



City of Keene
New Hampshire

**MUNICIPAL SERVICES,
FACILITIES AND INFRASTRUCTURE
COMMITTEE
AGENDA
Council Chambers B
September 12, 2018
6:00 PM**

Janis O. Manwaring
Randy L. Filiault
Stephen L. Hooper
Gary P. Lamoureux
Robert B. Sutherland

-
1. Cameron Tease/Keene Senior Center - Elimination of a Parking Space on Court Street
 2. Revisions to Keene's Enforcement Response Plan for the Industrial Pretreatment Program
 3. Katie Schwerin - Proposal for Permanent Public Art Installation - Airport Property

MORE TIME ITEMS:

- A. Kate McNally/Cheshire Coalition for Tobacco Free Communities – Raising the Legal Minimum Age for the Sale and Possession of all Tobacco and Nicotine Products
- B. Ashuelot Court Homeowners – Request to Partner in the Installation of Water and Sewer Lines on Ashuelot Court, a Designated Private Road

Non Public Session
Adjournment



Transmittal Form

September 4, 2018

TO: Mayor and Keene City Council

FROM: Cameron Tease, Executive Director of the Keene Senior Center

THROUGH: Patricia A. Little, City Clerk

ITEM: 1.

SUBJECT: Cameron Tease/Keene Senior Center - Elimination of a Parking Space on Court Street

COUNCIL ACTION:

In City Council September 6, 2018.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

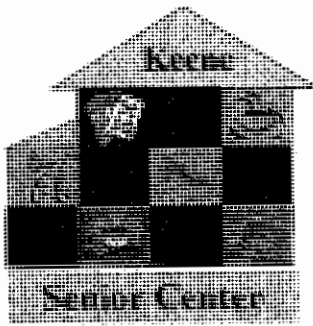
ATTACHMENTS:

Description

Communication - Tease

BACKGROUND:

Cameron Tease, Executive Director of the Keene Senior Center is requesting the elimination of a parking space on Court Street in front of their building to accommodate a bus stop.



Board Members

Harry Ahern, President

Carol Sorterup,
Vice President

Lee Taylor, Treasurer

Lindsey Austin-Davis,
Secretary

Jocelyn Beiswenger

Steve Bergeron

Marilou Blaine

Andy Bohannon

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Ed Morenz

Sally Rinehart-Boyce

Helene Mogridge

Cameron Tease
Executive Director

Keene Senior Center is a vibrant community of older adults, serving the Monadnock Region.



Keene Senior Center

Since 1957

70 Court St.

Keene, NH 03431

www.thekeeneseniorcenter.org

352-5037

In City Council September 6, 2018.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

City Clerk

August 27, 2018

Ms. Patty Little
City Clerk
City of Keene
3 Washington Street
Keene, NH 03431

Dear Ms. Little,

I have been Executive Director at Keene Senior Center for one year, and during that time I have considered options to improve our limited parking lot capacity, as well as safety issues leaving our lot because of visibility issues looking up Court Street. After discussions, including Home Healthcare Hospice and Community Services which operates the Friendly Bus and City Express, and appropriate city officials, I am respectfully asking that the City of Keene consider the following requests which would improve both concerns.

The limited parking lot capacity (22 spaces) is a major reason the Keene Senior Center, with over 500 members, is part of the feasibility study currently underway with the City considering co-locating at the recreation center. The consultant's final report is due by the end of September; however, the parking space and safety concerns require immediate action, especially as our senior center continues to grow and expand programming.

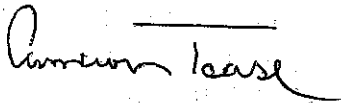
A partial solution to the lack of parking is to promote increased use of the Friendly Bus, City Express, ride sharing, and using other transportation options. A bus stop in front of the senior center would be of great benefit in promoting several of these. Currently the Friendly Bus has to back up (when headed south on Court Street) to discharge and pick-up riders at the walkway in front of the senior center. If the first parking space in front of the senior center was eliminated and made part of a bus zone, vehicles could more easily and safely pull into the space. The senior center could then more effectively promote use of alternative transportation and our parking lot would be used less.

Eliminating the parking space would also improve visibility northward for cars leaving the parking lot and improve vehicle safety. I often hear the screeching of tires and horn blowing as drivers inch their way out to seeing around parked cars in front of the senior center. The elimination of one parking space, which is often occupied by a vehicle whose driver is not using the senior center, would greatly improve visibility and safety.

I appreciate the fact that Tara Kessler, Kurt Blomquist, Rhett Lamb and Med Kopcznski met with me on July 31 to discuss the senior center's parking and safety concerns, and ways to improve them. One of the options discussed was to make the parking space in question part of a loading/unloading zone; however, in considering this further, I am concerned that that would make visibility even worse looking north and also cause a safety issue when a bus or other vehicle needed to use the space when it was used by a large delivery van. I am therefore requesting that the space be made part of a drop off zone/bus stop.

Thank you for forwarding this request through the proper channels of City government for consideration. I would be pleased to provide more information to further the decision-making process. Please let me know how we can help as our needs are immediate and pressing.

Sincerely,



Cameron Tease
Executive Director



City of Keene, N.H.
Transmittal Form

September 7, 2018

TO: Municipal Services, Facilities and Infrastructure Committee

FROM: Eric Swope, Industrial Pretreatment Coordinator

THROUGH: Elizabeth A. Dragon, City Manager; Kürt D. Blomquist, PE, Public Works Director

ITEM: 2.

