-month period are either:
 - (1) At least one (1) standard unit greater than any applicable upper limit on pH; or
 - (2) At least one (1) standard unit less than any applicable limit on pH. (For industrial users required to continuously monitor pH as a condition of their industrial user discharge permit, significant noncompliance for pH exists if the total of all excursions outside the permitted range with a duration equal to or exceeding thirty (30) minutes, totals seven (7) hours, twenty-six (26) minutes or more in any month.)
- (c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that has caused, alone or in combination with other discharges, interference or pass through;
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment.
- (e) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in an enforcement order, for starting construction, completing construction or attaining final compliance;
- (f) Failure to provide, within thirty (30) days after due date, required reports such as baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or

- (h) Any other violation or group of violations that will adversely affect the operation or implementation of the pretreatment program.

Slug shall mean any discharge of untreated or inadequately pretreated process wastewater, industrial waste, chemicals or other liquid, resulting from the breakdown of equipment, spills, process upset, accidental or intentional discharge or emergency bypass.

Slug loading shall mean:

- a) Pollutants which create a fire or explosion hazard in the POTW.
- b) Pollutants that cause corrosive structural damage to the POTW.
- c) Solid or viscous pollutants in amounts that will cause obstruction to the flow in the POTW.
- d) Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration that will cause interference with the POTW.
- e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference.
- f) The creation of other circumstances otherwise described in Article III of these Regulations at the discretion of the Board.

Storm drain sometimes termed “storm sewer”, shall mean a conduit that carries storm and surface waters and drainage, but exclude sewage and industrial wastes.

Suspended Solids shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering, and are referred to as non-filterable residue in the laboratory test procedures prescribed by the EPA.

Town shall mean the Town of Essex, Massachusetts.

Toxic Pollutant shall mean a pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA and/or in the Massachusetts Substance List.

Transfer shall mean the conveyance of title in real property, with or without consideration, whether by deed, lease, assignment or any other form of conveyance and whether or not the transfer is to a person related by blood or marriage to the transferor, but including neither a mortgage nor a change in the form of ownership among the same owners (such as placing real property within a family trust of which the owners are the beneficiaries).

Unpolluted Water shall mean water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

User shall mean any person who contributes, causes, or permits the contribution of sewage into public sewer or sewage works.

Wastes shall mean substances in liquid, solid or gaseous form, which can be carried in water.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Well shall mean a private source of water utilized by a person.

ARTICLE II. SEWERS

Section 1. Plans of Sewers:

The location of all sewers and drains and other structures and works shall be shown on plans and will be on file at all times with the Board of Public Works.

The Board shall establish a Schedule of fees that shall include a Sewer Connection Permit fee. The property owner or his agent shall make application on a special form furnished by the Town. The Permit applications shall be supplemented by plans, specifications or other information considered pertinent in the judgment of the Board.

A Registered Professional Engineer shall prepare all plans and specifications at the discretion of the Board. All permit applications requiring an application under 314 CMR 7.00 Massachusetts Sewer Extension shall be prepared by a Registered Professional Engineer. All costs incurred by the Board in reviewing applications and supporting information shall be borne by the applicant.

The owner or his agent shall make application on a form furnished by the Town. The permit application shall be supplemented by plans, specifications or other information considered pertinent in the judgment of the Board. A permit and inspection fee (to be determined by the Board) for an industrial building sewer permit shall be paid to the Town at the time the application is filed. A separate permit application shall be submitted, and a separate permit and inspection fee shall be paid for each separate connection to the Town's sanitary sewer system.

Drain Layers License Regulations

- 1) Only a licensed drain layer shall accomplish any connection to the Town's sanitary sewer system or storm drain system.

- 2) Licenses are valid for up to one year and will expire on June 30th of each year regardless of when it was obtained. Renewals shall be submitted by July 1st.
- 3) The Board of Public Works may issue a drain installer's license to any individual meeting the following criteria. The burden of proof that an applicant meets said criteria rests solely on the applicant.
 - a) The applicant has a septic system installer license issued by the Town of Essex ~ Board of Health, **OR**
 The applicant is a Massachusetts licensed plumber authorized by the Commonwealth to lay drain to its terminus, **OR**
 The applicant is any party authorized by the Commonwealth to lay drain to its terminus.
 - b) The applicant provides a certificate of casualty and liability insurance with \$500,000/\$1,000,000 limits with the Town of Essex named as an additional insured.
 - c) The applicant provides a construction bond or current surety in the amount of \$5000 for any work performed on Town owned property.
- 4) The Board of Public Works shall reserve the right to revoke or suspend any drain installer's license, if in the Board's opinion, an installer's quality of workmanship is substandard and is therefore detrimental in any way to the Town's sanitary sewer or storm drain system. Said detrimental workmanship shall include but is not limited to work which will result or has resulted in infiltration/inflow or which will physically damage or has physically damage the Town's sanitary sewer or storm drain system. Any action by the Board to revoke or suspend any drain installer's license shall be made in writing and shall not be effective until after the license holder's right for a hearing before the Board has expired. To request a hearing, the drain installer must inform the board in writing within seven calendar days of the installer's receipt of the Board's order of revocation/suspension that they wish to exercise said right. At the hearing, the installers may offer the Board testimony as to why the pending revocation/suspension orders should be withdrawn. The Board shall either act to revoke or suspend the license or withdraw its order.
 - a) Revoked licenses may be reapplied for only after one year and may be granted at the sole discretion of the Board.
 - b) Suspended licenses will be dealt with on an individual basis.
- 5) A drain layers license shall be required for any of the following work:
 - a) Installation, connection or repairs of Town sanitary sewer lines.
 - b) Installation, connection or repairs of a private sanitary sewer line that connects with the Town sanitary sewer line.
 - c) Installation, connection or repairs of Town storm water drain lines.

- d) Installation, connection or repairs of a private storm water system that connects with the Town storm water system.
- 6) An individual licensed, as a drain layer must be present at all times while any and all work covered under these regulations is being performed.
- 7) It is the responsibility of the drain layer on site holding the license to be certain all required permits are obtained.
- 8) DPW employees working in an official status on Town systems and certain Town hired contractors that work on the sewer and storm water system may be granted exemption from this requirement.

Each building served by a separate sewer. One or more separate and independent building sewer(s) shall be provided for every building; except where a building stands at the rear of another on the same lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

This common building sewer shall be considered as two sewer connections. The arrangements for the construction of the sewer(s) shall be provided for by easement between the property owners. The technical requirements for the construction of the sewers shall be subject to the review and approval of the Board.

The building sewer shall conform to Section II-5.

The applicant for the building sewer permit shall notify the Board (or its agents) when the building sewer is ready for inspection and connection to the public sewer. The connection shall be inspected by the Board or its representative before the work has been backfilled. The Board or its representative may require the excavation of any work backfilled prior to inspection.

A road-opening permit is required for all work within a public right of way. The applicant shall also supply an as-built drawing with suitable ties to permanent reference points identifying:

- a) the building sewer's junction with the building drain
- b) the building sewer's junction with the Town Sewer System
- c) any and all bends in the building sewer
- d) any underground utilities within 20 feet of either side of the building sewer.

In the event a well is a source of a person's water and the person is connected to the public sewer, said person shall notify the Board and the Board shall install a water meter on the well water supply pipe at the owner's expense. The Board shall record water usage from this meter as the basis for billing sewer use fees to the property owner.

State law reference-Similar provisions, M.G.L. c. 83, 2.

Section 2. Acceptance of septage and holding tank sewage prohibited:

Acceptance of septage or holding tank (tight tank) sewage in the Town's sewer system is prohibited. Sewage evacuated from grinder pumps and lift stations and held in temporary storage by the Town for pump maintenance purposes may be re-introduced to the Town Sewer System. Violation of this section will be punished to the fullest extent allowed by these regulations (see Article VIII, Enforcement & Penalties).

Section 3. Form of required notice:

Whenever notice is required of a party to this article, it shall be by certified mail, unless otherwise specified.

Section 4. Building sewers and connections:

Required connections. Mandatory connection of buildings to the public sanitary sewer of the Town shall be governed by applicable Board of Health regulations and 310 CMR 15:00, et. seq.

State law references-Municipal authority to require sewer connections, M.G.L. c. 83, 10, 11, 310 CMR 15:00 et seq.

Permit. No unauthorized person shall uncover, make any connections with or opening into, or use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Board. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Board at least forty-five (45) days prior to the proposed change or connection, and in the case of industrial users, apply or reapply for an Industrial Sewer Discharge Permit.

Classification of permits: Fee. There shall be two (2) classes of building sewer permits:

- a) For residential and commercial service; and
- b) For service to establishments producing industrial wastes.

Buildings served by grinder pumps: All buildings served by grinder pumps supplied by the Town shall execute and file with the Town a "Grant of Sewer Easement for Grinder Pump Sewer Connection" to construct, inspect, repair, remove, replace, operate, and maintain the grinder pump and associated pipes and equipment.

Costs borne by owner. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The cost of any building sewer from the building to

a grinder pump unit shall be the responsibility of the Owner. The cost of providing an electrical connection to the grinder pump panel shall be borne by the Owner. The Owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

State law reference-Municipal authority to assess cost of laying out a particular sewer, M.G.L. c. 83, 24.

Use of old building sewer. Old building sewers or any portions thereof shall not be used.

Methods and materials for connections. Sewer service connections shall be laid at such depth and gradient and in such location as the Board may determine. The minimum gradient allowable shall be one-quarter inch per foot. No sewer service connection shall service more than one (1) building unless otherwise approved by the Board in writing. Sewer service connections shall be constructed of SDR 35 polyvinyl chloride with watertight joints and laid in accordance with standard construction practices. When completed the inside of a sewer service connection shall be left smooth and clean. The building sewer shall be constructed of a minimum of schedule 80 PVC pipe when the sewer underlies vehicular traffic or other situations involving heavy loading or when buried less than 4 (four) feet deep. Alternate materials or jointing systems must be approved by the Board.

No alteration of, or connection with, any service connection shall be made until application is made to and approved by the Board.

State law reference-Municipal authority to regulate the construction and alteration of sewer connections, M.G.L. c. 83, 10.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Board. Pipe laying and backfill shall be performed in accordance with ASTM Specification C12-64, except that no backfill shall be placed until the work has been inspected.

All pipe joints and connections shall be made watertight. Joints for polyvinylchloride sewer pipe shall conform to ASTM specifications D3212-86 and F477-76 (1985, or latest revision). All joints between pipe and metals shall be made with approved pre-molded gasket material.

The connection of the building sewer into the public sewer shall be made at the building sewer connection provided during the construction of the sewer. Connection to the sewer by any other means is strictly prohibited without the express written authorization of the Board.