SUBJECT: Revisions to Keene's Enforcement Response Plan for the Industrial Pretreatment Program

RECOMMENDATION:

Move that the Municipal Services, Facilities and Infrastructure Committee recommends the City Council approve this update to the proposed revised Enforcement Response Plan and direct staff to do all things necessary to submit this Plan to the United States Environmental Protection Agency.

ATTACHMENTS:

Description

Revised ERP

Current ERP

BACKGROUND:

The City's Industrial Pretreatment Program enforces the City's rules for sewer discharge by its industrial sewer users. This enforcement includes responding to violations of the City code. The Plan is required by EPA to contain detailed procedures indicating how the City will investigate and respond to instances of industrial user noncompliance.

The purpose of the ERP is to provide consistent enforcement responses for similar violations and circumstances. The ERP describes violations, defines a range of appropriate enforcement actions based on the nature and severity of the violation and other relevant actions, and identifies personnel responsible for finalizing enforcement responses. The City's current ERP was approved by US EPA in 1991. Following a 2017 audit by NH Department of Environmental Services, the City was required to revise its ERP language to indicate authority to bring criminal judicial proceedings for violations, as required by US EPA.

Staff has now completed a full update of its ERP that includes the DES revision and also improves the Plan's responsiveness and clarifies enforcement response language. Based upon recommendation of the City Attorney, an ERP template from US EPA was used as the base document. The final document has been reviewed and approved by the City Attorney.

It is recommended the City Council approve the submission of the attached revised ERP to US EPA.

Cc: Donna Hanscom, Assistant Public Works Director/Laboratory Manager

CITY OF KEENE

ENFORCEMENT RESPONSE PLAN

DRAFT

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INTRODUCTION

On July 24, 1990 (55 Fed. Reg. 30082), the Environmental Protection Agency promulgated regulations to require all Publicly Owned Treatment Works (POTWs) to adopt an enforcement response plan (ERP) as part of their approved pretreatment programs. The regulation as stated in 40 CFR §403.8(f)(5) is as follows:

The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- (i) Describe how the POTW will investigate instances of noncompliance;
- (ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the periods within which responses will take place;
- (iii) Identify (by title) the official(s) responsible for each type of response;
- (iv) Adequately reflect the POTWs primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed In 40 CFR §403.8 (f)(1) and (f)(2).

The ERP outlines the procedures that will be used to identify, document, track and respond to noncompliance. The ERP also provides guidance for selecting the enforcement action most appropriate for a given violation.

PURPOSE

The purpose of the ERP is to provide consistent enforcement responses for similar violations and circumstances. The ERP describes violations, defines a range of appropriate enforcement actions based on the nature and severity of the violation and other relevant actions, and identifies personnel responsible for finalizing enforcement responses.

ADMINISTRATION AND JURISDICTION

All entities discharging non-domestic waste to the POTW are subject to the provisions of the ERP. The ERP does not preclude the Control Authority from taking any, all, or any combination of actions against a noncompliant industrial user. Actions may include injunctive relief and/or civil penalties per 40 CFR Part 403(f)(1)(vi)(A) and Keene City Code, Chapter 98, Division IV, Section 98-360, and/or referral to NH DES or US EPA for criminal penalties.

ABBREVIATIONS

AO — Administrative Order
CA — Control Authority
EPA—United States Environmental Protection Agency
ERG — Enforcement Response Guide
ERP — Enforcement Response Plan
IU — Industrial User
NH DES –New Hampshire Department of Environmental Services
NOV – Notice of Violation

POTW — Publicly Owned Treatment Works

DEFINITIONS

CONTROL AUTHORITY: - The entity directly administering and enforcing Pretreatment Standards and requirements against industrial users. The City of Keene.

DOMESTIC WASTEWATER: - Domestic wastewater and sanitary sewage mean normal water carried from household and toilet wastes or waste (such as human excrement and gray water) from sanitary conveniences of residences, commercial buildings, and industrial plants, excluding groundwater, surface water, stormwater, industrial wastewater and unpolluted water. Specifically *excluded* from this definition is wastewater from commercial, industrial, or institutional laundries or food preparation facilities.

INDUSTRIAL USER: - *See User.*

PUBLICLY OWNED TREATMENT WORKS (POTW): - Devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant.

User (or industrial user) means a person who discharges industrial wastewater to the sanitary sewer of the city.

PERSONNEL RESPONSIBILITIES

Industrial Pretreatment Coordinator: - The Industrial Pretreatment Coordinator (IPC) is responsible for the day to day implementation and enforcement of the industrial pretreatment program. The enforcement responses carried out by the IPC are as follows:

- Warning letters
- Phone calls
- Notice of Violation (NOV)
- Administrative Order(s)

- Cease and Desist Order
- Consent Order
- Show Cause Order
- Compliance Order

Public Works Director (Director): - The Public Works Director has the responsibility to monitor the IPC's actions and to initiate the following enforcement actions at the recommendation of the IPC:

- show cause hearings
- administrative orders
- consent agreements
- referrals to the city attorney for civil litigation
- referrals to NH DES or EPA for possible criminal action

CITY OF KEENE Attorney: - The **CITY OF KEENE** Attorney will provide legal consultation as requested by the Director on consent agreements and administrative orders and will take the lead on all referrals for civil litigation and POTW initiated investigations.