Construction standards. The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the buildings and plumbing code or other applicable rules, this Regulation and other regulations of the Town.

Elevation of building sewers. Whenever possible, the building sewer shall be brought to the building at an elevation below the first floor. In all buildings in which any building drain is too low

to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Illegal connections. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, sump pump discharges or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

State law reference-Separate systems for drainage of water and sewage required, M.G.L. c. 83, 5.

Connection standards.

Inspections. The connection of the building sewer into the public sewer shall be inspected for conformance with the requirements of the building and plumbing code or other applicable rules and regulations of the Town. Measures to correct non-conformance shall be the sole responsibility of the property owner.

Connections. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Board before installation. All sewer service connections shall be inspected by an inspector or agent appointed by the Board. The owner or his authorized representative shall so arrange his work to require the service of the inspector for as short a time as practicable. No trench shall be filled in until the pipe laid therein has been inspected and approved by the inspector.

Notice for inspections. The applicant for the building sewer permit shall notify the Board when the building sewer is ready for inspection and connection to the public sewer. Requests for inspection shall be made a minimum of 1 working day prior to the desired inspection time and date.

State law reference-Municipal authority to require inspection of all materials used in making sewer connections, M.G.L. c. 83, § 10.

Ownership; responsibility for cost of connections. Sewer service connections from the sanitary sewer to the street sideline shall be built only under the direction of the Board or its designee, and shall be owned, repaired and maintained only by the Town, under the direction of the Board. Connections from the street sideline to a building or from a grinder pump unit to a building shall be constructed, paid for, owned and maintained by the owner of the property. The Board may, at its discretion, require any person owning property so connected to excavate, repair and maintain the privately-owned portion of the connection at the property owner's expense, and to pay to the Town those costs incurred by the Town in repairing and maintaining the Town-owned portion of the connection if said Town-owned portion has been damaged by the property owner.

State law reference-Owners of land to pay for actual cost of construction of a particular sewer from the street line to a house or building, M.G.L. c 83, § 3.

Responsibility for maintenance of building sewers. Owners are responsible for maintenance of building sewers.

Section 5. Secondary Water Meters:

Secondary water meters (i.e. meters in addition to the meter measuring incoming water which will all be discharged to the sewer system) may be allowed, at the Board's discretion, to measure flow which does not discharge into the Town Sewer System. Such flow may include but is not limited to:

- a) irrigation systems
- b) swimming pools
- c) exterior spigots used for lawn, garden, and landscape purposes
- d) yard hydrants on farms
- e) water incorporated in consumable goods shipped off-site
- f) water used in devices which ultimately evaporate it to the atmosphere
- g) spigots used to serve dock purposes at marinas.

The Board shall supply and install all secondary water meters at the property owner's expense.

ARTICLE III: RESTRICTIONS ON USE OF PUBLIC SEWERS

Generally. All persons discharging sewage into public sewers connected to the sewer system shall comply with applicable requirements of federal and state industrial pretreatment regulations and pretreatment regulations of the City of Gloucester.

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

Hot or alkaline waters and wastes. No person shall discharge or cause to be discharged heat, as liquid or vapor, in such quantity that the temperature of the discharge at the last accessible point in the building drain prior to exiting the building exceeds one hundred four degrees Fahrenheit (104° F) or forty degrees Centigrade (40° C), or any water having a pH in excess of 9.5 pH units.

Dangerous, destructive or improper discharges. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, including but not limited to wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21;

- b) Any waters or wastes containing pollutants including oxygen demanding pollutants (BOD, etc.) or total suspended solids (TSS), toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.
- c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures equipment, and personnel of the sewage works.
- d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- e) Batch cooking oils, fish scales, fish heads and viscera, fish carcasses and other solids from fish processing operations which have a mean particle size of greater than 40-mesh (0.017 inch), and stickwaters from fish meal production processes.
- f) Any water or waste containing petroleum oil, non-biodegradable cutting oils or product of mineral oil or synthetic oil origin in concentrations greater than twenty-five (25) milligrams per liter or in such amounts as to cause pass through or interference.
- g) Any water or waste from commercial or industrial plants or restaurants containing more than one hundred (100) milligrams per liter of oils, fat or grease.
- h) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- i) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting and excessive chlorine requirements, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the director for such materials.
- j) Any radioactive wastes or isotopes of such half-life concentration as may excess in limits established by state or federal regulations.
- k) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Board. Garbage grinders may not

be used to reduce solids in fish process waste streams prior to discharge to the Town's sanitary sewer.

- l) Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD, etc.), at a flow rate and/or pollutant concentration which either singly, or in combination with other discharges, will cause pass through at the wastewater facilities.

Options of Board. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Article III, and which may have deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board may:

- a) Reject the wastes
- b) Require pretreatment to an acceptable condition for discharge to the public sewers and approval of the City of Gloucester pretreatment program.
- c) Require control over the quantities and rates of discharge.
- d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. If the Board requires the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City of Gloucester pretreatment program, and subject to the requirements of all applicable codes, ordinances and laws.

These provisions notwithstanding, the Board of Public Works may take enforcement action against any sewer user discharging wastewater containing substances or possessing characteristics as listed in Article III above.

Grease, oil and sand interceptors. Grease, oil and sand interceptors shall be provided to serve all restaurants and food service facilities and when in the opinion of the Board they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Board, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owners thereof shall be responsible for the proper removal and disposal by appropriate means of the captured materials and shall maintain records of the dates and means of disposal, which are subject to review by the Board. Any removal and hauling of the collected materials not performed by such owners personnel must be performed by waste disposal firms possessing valid licenses issued by the board of health, and such firms must notify the owners of the means and site location of disposal of the collected materials. All interceptors shall be vacuum tested in accordance with the Town of Essex Board of Health On-site Systems Design Standards, Section 500.3.2 as if the interceptor were a sanitary holding tank.

Preliminary treatment. Where preliminary treatment or flow-equalizing facilities are required, the owner at his expense shall maintain such facilities continuously in satisfactory and effective operation.

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

Measurements, Tests, Analyses. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with the procedures described in 40 CFR Part 136. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis subject to approval of the City of Gloucester pre-treatment program.

Special Agreements. Notwithstanding any provision of this section, the City and any user may reach agreement allowing the discharge of any water or wastes of a character otherwise regulated by this section to be accepted for treatment by the City in return for payment by the user for such treatment. In no case will a special agreement waive compliance with a federal pretreatment standard or requirement. However, EPA may adjust categorical standards, upon the request of industrial user, in accordance with the provisions of 40 CFR 403.15 or 40CFR 403.13.

Information may be required. The Board may require any user of sewer services to provide information needed to determine compliance with this article. These requirements may include:

- a) Wastewater discharge peak rate and volume over a specified time period
- b) Chemical analyses of wastewater
- c) Information on raw materials, processes and products affecting wastewater volume and quality
- d) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control
- e) Plot plans of sewers and appurtenances located within the user's property showing sewer and pretreatment facility location
- f) Details of wastewater pretreatment facilities
- g) Details of systems to prevent and control the losses of materials through spills or slug losses to the Town's sanitary sewers.

Trucked/hailed waste. The Town prohibits discharge to the sewer of trucked or hauled wastes, except as noted in Section II-3.

State law reference-Municipal authority to regulate discharges into common sewers, M.G.L. c. 83, § 5, 10

ARTICLE IV: INSPECTION OF PROPERTY AT TIME OF SALE OR TRANSFER

Section 1. Purpose:

The purpose of this Article is to ensure that no real property be conveyed with any illegal connection to the Town of Essex wastewater collection and treatment system. To the extent the provisions set forth in these regulations vary from or are inconsistent with 310 C.M.R.15.000 (Title 5), these Regulations shall govern.

Section 2. Application Procedure:

This Article, governing real property connected to the Town's sanitary sewer system, is intended to be implemented upon transfer of real property, in a manner similar to that provided under 310 C.M.R. 15.000 (Title 5). Transactions of the type described in 310 CMR 15.301(2) shall not trigger the provisions of this Article. Said transactions are as follows:

- (a) taking a security interest in a property, including but not limited to issuance of a mortgage;
- (b) refinancing a mortgage or similar instrument, whether or not the identity of the lender remains the same;
- (c) a change in the form of ownership among the same owners, such as placing the facility within a family trust of which the owners are the beneficiaries, or changing the proportionate interests among a group of owners or beneficiaries;
- (d) adding or deleting a spouse as an owner or beneficiary; or a transfer between spouses during life, out right or in trust; or the death of a spouse;
- (e) the appointment of or a change in a guardian, conservator, or trustee.

Any person transferring any interest in any real property shall, prior to making such transfer, apply to the Board for a certificate of compliance on a form provided by the Town and, upon receipt of a certificate of compliance, or a notice of non-compliance, as applicable, shall submit a copy of same to the buyer or other person acquiring title to such real property.

The Board will inspect the real property for compliance with these Regulations within fourteen (14) calendar days of the submission of a properly completed application form. The Board will either issue a certificate of compliance or a notice of non-compliance which identifies the nature of the non-compliance and the action required by the applicant to achieve compliance.

A Certificate of Compliance shall be valid for a period of two (2) years from the date of issuance. A Certificate of Compliance issued for a lot having a sewer connection shall be deemed to apply to all real property then in existence on the lot at the time of issuance of the Certificate of Compliance for the life of the Certificate.

Section 3. Correction of Violations:

Any applicant notified of a violation who has corrected said violation shall notify the Board of corrective measures taken on a form provided by the Town. The Board will re-inspect the property within fourteen (14) days after receipt of the notice of correction.

If the inspection demonstrates that the non-compliance has been corrected, the Board will issue a certificate of compliance within five (5) business days after completion of the inspection.

If a re-inspection demonstrates that the non-compliance has not been corrected to the Regulations of the Town, a second notice of non-compliance shall be issued to the applicant, and the procedure for correction and certification of correction shall be the same as for an original inspection. All non-compliance shall be corrected within six months of transfer of such real property.

Section 4. Prohibitions:

No person shall fail to take necessary corrective actions, as directed by the Board, arising from an inspection and issuance of a certificate of non-compliance.

Section 5. Inspection Procedures:

By making an application, the applicant grants to the Town the right of entry onto the applicant's property for the purpose of making the necessary inspection required under these Regulations. Entry shall not occur except upon prior notice to the applicant and only during regular business hours or at another reasonable time acceptable to the applicant.

The inspection shall consist of one or more of the following procedures, as deemed applicable by the Board:

- a) Visual inspection of all exposed piping and drainage systems inside and outside of the building.
- b) Smoke testing by a commonly accepted method.
- c) Dye testing by any commonly accepted method; and/or
- d) Any other approved method at the discretion of the Board.