Slug load: - Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Section 98-328 of the Keene City Code; or, any discharge of any pollutant, including biochemical oxygen demand, of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or adversely effect the collection system and/or performance of the POTW.

IDENTIFYING AND INVESTIGATING INSTANCES OF NONCOMPLIANCE

There are many activities associated with the identification and investigation of noncompliance. A brief description of these activities is provided in this ERP. Detailed discussions and procedures for the activities can be found in other relevant sections of the approved pretreatment program document. The activities that facilitate the identification and investigation of noncompliance are as follows:

Industrial User Inventory - *An essential step for identifying noncompliance is knowing who is discharging nondomestic waste to the POTW, where they are located, and the nature of the nondomestic waste being discharged. The Industrial Pretreatment Coordinator maintains a current inventory of all nondomestic sources of waste to the POTW.*

Monitoring and Inspection Plan - *The Industrial Pretreatment Coordinator prepares an annual monitoring and inspection plan. The Control Authority monitors the wastewater from each Significant Industrial User (SIU) at least once per year. The Control Authority requires all sampling and analysis to be performed in accordance with 40 CFR Part 136. Control Authority sampling procedures, including Quality Assurance/Quality Control procedures, discussed elsewhere in the approved pretreatment program document, are followed to maximize sample integrity.*

A comprehensive inspection of each SIU is conducted by the Control Authority at least once per year. The Control Authority follows inspection procedures discussed elsewhere in the approved pretreatment program to ensure consistent, thorough, and well documented inspections. Inspections of Minor Industrial Users are conducted by the Control Authority and are conducted on a frequency based on the type of user and its compliance history.

Information gathered during Control Authority industrial user monitoring and inspections is used to verify industrial user compliance status and to determine if enforcement response must be initiated or continued.

Compliance Screening - All reports from Industrial Users and reports generated by the Control Authority are carefully reviewed, on an “as-received” basis for timeliness, completeness and accuracy. The screening process includes an evaluation of compliance with report due dates, numerical standards, sample handling and analysis requirements, signatory/certification requirements, monitoring frequency etc.

All violations are clearly documented and addressed in accordance with the Enforcement Response Guide.

DESCRIPTION OF ENFORCEMENT ACTIONS

Informal Notice

Verbal Notification — Verbal notifications by telephone or in person provide an immediate notification of violations. In general verbal notifications are used for minor isolated violations or as an initial step leading to an escalated enforcement response. All verbal notifications related to enforcement or the investigation of suspected violations are documented in writing and placed in the respective Industrial User file.

Warning Letters — Warning letters are issued under the same circumstances as verbal notifications. They may be issued as follow-up letters to verbal notifications or in lieu of verbal notifications.

Informal Meeting — An informal meeting is used to gather information concerning noncompliance, discuss steps to alleviate noncompliance, and determine the commitment level of the industrial user. All informal meetings are documented in the City’s files.

Formal Notice

Notice of Violation — A Notice of Violation (NOV) is a written notice to the noncompliant industrial user that a pretreatment violation has occurred. A NOV includes a statement detailing the legal authority under which the Control Authority issued the NOV, a description of the violation(s), and the date(s) the violation(s) occurred. The NOV requires a response from the Industrial User that details the causes of the violation(s), and the corrective actions taken to correct the violation and prevent similar

violations from occurring. In general, NOV's are considered to be more stringent enforcement responses than warning letters.

Administrative Order — Administrative Orders (AOs) are enforcement documents that direct Industrial Users to undertake and/or to cease specified activities by specified deadlines. The terms of an AO may or may not be negotiated with Industrial Users. AOs may incorporate compliance schedules, administrative penalties, termination of service and show cause orders.

Show Cause Hearing — A Show Cause Hearing is a formal meeting requiring the Industrial User to appear, explain its noncompliance, a show cause as to why more severe enforcement actions against the user should not go forward. The meeting may also serve as a forum to discuss corrective action and compliance schedules.

Termination of Service - Termination of service is the revocation of an Industrial User's privilege to discharge nondomestic wastewater into the sewer system. Termination of service is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons, or the environment, or threatens to interfere with the POTW's operations, or as an escalating enforcement action to a significant violation when a noncompliant industrial user fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the industrial users connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IUs discharge permit, or a court ruling.

Administrative Fines - An administrative fine is a punitive monetary charge assessed by the Control Authority rather than a court. The penalty authority must be authorized in the POTW's local legal authority. The purpose of the fine is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative fine the following factors are considered:

- type and severity of the violation
- number of violations cited
- duration of noncompliance
- impact of the violation on the receiving water, sludge quality, and POTW operation
- whether the violation threatened public health
- the economic benefit or savings the industrial user gained from the noncompliance
- compliance history of the industrial user
- whether the industrial user is making a good faith effort to comply

Civil Litigation - Civil Litigation is the formal process whereby the Control Authority files a lawsuit against the industrial user to secure court ordered action to correct violations and to secure penalties for the violations including recovery of costs to the POTW for the noncompliance. Civil Litigation also includes enforcement measures which require involvement or approval of the court, such as injunctive relief.