ARTICLE V: POWER AND AUTHORITY OF INSPECTORS

The Board may inspect the facilities of any user to ascertain whether the purpose of these regulations are being met and all requirements are being complied with. The owners or occupants of premises connected to the Town's sanitary sewer system shall allow the Board or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying of same. The Board, the Department of Environmental Protection and the Environmental Protection Agency shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Board, DEP and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

ARTICLE VI: USER CHARGE SYSTEM

Section 1. Introduction:

This article describes how the capital and operational costs of the Essex sewer system are allocated. The allocation of the capital costs and operational costs are based on estimates at this time that will be adjusted once the actual costs of the system are known.

Section 2. Betterment Charges:

The capital cost of the sewer will be distributed among the sewer users. The Town itself will own the largest portion of the sewer capacity that is available. Per Article 11 of the May 2000 Town Meeting, the Town will pay 28% of the project capital costs and the other sewer users will pay the remaining 72% of the costs. The Town's portion will be paid directly from tax revenues or other sources of income. The remaining 72% will be paid in accordance with an allocation method proposed in the Task 2 Report. This allocation method is described below.

a. Sewer Units

Sewer units will be calculated as follows:

1. Each single-family residence shall be assessed as one sewer betterment unit (i.e., one sewer unit). Each two-family house shall be assessed as 1.5 sewer units. Each three-family house shall be assessed as two sewer units. Each multi-family, commercial, municipal, non-profit, industrial, tax-exempt, governmental, or other non-residential use sewer connection shall be charged the following number of sewer units based on actual water consumption during 1998:

SCHEDULE OF BETTERMENT UNITS

Water Consumption less than 300 gpd	1.5 Sewer Betterment Units
Water Consumption at least 300 gpd and less than 600 gpd	2 Sewer Betterment Units
Water Consumption at least 600 gpd and less than 1,200 gpd	3 Sewer Betterment Units
Water Consumption at least 1,200 gpd and less than 2,400 gpd	4 Sewer Betterment Units
Water Consumption at least 2,400 gpd and less than 4,800 gpd	5 Sewer Betterment Units
Water Consumption at least 4,800 gpd or higher	See Equation 1

Equation 1:

$$6 + [\text{Annual Water Consumption (gallons per year)} - 1,752,000] / 876,000 = \text{Sewer Units}$$

The Board of Public Works will adjust the number of sewer units for commercial properties that were not fully occupied during the base year.

Other situations described below will be assessed as follows:

a. Multiple Structures on One Lot

The owner(s) of any property containing multiple structures that require internal plumbing under the Massachusetts Uniform Plumbing Code (248 CMR 2.00) shall be assessed a separate sewer betterment for each such structure. Multiple commercial structures on a single lot under common ownership (including apartment complexes with more than three units) shall be assessed one betterment based on the aggregate of water use for the lot.

b. Home Occupations

The owner(s) of any property containing a dwelling that accommodates a home occupation (as defined in Town By-law Sections 6-6.2(d) and/or 6-6.3(d)) shall not be assessed a betterment for the home occupation activity so long as the activity does not contribute more than 25% of the total, theoretical wastewater flow from the structure as defined in the "gallons per day" column of 310 CMR 15.203(3-5) or, if applicable, in 15.203(6). Any property containing a dwelling that accommodates a home occupation that contributes more than 25% of the total theoretical wastewater flow shall be treated as a commercial structure for the purposes of establishing a sewer betterment.

The following are provided by way of example only:

Example 1. single-family, three-bedroom home with 500 square feet of office space

Total theoretical wastewater flow equals 330 gallons per day for three bedrooms and 37.5 gallons per day for office space or 367.5 gallons per day. 37.5 gallons per day (flow from office use) divided by 367.5 gallons per day (total theoretical wastewater flow) equals approximately 10.2%. Therefore, the home occupation contributes less than 25% of the total theoretical wastewater flow and the betterment would be set strictly as a residential property.

Example 2. single-family, three-bedroom home with a one-doctor medical office

Total theoretical wastewater flow equals 330 gallons per day for three bedrooms and 250 gallons per day for medical office or 580 gallons per day. 250 gallons per day (flow from medical office use) divided by 580 gallons per day (total theoretical wastewater flow) equals approximately 43%. Therefore, the home occupation contributes more than 25% of the total theoretical wastewater flow and the betterment would be set strictly as a commercial property based on actual flow.

c. Mixed Use

The owner of any property containing a structure that accommodates both a dwelling unit or units and a non-residential use or uses that is not deemed to be a home occupation(s) shall be assessed a sewer betterment as if the entire structure is commercial.

2. Each developable vacant residential lot within the sewer service area shall be assessed at 40 (forty) percent of the single-family rate. If desired, owners of vacant lots may place permanent deed restrictions prohibiting development on said lots to avoid paying a sewer betterment. Such restrictions shall be in a form approved by the Board and by Essex Town Counsel and costs for developing and filing such restrictions shall be borne by the property owner.
3. Sewer or sewer treatment capacity equivalent to the average residential unit flow shall be reserved for vacant lots using this assessment method.

b. Setting Sewer Unit Betterment Charge

The Board of Public Works shall set the sewer unit betterment charge. After the sewer project construction has begun and prior to completion of the project, the Board of Public Works shall set the sewer unit betterment charge based on the total projected project costs. After the construction is completed and all construction, engineering, consulting, or other capital contracts are closed, the Board of Public Works shall adjust the sewer unit betterment charge to accurately reflect actual costs.