Referral to EPA or NH DES - For violations that may warrant criminal prosecution, the Control Authority will refer the case to EPA or NH DES for further action. Circumstances that trigger EPA or State referrals may include, but are not limited to, evidence of willfulness, and bad faith shown by the Industrial User.

ENFORCEMENT RESPONSE GUIDE

The Enforcement Response Guide (ERG) designates several enforcement options for each type (or pattern) of noncompliance. The intent of the ERG is to provide direction for appropriate enforcement response and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response are as follows:

- good faith of the user
- compliance history of the user
- previous success of the enforcement actions against the user (e.g. If historically NOV's have not been effective in returning the user to compliance in a reasonable period of time, an administrative order would be a more appropriate response.)
- violations effect on the environment and/or public health
- violations effect on the POTW

Violations resulting in Significant Noncompliance - Any violation that results in Significant Noncompliance (SNC) will be addressed through formal enforcement action regardless of the enforcement response otherwise dictated by the enforcement response guide.

Escalating Enforcement Response - Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.

Violations falling under more than one Category — Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.

Time frames for Enforcement Responses

- ***All violations will be identified and documented within five (5) days of receiving compliance information.***
- ***Initial enforcement responses (informal or formal) will occur within fifteen (15) days of identifying a violation.***
- ***Follow up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response.***

- *Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.*
- *All violations meeting the criteria for significant noncompliance will be addressed through formal enforcement within thirty (30) days of the identification of significant noncompliance.*

DRAFT

ENFORCEMENT RESPONSE GUIDE TABLE

	TYPE OF NONCOMPLIANCE	CIRCUMSTANCES	SUGGESTED ENFORCEMENT
UNAUTHORIZED DISCHARGE	Discharge without an IDA, permit or other approval, or discharging waste not authorized by existing approval mechanism	<p>IU unaware of requirements; no harm to POTW or environment</p> <p>IU aware of requirements; no harm to POTW or environment</p> <p>Harm to POTW or environment</p> <p>Recurring.</p>	<p>WL; NOV with Application Form</p> <p>NOV; AO; AO with fine; Civil Action; Criminal Investigation.</p> <p>AO with fine; Civil Action; Criminal Investigation.</p> <p>AO; AO with fine; Civil Action; Criminal Investigation.</p>
	Failure to submit permit application or reapplication with intent to discharge	<p>IU has not submitted application within ten (10) days of due date.</p> <p>IU has not submitted application after notice by the POTW.</p> <p>Failure to submit application.</p>	<p>Phone call; Warning letter</p> <p>NOV; AO</p> <p>Refer to discharge without a permit.</p>
DISCHARGE VIOLATIONS	Exceedance of discharge limitation, interim discharge limitation, or prohibition in permit or local legal authority.	<p>Infrequent or isolated. No harm to POTW or environment.</p> <p>Harm to POTW or environment.</p> <p>Recurring</p>	<p>NOV</p> <p>NOV or AO; AO with fine; Revocation of permit</p> <p>AO; AO with fine.</p>
	Slug load	Isolated without known effect	NOV or consent AO

	TYPE OF NONCOMPLIANCE	CIRCUMSTANCES	SUGGESTED ENFORCEMENT
		<u>Recurring without known effect</u>	<u>Consent, Show Cause, or Cease and Desist AO</u>
		Isolated with known damage, interference, or pass through or other effect on WWTP, City personnel or the environment.	Cease and desist or consent AO. AO with fine; Civil or criminal action; Revocation of permit
		<u>Recurring with known damage, interference, or pass through or other effect on WWTP, City personnel or the environment.</u>	Civil or criminal action; Fine; Revocation of permit
REPORTING VIOLATIONS	Document is improperly signed or certified.	Isolated incident. Previous notice by POTW.	Phone call; WL; NOV. NOV; AO.
	Sampling, monitoring or reporting errors, non-deliberate	Minor; computational or typographic errors; missing information or late reports. Isolated or infrequent. <u>Minor; computational or typographic errors; missing information or late reports.</u> <u>Frequent.</u> Major; continued; <u>or</u> remains uncorrected for 45 days	Phone call. Make corrections and submit within 30 days; NOV <u>NOV; AONOV Compliance AO or judicial action</u>

	TYPE OF NONCOMPLIANCE	CIRCUMSTANCES	SUGGESTED ENFORCEMENT
	Failure to report violation, spill/slug or changed discharge.	No actual or potential harm to POTW or environment. Actual or potential harm to POTW. Recurring problem.	Phone call; WL; NOV; AO. AO; AO with fine; Show Cause AO; Civil Action AO; AO with fine; Show Cause AO; Civil Action; Revocation of permit
	Failure to report violation within 24 hours of receiving notification	Isolated incident Recurring problem	NOV Show cause AO; AO with fine; Civil or Criminal action
	Required self-monitoring report overdue by more than 10 days	Isolated incident Recurring	Phone call or NOV <u>NOV</u> or Compliance AO
	Failure to report additional monitoring.	Isolated incident. Recurring.	Phone Call; WL; LOV. AO; AO with fine.
	Falsification of information or data.	Any instance.	Show Cause AO; Criminal Investigation; Civil or Criminal Action; Revocation of permit.
SAMPLING VIOLATIONS	Failure to sample, monitor or report	Isolated or infrequent	Phone call; NOV. Compliance AO
		Frequent, or if IU does not respond to letters or does not follow through on an agreement or requirement.	Show cause AO. Consent AO; AO with Fine; Revocation of permit. Civil or Criminal Action; Criminal investigation
	Failure to monitor for all	Isolated.	Phone call; WL; NOV.

	TYPE OF NONCOMPLIANCE	CIRCUMSTANCES	SUGGESTED ENFORCEMENT
	required parameters.	Recurring.	AO; AO with fine ; Civil Action.
	Improper sample handling/analytical procedures.	Isolated. Recurring.	Phone call; WL; NOV NOV; AO; AO with fine.
	Failure to resample within required timeframe.	Isolated. Prior notification from CA. Recurring.	Phone call; WL; NOV. NOV; AO with Fine. AO; AO with fine.
	Failure to install monitoring equipment/sampling point.	Overdue by less than 30 days. Overdue by greater than 30 days.	NOV. AO; AO with fine; Show Cause AO; Civil Action.
	Tampers with monitoring equipment/sample.	Any incident.	AO; Show Cause AO; Revocation of permit
	Sampling at incorrect location.	Isolated incident. Recurring.	NOV. AO; AO with fine; Show Cause AO; Civil Action; Criminal investigation.
COMPLIANCE SCHEDULES	Missed milestone.	Less than 30 days late or will not affect final compliance date.	WL; NOV; AO
	Not in compliance as of final compliance date.	Less than 30 days late. Greater than 30 days late;	WL; NOV; AO AO; AO with fine; Show Cause AO; Civil Action; Revocation

	TYPE OF NONCOMPLIANCE	CIRCUMSTANCES	SUGGESTED ENFORCEMENT
			of permit.
INADEQUATE RECORDKEEPING	Files incomplete or missing (no evidence of intent).	Isolated. Recurring.	Phone call; WL; NOV. NOV; AO.
	Failure to document maintenance of pretreatment equipment as required	<u>Isolated or infrequent</u> <u>Recurring</u>	Phone call; WL; NOV. <u>NOV; AO</u>
OTHER VIOLATIONS	Entry denied or consent withdrawn.	Any instance.	Obtain warrant and return to IU.
	Any other permit violation not included above		Phone call; WL; NOV; AO; AO with fine; Show Cause AO; Revocation of permit
PRETREATMENT DEVICE MAINTENANCE	<u>Failure to maintain Pretreatment equipment as required</u>	<u>Isolated or infrequent</u> <u>Recurring</u>	Phone call; WL; NOV. <u>NOV; AO; Publish in newspaper.</u>

City of Keene Enforcement Response Plan

Persons instituting levels of enforcement:

1. Letter of violation: Pretreatment Coordinator
2. Administrative Order: Pretreatment Coordinator, with cc to Director of Public Works and City Attorney
3. Publish annual list of Users in significant non-compliance: Pretreatment coordinator prepares list for publication in Keene Sentinel.
4. Terminate water service: Director of Public Works
5. Show Cause Hearing: requested by Pretreatment Coordinator, to be held in front of a review board. Board to consist of WWTP Superintendent, Director of Public Works, and City Manager
6. Initiate judicial action:
 - civil action: Director of Public Works
 - criminal action: We can't do this, not authorized by statute.

Letter of Violation (LOV): To be used as the most basic form of enforcement. It serves to notify the User of a violation and allows him to correct the problem without being put on a schedule. This also documents the initial attempts of the WWTP to resolve the noncompliance. It shows that, if necessary, enforcement escalates according to a plan, rather than reacting arbitrarily.

The LOV is sent by certified mail, return receipt requested. A copy of the signed LOV is kept in the User's file, along with the certified mail receipt.

If the User does not demonstrate a return to compliance within 30 days after the initial notification, enforcement will escalate. It is not appropriate to send a series of LOV for the same violation.

Administrative Order (AO): Used to require the User to perform a specific task or tasks to achieve compliance. Although there are several types of AO, they all must include the following information:

1. Title - indicating type of order
2. Legal authority - local and State
3. Findings of non-compliance
4. Ordered activity
5. Milestone dates for corrective actions
6. The following standard clauses:
 - A. Compliance with the terms and conditions of the AO will not be construed to relieve the user of its obligation to comply with applicable Federal, State or local law.
 - B. Violation of the AO itself may subject the user to all penalties available under the sewer use ordinance.
 - C. No provision of the order will be construed to limit the City's authority to issue supplementary or additional orders or take other action deemed necessary to implement its pretreatment program.
 - D. The provisions of the order shall be binding upon the user, its officers, directors, agents, employees, successors, assigns, and all persons, firms, and corporations acting under, through, or on behalf of the user.

The four types of AO:

1. **Cease and desist order** - requires the User to cease illegal activity or terminate discharge. This should be used in cases of interference, pass through or other emergencies. In a non-emergency situation it may be used to revoke or suspend the Industrial Discharge Agreement (IDA).

It may be issued immediately with no previous attempts at enforcement, or it may be issued after a show cause hearing. It may be issued over the telephone, followed up by a written order delivered certified mail or in person.

Failure to comply with a cease and desist order will result in the WWTP taking independent action to halt discharge. This should be done by terminating the water service or blocking the sewer connection.