The Board of Public Works shall sum up the total number of sewer units in Essex connected to the system. The sewer unit cost shall in accordance with the following formula:

Sewer Unit Cost = (72% of Total Project Capital Costs)/ (Total Number of Sewer Units)

c. Betterment Interest Rate

The Board of Public Works shall set the interest rate charged for the betterment in accordance with General Laws Chapters 80 and 83 at a rate equal to 2 percent above the rate of interest chargeable to the Town for the sewer project. Revenue collected by such charges shall be used to offset betterment deferrals and other expenses associated to the operation of the sewer system.

d. Deferred Betterment Payments

The Board of Public Works may enter into deferral and recovery agreements for sewer betterment charges with property owners meeting the requirements of set forth in Chapter 59, Section 5, Clause 41A (65 years old or older, occupying the property and meeting certain other residential and financial requirements). Town Meeting accepted by vote Section 13B of Chapter 80 of the General Laws on 5/6/96, which allows the Town to enter into such agreements.

The Board of Public Works shall draft a standard application and agreement form for the betterment deferral. Property owners must apply for a betterment deferral within six months after notice of assessment has been sent out by the tax collector. The agreement form shall include the following restrictions:

1. No sale or transfer of the property may be consummated unless the betterment assessment has been paid with interest;
2. Upon the death of the owner of the property, the heirs-at-law, assignees, or devisees shall have first priority to the property by paying the full betterment assessment plus interest; provided, however, if such heirs-at-law, assignee, or devisee is a surviving spouse who enters into a similar deferral and recovery agreement, payment with interest shall not be required during the life of the surviving spouse;
3. If betterment assessments are not paid by the heir-at-law, assignee, or devisee or if payment is not postponed, the betterment assessment with interest shall be recovered from the estate of the owner, and
4. A joint owner or mortgagee has given prior written approval for such agreement or such approval is made part of the agreement.

Section 3. Operational & Maintenance Charges:

The Board of Public Works shall set the charge for sewer service based on water consumption on an annual basis. The sewer service charge shall be set at a rate sufficient for the costs incurred including sewer fees from the City of Gloucester, labor costs, materials, fuels, contract maintenance, and all other costs directly attributable to the operation and maintenance of the sewer.

Every person who enters his particular sewer, directly or indirectly, into a common sewer laid out by the Board of public works shall pay an annual charge for the use of the common sewers, under provisions of M.G.L. c.83, 16. Such charges shall be based on rates established by the Board, and the charges on each person in accordance with the rate so established shall be ascertained, assessed, certified and committed to the Town treasurer by the Board.

Non-residential users of the Town's sewer system using 25% (in gallons) of water above their 1998 total water consumption and paying over 1.5 sewer betterments shall be assessed a surcharge in the amount of 125% of the then current sewer rate for each 1000 gallons of water, or part thereof, used above the 1998 total water consumption. In the event of change of ownership, the usage will be prorated on a daily basis. The formula for determining the surcharge is as follows:

1998 Total Water Consumption x 1.25 = Maximum Allowable Non-residential Water Use (MANRWU)

Each 1000 gallons, or part thereof, over the MANRWU will be billed as follows:

(Each 1000 gallons over the MANRWU) x (the current sewer rate) x 1.25

Non-residential users paying 1.5 sewer betterments shall be entitled to discharge up to 330 gallons of wastewater per day to the sewer system regardless of property use without penalty. Each 1,000 gallons, or part thereof, above the 330 gallon per day threshold shall be billed as per the formula above with a value of 120,450 (annual flow based on 330 gallons per day) as the MANRWU.

Residential users of the Town's sewer system exceeding the design flow allocated to the property in addition to the base charge set by the Board, shall be assessed a surcharge in the amount of 125% of that rate for each 1000 gallons, or part thereof, of water used above the annual Title 5 design flow. In the event of change of ownership, the usage will be prorated on a daily basis. The formula for determining the surcharge is as follows:

of Bedrooms in Residence x 110 gals. per day x 365 days per yr. = Maximum Allowable Residential Water Use (MARWU)

(Each 1000 gallons, or part thereof, over the MARWU) x (the current sewer rate) x 1.25

Section 4. Cost Reimbursement for Reserve Capacity

The Town owns any and all Reserve Capacity not otherwise allocated specifically to an individual, corporation, or other entity. Anyone wishing to purchase Reserve Capacity from the Town for an expansion of use or change in use as set forth in Section 7-7.5 of the Bylaw and Article VII of these Regulations, shall pay the Town

a permanent privilege fee based on the value of one year of additional design flow, calculated by the Board in accordance with the following formula:

$$((\text{Additional GPD} \times 365)/1000) \times \text{Sewer Rate at Time of Request}$$

Said permanent privilege fee shall be paid in conjunction with a building permit for a specific project and for only the sewage design flow required for that project. Reserved capacity allocation shall not be transferable to any other property or project, and shall be forfeited – with its associated sewage flow increase deemed null and void - should the project not be completed within one year of the issuance of the building permit (or, in the case of a project that required a Town Meeting approval, within three (3) years of said approval). Time allowed for the completion of a given project may be extended by the Board of Public Works for good cause shown.

Section 5. Vacant Lots

The owner of any vacant lot within the sewer service area shall be entitled to connect any facility with a design flow of 330 gallons per day, upon payment of a Capacity Allocation Fee and subject to the terms and conditions set forth in this section and any regulations promulgated by the Board of Public Works, and such a connection shall not be considered an increase in design flow based on an expansion or change in use and the property owner shall not be required to pay a Permanent Privilege Fee except as provided below.

In recognition of the fact that the owners of vacant lots paid only forty percent (40%) of the required betterment at the time of the original sewer construction, such property owners shall pay a Capacity Allocation Fee equal to sixty percent (60%) of the required betterment as set forth in the Schedule of Betterment Units found in the Town's Sewer Use Regulations. The Capacity Allocation Fee shall be calculated as follows:

Capacity Allocation Fee = amount of original betterment had the property been occupied at the time of assessment X .60

Said Capacity Allocation Fee shall be paid at the time application is made.

If the owner of a vacant lot is seeking approval for the connection of a facility with a design flow of greater than 330 gallons per day, the number of gallons per day above 330 shall be considered an expansion of use and the application shall be subject to sections 7-7.5 and 7-7.6 of the Town Bylaws, including the payment of a Permanent Privilege Fee (see Section 4 of these Regulations, above) based on the number of gallons per day above 330. Under such circumstances, if the connection is approved, the property owner shall be required to pay the Capacity Allocation Fee and the Permanent Privilege Fee.

ARTICLE VII: APPLICATION OF SEWER USE REGULATIONS

Section 1a. Introduction:

The Sewer Service Area By-law defines the sewer service area for the Town of Essex Sewer Collection System and establishes criteria for lots to connect to the system. In order to interpret and establish uniform guidelines, the Board will from time to time revise and/or supplement this Section to effectively deal with the application of all sewer By-laws, rules, and regulations within its jurisdiction.

Section 1b. New Connections:

Properties within the Sewer Service Area shall be entitled to connect to the Public Sewer upon application to the Board and payment of any applicable fees.

Upon connection to the Public Sewer, newly connected improved properties shall be assigned a design flow equal to the design flow in existence on February 1, 2000. Any proposed connection of improved property that exceeds the design flow in existence on February 1, 2000 shall be considered an expansion of use or change in use for purposes of these regulations.

The Sewer Service Area By-law establishes in Section 7-7.2 that existing vacant lots in the Sewer Service Area will be entitled to one sewer connection with a design flow of one (1) sewer unit.

If the owner of a vacant lot has paid a sewer betterment for one (1) sewer unit pursuant to Article VI of these Regulations, the connection of a structure with a design flow equal to one (1) sewer unit shall not be considered an expansion or change in use for purposes of these regulations. Any proposed connection on a vacant lot that exceeds a design flow equal to one (1) sewer unit shall be considered a change in use for purposes of these regulations.

If a vacant lot is subject to a deed restriction executed pursuant to Article VI, section 2(a)(2) of these regulations, no sewer connection will be permitted unless the property owner successfully removes said deed restriction and pays as a Capacity Allocation Fee the full cost of the betterment that would have been due (i.e. 100 percent – no reduction using the 0.60 factor) had the lot been developed at the time the Town originally assessed betterments in accordance with the Bylaw and these Regulations. Said Capacity Allocation Fee shall be in addition to any other applicable fees due under these Regulations.

Section 2. Approval required for Expansion of Use or Change in Use

No person shall cause an expansion of use or change in use on any property in the Sewer Service Area unless the Board approves such change in accordance with these Regulations.

Additions or modifications to an existing building which do not result in an increase in Design Flow and changes in use of a property which do not result in an increase in Design Flow do not require a permit in accordance with these Regulations.

Additions or modifications to an existing building that result in a new design flow of 330 gpd or less or changes in use of a property that result in a new design flow of 330 gpd or less shall not be considered an expansion in use or change in use for purposes of these regulations.

The owner of any lot with an approved on-site system with a design capacity greater than needed by the existing structure may, after connection to the sewer system, make modifications to the structure that increase the design flow of the structure but remain within the design capacity of the system.

Violations of this Section shall be punishable in accordance with the provisions of Article VIII of these Regulations.

Section 3. Removal and Replacement of a Structure:

A lot with a structure or multiple structures may remove a structure and rebuild a structure in another location on the lot, provided that the Design Flow of the new structure is the same or less than that of the former structure. This scenario will not constitute an expansion of use of change in use for purposes of these regulations.

Section 4.

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Section 5. Procedure for Approval of Expansion of Use or Change in Use:

Any proposed expansion of use or change of use (as defined in Article I of these Regulations) for a property within the Sewer Service Area shall be reviewed by the Board of Public Works (the Board) before any change is made. Said review shall be initiated via an application completed by the property owner on a form approved by the Board and shall accurately and completely indicate both the existing property use and the proposed property use.

Any application for additional capacity as a result of an expansion of use or change in use shall be subject to available Reserve Capacity. Applications for additional capacity based on proposed expansion in use or change in use shall be processed on a first-come, first-served basis. For purposes of this section, an application will be deemed submitted on the date

stamped as received by the Board, unless the application is later determined to be incomplete. Incomplete applications will be deemed submitted on the date that the application is completed.

Requests for expansion of use or change in use that will result in an increase in design flow of greater than 1,000 gpd, per property, in the aggregate, shall not be granted unless and until the request is approved by a majority vote at Town Meeting.

No building permit shall be issued for an expansion of use or change in use unless the Board of Public Works certifies the availability of sewer units and sewage capacity.