2. **Consent order**- is a combination of an AO with a negotiated settlement. It contains the following:

- a. a compliance schedule
- b. stipulated fines or remedial actions
- c. signatures of the Pretreatment Coordinator and the industrial representatives

This order is used when the User assumes responsibility for his violations and is willing to correct the non-compliance. This specifically excludes the admission of liability by incorporating the following statement:

None of the foregoing agreements, statements, stipulations and actions taken by the industrial user shall be deemed an admission by the user of the allegations contained within the notice of violation referred to herein. The agreements, statements, stipulations, findings, and actions taken herein are made for the purpose of settling this matter economically and amicably and they shall not be used for any purpose, except for any proceedings to enforce the provisions of this consent order.

It is appropriate to issue this type of order following a successful show cause hearing, or other meeting, where agreements were reached and promises of specific actions made.

3. **Show Cause Order**- directs the industrial representative to appear before the review board and show cause why more severe enforcement actions should not be taken. This is issued after informal contacts or LOVs have not been successful in returning the User to compliance. May also be used to investigate violations of previous AOs.

This hearing may be open to the public and be conducted formally, or be a closed, more informal meeting. Either way, the findings from it must be carefully documented.

The Pretreatment Coordinator puts forth evidence of noncompliance and makes recommendations for penalties or additional enforcement. The User responds. The review board then determines if any further action is required by either party.

If an amicable settlement is reached, a consent order is issued. If an impasse is reached, then the hearing is followed up by a compliance order which includes a schedule, a fine is imposed, or the matter is referred to the City Attorney for litigation. Any combination of these responses may be used.

4. **Compliance Order**- Directs the User to achieve or restore compliance by a certain date. It is not necessary to discuss the terms of this order with the User prior to issuing it. This type of AO is appropriate when the User is not making good faith efforts to correct a situation of noncompliance.

Noncompliance should be documented and the AO should include required actions to be accomplished by specific dates. Intermediate dates should be included to monitor the User's progress. Milestone dates should not be more than 30 days apart. If milestone dates are not met, a show cause order should be issued, fines imposed, or judicial proceedings initiated.

Methods to be used in updating IU inventory:

1. Monthly review of the list of people/businesses who have applied for building permits.
2. Water department secretary to send names of any new business accounts opened.
3. Represented on Planning Department Staff reviews.
4. Annual review of new phone book and business directory.
5. Re-inspect insignificant and minor IU's every 5 years.
6. Ride around inspection of industrial park or business complex looking for new tenants.
7. Town Clerks in any towns with an agreement allowing discharge to the WWTP (Marlborough and Swanzey) to give information about new businesses in town. Clerks are contacted quarterly.

Compliance monitoring procedures:

Screening data:

1. Screen within 5 days of receiving report. Compare reported limits to limits listed in IDA.
2. If violation is detected, highlight it on the report and list it on a violation list in the IU's file.
3. Record what response or action is taken to the violation, even if it's "no action". If no action is taken, record reason.
4. If re-sampling or other response is required from the IU, record on desk calendar on the day it is due at the WWTP.

SIGNIFICANT VIOLATION: DEFINITION

1. Discharge limits-

a. chronic- greater than or equal to 66% of the reported measurements exceed the daily maximum or same average limit in a 6 month period. This includes any magnitude of exceedance of the limit.

b. Greater than or equal to 33% of the measurements exceed the same daily maximum or same average limit by more than the technical review criteria (TRC) in a 6 month period.

TRC: O/G 1.4 times the limit
others 1.2 times the limit

c. Any other violation that the pretreatment coordinator believes has caused, alone or in conjunction with other discharges, interference or pass-through, or endangers the health of the public or City personnel.

d. Any discharge that has caused imminent endangerment to human or environmental health or welfare and has resulted in the WWTP's exercise of its emergency authority to halt such a discharge.

2. Violations of compliance schedule milestones contained in the IDA or an enforcement order for starting or completing construction and achieving final compliance by 30 days or more after the milestone date.

3. Failure to provide reports for compliance schedules, self monitoring data, or categorical standards within 10 days of due date.

4. Failure to accurately report noncompliance.

5. Any other violation or group of violations the Pretreatment Coordinator thinks is significant.

Any significant noncompliance should receive an enforceable order that demands a return to compliance by a specific date.

REPORTING VIOLATIONS

Failure to sample, monitor or report	<p>Isolated or infrequent</p> <p>Frequent, or if IU does not respond to letters or does not follow through on an agreement</p>	<p>Phone call or LOV. If no response, compliance Administrative Order</p> <p>Show cause AO. Then consent AO or revoke the IDA. Judicial action, penalties. Request criminal investigation</p>
Failure to notify of effluent limit violation or of slug discharge	<p>Isolated or infrequent, with no known effects on WWTP, City personnel or the environment</p> <p>Frequent or continued</p> <p>Known effects on WWTP, City personnel or the environment</p>	<p>LOV. If no response, a show cause AO.</p> <p>Show cause AO. Then, consent or compliance AO. Judicial action, penalties</p> <p>Judicial action and penalties. Sewer ban.</p>
Sampling, monitoring or reporting errors, non-deliberate	<p>Minor; computational or typographic errors. Isolated or infrequent</p> <p>Major; missing information or late reports. Isolated or infrequent</p> <p>Major; continued, remains uncorrected for 45 days</p>	<p>Phone call of LOV. Make corrections and submit within 30 days. Show cause AO if it continues</p> <p>LOV. Corrections within 30 days. Investigation to determine deliberate or non-deliberate.</p> <p>Compliance AO or judicial action</p>
Reporting false information, Intentionally	Any instance	Request for criminal investigation. Judicial action and sewer ban.

Missed interim or milestone date	Will not cause late final date or other interim dates	LOV
	Will result in other missed interim dates, no good or valid cause	LOV or compliance or consent AO. Judicial action including penalty
Required self-monitoring report overdue by more than 10 days	Infrequent	Phone call or LOV
	Frequent	Compliance AO
	Did sampling in time, but waiting for results	LOV. Compliance AO to do more timely sampling.
	Did not sample in time	Compliance AO. Set schedule for timely sampling
	Has results, but not sent them, no violation indicated	LOV
	Has results, but not sent them, violation indicated	Compliance AO, penalties. Judicial action.
Missed final date (of AO or an EPA deadline)	Violation due to strike, act or God, or other uncontrollable condition	Require documentation of the good or valid cause. Show cause AO.
	Violation due to other than act or God, or other uncontrollable condition	Judicial action, penalty

Failure to install monitoring equipment	Continued	Compliance or consent AO to begin monitoring and install equipment within minimal time. Temporary sewer ban.
Failure to report slug load	Isolated or infrequent, no know effects on WWTP, City personnel or the environment	LOV, compliance or consent AO
	Isolated or infrequent, known effect on environment, WWTP, or City personnel	Show cause AO, compliance or consent AO. Judicial action, penalty.
Failure to re-sample and report results within 30 days of a violation	Recurring	Sewer ban. Criminal investigation.
	Has samples, but not received results	Phone call, LOV
	Has not sampled	Compliance AO
Failure to report violation within 24 hours of receiving notification	Infrequent	LOV
	Frequent	Show cause AO, penalties, judicial action

Non-Compliance through Discharge

Exceeding final limits. Categorical, local or prohibitive	Infrequent or isolated	LOV	
	Infrequent or isolated and major violations exceed the limits by TRC of a single parameter		LOV and compliance or consent AO. Judicial action if environmental or WWTP harm resulted. Include penalty.
	Violations that are in significant noncompliance		Compliance or consent AO. Judicial action including penalty.
Exceeding interim limits	Without known effect on WWTP, environment or City personnel		LOV or consent AO
	Results in known effect on the environment, WWTP or City personnel		Cease and desist AO or judicial action, including penalty.
Reported slug load	Isolated without known effect		LOV or consent AO
	Isolated with known damage, interference, or pass through or other effect on WWTP, City personnel or the environment.		Cease and desist or consent AO. Judicial action, penalty
	Recurring		Judicial action. Penalty. Sewer ban.
Discharge without an IDA or other approval	One time without know effect on WWTP, environment, or City personnel.		Cease and desist AO



City of Keene, N.H.
Transmittal Form

July 16, 2018

TO: Mayor and Keene City Council

FROM: Katie Schwerin

THROUGH: Patricia A. Little, City Clerk

ITEM: 3.

SUBJECT: Katie Schwerin - Proposal for Permanent Public Art Installation - Airport Property

COUNCIL ACTION:

In City Council July 19, 2018.

Referred to the Municipal Services, Facilities and Infrastructure Committee.

ATTACHMENTS:

Description

Revised Proposal

BACKGROUND:

Katie Schwerin is requesting permission for a permanent public art installation to be placed on the Dillant-Hopkins Airport property.

City of Keene

Section 4 - Public Art Proposal

1. Name of artist, partners or organizations involved.

Katie Schwerin - local artist

Danya Landis - Co-Founder, Machina Arts and Board member for Monadnock Arts Alive, Council member of the Governor's Millennial Council

2. Demonstration of the experience of the artist(s) and/or organization in the production of the type of artwork and the provision of documents that demonstrate the artist(s) and/or organization is recognized by critics and by his or her peers as one who produces works of art.

Katie Schwerin is a local artist recognized for her work at the WS Badger Co. Ecology Center workshop series which includes workshops on designing and building labyrinths. She built the labyrinth at the Badger company site. She is currently a student in the MFA-IA program at Goddard College. This project will be her cap stone project, if it is approved. She is supported in this application by Machina Arts who will be her support and can provide a reference for her work. (See Addendum #2 for references and #3 for images of artist's work with labyrinths)

3. Identify whether it will be a temporary or permanent display.

This will be a permanent display.

4. Identify the location.

The labyrinth will be located at the Keene Airport, on the right as you drive to the airport. There is a pull off area with some picnic tables across from a large open field. Below shows the proposed area in the upper right corner, the indented area in the green.



5. A description of the public art includes but is not be limited to: size, expected amount of space to be required, materials to be used, theme or context. If temporary, length of time of the display, drawings, design documents, etc.

Project idea overview - Labyrinth and Sculpture Pathway

The plan is to create a labyrinth using the form of Mt. Monadnock as the design feature. This shape will be made with large boulders, approx. 5-6 feet high at the highest point and tapering down to about 2-3 feet high at the ends. The rest of the labyrinth will be made with laying rocks, easily place by hand, to mark the pathways. The pathway will be sand and the rocks will designate the path.