The required sewer units for an expansion of use or change in use shall be determined by the following formula:

$$\text{Number of Sewer Units} = \text{Title 5 Design Flow} / 330 \text{ gallons per day}$$

In which the Title 5 Design Flow is equal to the sewage volume calculated per 310 CMR 15.000, Title 5. The sewage capacity that must be reserved for the connection shall be determined by the following formula:

$$\text{Sewage Flow} = \text{Number of Sewer Units} * 141 \text{ gpd}$$

Should the design sewage flow be increased due to developing or expanding facilities on a property, the property owner shall pay the reserve capacity fee in accordance with Section 7-7.6 of the Bylaw and Article VI, Section 4 of these Regulations.

If an expansion of use or change in use is allowed, the Reserve Capacity shall be reduced by the design flow of the increase.

Section 6.

Intentionally left blank

Section 7. Concurrent Use of On-site Wastewater Disposal System and the Sewer System:

Concurrent use of an on-site wastewater disposal system and the Town sewer system by one building is prohibited.

Section 8. Situations not Covered by these Regulations:

Situations that are not covered by these regulations will be interpreted by the Board.

ARTICLE VIII: ENFORCEMENT & PENALTIES

Section 1. Suspension of Sewer Service:

The Board may suspend sewer service when such suspension is necessary, in the opinion of the Board, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, causes excessive infiltration or inflow, causes the City to violate any condition of its NPDES Permit, or causes the Town to violate any federal or state law, regulation, or administrative rule or order.

Any person notified of a suspension of sewer service shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Board shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Board shall reinstate the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Board within 15 days of the date of occurrence.

Section 2. Specific Violations:

Any user who violates the following conditions of these Regulations or applicable state and federal regulations, is subject to having the user's permit revoked, after a hearing before the Board.

- a) Failure of a User to factually report the wastewater constituents and of its discharge.
- b) Failure of the User to report significant changes in operations, or wastewater constituents and characteristics.
- c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or,
- d) Violation of conditions of the permit.

Section 3. Power of Town Counsel:

At any time the Town Counsel may commence an action for appropriate legal and/or equitable relief in order to halt a discharge in violation of these Regulations, the City's NPDES Permit, or any federal or state law, regulation, or Town's administrative rule or order, or otherwise to enforce any provision of these Regulations.

Section 4. Duty of Compliance:

The duty of compliance with these Regulations and/or any other legal provisions in any way related to the Town Sewer System is that of the owner of record of the property in question. Ignorance of these Regulations and/or any other legal provisions in any way related to the Town Sewer System shall not be deemed a suitable defense for non-compliance.

Section 5. Notice:

Any person found to be violating any provision of these Regulations, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Section 6. Penalties:

Any person who is found to have failed to cease all violations as defined in Section 1, whether intentionally, unintentionally or accidentally, or who violates any provision of these Regulations or a rule or regulation of the Board, may after a hearing before the Board be assessed a civil penalty not exceeding five thousand dollars. Each day that the violation continues shall be deemed a separate offense. This Regulation may also be enforced through non-criminal disposition procedures of M.G.L. Ch. 40, s. 21D and section 2-21 of the Town's By-laws and an assessment shall be made for each violation thereof in the amount of \$50 for the first violation; \$100 for the second violation; and \$150 for the third and subsequent violations. Any police officer in the Town or the Superintendent of Public works or his/her designee shall have the authority to enforce this Regulation via the non-criminal disposition procedure. As permitted under Article I section 4 (b) (3) of the Town General by-laws, each day in which any violation shall continue shall be deemed a separate violation for purposes of both the civil penalty and the fine provisions of this Section.

Any person violating any of the provisions of these regulations shall become liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation.

In exercising its authority to halt or prevent discharges under Article VI Section 1 or on enforcing applicable penalties, the Board will follow the guidelines of 40 CFR 403.8

The Board, pursuant to a filing by Town of a certificate of acceptance of conditions for the issuance of sewer charge lien with the Essex County South Registry of Deeds, may place a lien upon the property or premises for which Sewer User Charges, Service Charges, Repair Charges, fees or penalties are more than 60 days overdue. Notwithstanding such lien any overdue Sewer User Charge of Service Charge may be collected through any legal means.

Any person who knowingly makes false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to these Regulations, or Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall be penalized according to the established enforcement and penalty provision of these Regulations.

ARTICLE IX: FEES

A connection permit fee, secondary meter fee, and/or inspection fee established by the Board shall be paid to the Town at the time the application is filed.

ARTICLE X: SEVERABILITY.

The sections and subsections of these Rules and Regulations shall be deemed to be severable. A determination that any section or subsection of these Rules and Regulations is unenforceable shall not affect the enforceability of any other section or subsection.

**APPLICATION AND PERMIT TO CONSTRUCT
AND CONNECTION TO THE TOWN SEWER**

DATE _____ PROPERTY LOCATION _____

PROPERTY OWNER (please print) _____

NAME OF LICENSED INSTALLER _____

INSTALLERS EMPLOYER _____ PHONE _____

AGREEMENT: the owner and or licensed sewer installer do hereby acknowledge that they possess and comprehend the town of Essex Board of Public Works Sewer Use Regulation and hereby agree to comply fully with the letter and intent of said regulations in return for permission to connect the above property to the sewer system.

The connection fee of \$150.00 must be paid in advance, and all other Town charges, fees, liens, taxes etc must be current.

The Owner or owner's agent shall obtain the approval of the plumbing inspector and sewer inspector and sewer inspector to complete the connection.

The owner shall provide an as built drawing (or plans if required) of the connection, showing the location of all necessary appurtenances, with ties and elevations.

The owner shall obtain all other permits (street opening etc.) and a **DIG SAFE** number before any work can commence.

DIG SAFE NUMBER _____