The larger vision for this project: Mt. Monadnock labyrinth will be the central figure for a sculpture park with the theme of “climb the mountain”. The sculptures will be a forms that show wind (things that move in the wind) and forms that create passive sounds (echo chambers or fluted forms that sound when the wind passes through them). The idea is to give the sense impressions of being at the top of the mountain.

NOTE: This submission is for the Mount Monadnock Labyrinth only. All sculpture projects will be submitted to the city for approval in a separate process.

6. Are utility hookups needed?

No.

7. How is the project being funded?

Funding

We will do a kickstarter campaign as our main fundraising effort, and will need about 3-4 weeks for this process once we get approvals. However, Katie has the ability to personally support this project if there is a shortfall in funding.

Estimated cost for the project: Labyrinth only at this point.

- Excavation services quote (prep. ground, transport rocks and boulders and place boulders): \$5,000 Ryan Hoag at Pat Rawson Construction INC, West Chesterfield. The cost of the sculptures will be raised separately in conjunction with a separate approval process.*
- Marketing material and outreach to the community: costs donated by artist*
- We will be including the cost for insuring the work while it is being completed on the property.*

- *We understand there is percentage of the project cost to be given to City of Keene for long term maintenance, which we will be included in the fundraising.*

8. Expected general maintenance requirements.

The airport grounds will maintain the surrounding area as it currently does. The labyrinth will not need maintenance on its pathways as it is perfectly situated on sandy soil. There have been attempts to grow grass in this location and the result, after extensive rain, is just a low growing scrubby grass. The first step in this process will be to remove the scrub grass. Then Ryan Hoag will bring in a load of sand to fill in where needed to make it level again. We will then lay stones on the sand.

The stones will not need any maintenance.

9. If temporary, how will the public art be removed and the space restored?

Not temporary.

10. Assurance the art does not infringe upon the any copyright and agrees to hold the City harmless for any copyright infringement.

This is an original piece of art/sculpture using the profile of Mt. Monadnock as its primary design feature. Using a local landmark in the design also makes it unique. I don't believe there is any copyright issue and would not how one would even look it up. However, if copyright research is a requirement for a public arts project, I will engage a copyright lawyer to answer this question, and a recommendation for the project could be given with that contingency.

11. Comply with all City and State permitting.

Yes.

12. Is the project technically feasible to produce and display?

Plan for production

- *Work with site work contractor to prepare land, transport boulders, and place major boulders. The contractor will also provide a load of sand and a load of smaller rocks for hand placement.*
- *We will invite the local community for a weekend day to set the smaller stones to designate pathways as a way to engage the community in the project. We are inviting people to participate to engage the community in the project. However, the role the community will be playing in the installation can easily be completed by a smaller group of people, and I already have a number of individuals who*

have expressed interest in supporting this part of the installation. We will have insurance for all work done on the land.

Time line

- The project will take a week to complete. Katie has met with the site work contractor at the site as well as at the location where the boulders will come from, the WS Badger company land in Gilsum. He says it is two days of work to move and place the boulders.*
- If the project is approved in September, we will choose a week in October to do the work, assuming there are 3+ weeks in between approval and the installation date for the crowd funding effort.*

13. Will the project be accessible to the public for viewing and enjoying?

Yes. The location is already a place the public goes with picnic tables and a parking area easily accessible.

14. Does the project reflect aspects of the City's history, culture, or Comprehensive Master Plan?

The project reflects the important local land feature, Mt. Monadnock. It also creates an easy way to "climb" the mountain by walking the pathway, for those unable to climb the actual mountain.

15. Is the project designed for the proposed site and is commensurate in scale with its surroundings?

Yes. It actually fits perfectly in a natural amphitheater location with easy access.

16. Is the project durable (where applicable) and reasonable to maintain in terms of time and expense?

The airport grounds will maintain the surrounding area as it currently does. The labyrinth will not need maintenance in its pathways as it is perfectly situated on sandy soil. There have been attempts to grow grass in this location and the result, after extensive rain, is just a low scrubby grass. The first step in this process will be to remove the scrub grass and add sand to level the area. We will then lay stones in the sand. The pathways will be sand pathways with stones laid on the side to designate the pathway.

17. Is the project designed and to be constructed by persons experienced in the production of such artwork?

*Yes. Katie has created the labyrinth out of stones at the WS Badger site and lead workshops at the Badger Ecology center in labyrinth design. She has created one other large scale labyrinth that is located at the WS Badger company site. Beyond that, Katie has experience working with the land contractor, Ryan Hoag from Rawson Construction. They have looked at the specific boulders he would be moving, and this week, plan to meet at the site of the project.
(See Addendum #2 for references.)*

18. Does the project aesthetically enhance the public space or built environment to which it relates or otherwise interacts with its surroundings?

Yes. It fits in with the walkways system already at the airport that attract people who want a simple walk in the woods and field.

19. Does the project contribute to a sense of civic pride?

Yes. It honors the landmark that gave our region its name, the Monadnock Region.

20. Does the project create a public safety or security concern?

No. The boulders are very stable.

Addendum

#1 Images of the proposed labyrinth.

#2 References for Katie Schwerin's work. There are three references that are all labeled differently - "DOC091018-0001"; "Machina arts_labyrinth"; and "Recommendation"

#3 Images of Katie Schwerin's work with labyrinths

#4 images of boulders from the Badger company field to be used in the project.

#5 Poster for my next workshop titled, "Workshop - Labyrinth - 2018"