

Chapter 21

WATER AND SEWERAGE

Article III. Sewer Use

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DIVISION 1. GENERALLY

Sec. 21-56. Purpose.

This article regulates the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, the discharge of waters and waste into the public sewer system, and use of the publicly owned treatment works, and provides penalties for violations thereof. It enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this article are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
- (f) To enable the city to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This article shall apply to all users of the publicly owned treatment works. The article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. Of 3-7-89, art. 1; update)

Sec. 21-57. Administration.

Except as otherwise provided herein, the plant manager shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the plant manager may be delegated by the plant manager to other city personnel.
(update)

Sec. 21-58. Abbreviations.

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

- » BOD Biochemical Oxygen Demand
 - » CFR Code of Federal Regulations
 - » COD Chemical Oxygen Demand
 - » EPA U.S. Environmental Protection Agency
 - » EPD State of Georgia Department of Natural Resources Environmental Protection Division
 - » gpd gallons per day
 - » mg/l milligrams per liter
 - » MGD Million Gallons per Day
 - » MSDS Material Safety Data Sheet
 - » NPDES National Pollutant Discharge Elimination System
 - » O&M Operation and maintenance
 - » POTW Publicly owned treatment works
 - » RCRA Resource Conservation and Recovery Act
 - » SIC Standard Industrial Classification
 - » SUs Standard Units
 - » TSS Total Suspended Solids
 - » U.S.C. United States Code
- (update)

Sec. 21-59. Definitions.

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

Act (sometimes termed “the act”) shall mean the federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*

Ammonia nitrogen (NH₃) shall mean the total quantity of ammonia nitrogen as determined by an EPA approved laboratory procedure, expressed in milligrams per liter (mg/l).

Approval authority shall mean the State of Georgia, Department of Natural Resources, Environmental Protection Division.

Authorized representative of the user shall mean:

- (1) If the user is a corporation:

- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under EPA approved laboratory procedures in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of buildings and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection or service connection.

Bypass shall mean the intentional or accidental diversion of waste streams from any portion of any pretreatment system.

Categorical pretreatment standard (sometimes termed "categorical standard") shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR chapter I, subchapter N, parts 405-471.

Chemical oxygen demand (COD) shall mean the quantity of oxygen utilized in the chemical oxidation of organic matter under EPA approved laboratory procedures expressed in milligrams per liter.

City shall mean the City of Villa Rica, Georgia.

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

Compliance shall mean the level of conformity with all applicable regulations. The level of compliance will normally be referred to as either consistent compliance, infrequent non-compliance, or significant non-compliance.

Compliance schedule shall mean a mandated list of activities issued by the plant manager requiring the user to complete such activities within specified time limitations.

Composite sample shall mean the accumulation of a number of individual samples over a period of time, so taken as to represent the nature of the waste stream being sampled.

Constituents shall mean the combination of particles, chemicals, or conditions which exist in wastewater.

Council shall mean the city council of the City of Villa Rica, Georgia.

Customer shall mean every person who is responsible for contracting (expressly or implicitly) with the city in obtaining, having, or using sewer connections with, or sewer tap to, the sewer system of the city and in obtaining, having, or using water and other related services furnished by the city for the purpose of disposing of wastewater and sewage through such system. Such terms shall include the occupants of each unit of a multiple-family dwelling unit building as a separate and distinct customer.

Direct discharge shall mean the discharge of treated or untreated wastewater directly to the waters of the state.

Domestic wastewater shall mean that wastewater discharged into the wastewater system from domestic sources such as toilets, washing machines, dishwashers, sinks, showers, and bathtubs from normal household usage.

Easement shall mean an acquired legal right for the specific use of land owned by others.

Environmental protection agency shall mean the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Existing source shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

Floatable oil shall mean the oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

Flush toilet shall mean the common sanitary flush commode in general use for the disposal of human excrement.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

Grab sample shall mean a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Health officer shall mean the director of the county board of health or other person designated by the board of commissioners and their duly appointed assistants.

Indirect discharge shall mean the introduction of pollutants into the POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

Industrial wastes shall mean the wastewater from industrial and/or production processes as distinct from domestic or sanitary wastes.

Infiltration/inflow shall mean groundwater and surface water which leaks into the sewers through cracked pipes, joints, manholes, or other openings.

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

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

May is permissive (see *Shall*).

Medical waste shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Natural outlet shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source shall mean:

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

- b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraph (1) b. or c. above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous onsite construction program
 - i. any placement, assembly, or installation of facilities or equipment; or
 - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Non-contact cooling water shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Normal wastewater shall mean wastewater discharged into the sanitary sewers in which the average concentrations of certain constituents are as follows:

CONSTITUENT	UNITS	CONCENTRATION
Ammonia nitrogen	mg/l	0 - 25
Biochemical oxygen demand	mg/l	25 - 500
Chemical oxygen demand	mg/l	0 - 500
Chlorine demand	mg/l	0 - 15
Color	SUs	0 - 400

CONSTITUENT	UNITS	CONCENTRATION
Flammables and explosives	mg/l	0
Inert suspended solids	mg/l	0 - 125
Oils, fats, greases and wax	mg/l	0 - 100
Petroleum based oils	mg/l	0 - 25
pH	SUs	6.0 - 9.0
Screenable solids and viscous substances	mg/l	0
Slug concentrations or flows	ratio	1:1 - 5:1
Temperature	°F [°C]	50 - 104 [10 - 40]
Total suspended solids	mg/l	25 - 500

Unless otherwise specifically defined, domestic or sanitary wastes shall be considered to have the constituent concentrations as defined above for normal wastewater.

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

Person shall mean any individual, partnership, copartnership, firm, company, corporation, association, society, group, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH shall mean the measure of the relative acidity or alkalinity of a solution as the logarithm of the reciprocal of the hydrogen ion concentration expressed in standard units (SUs).

Pit privy shall mean a shored, vertical pit in the earth completely covered with a flytight slab on which is securely located a flytight riser covered with a hinged flytight seat and lid.

Plant manager (sometimes termed "superintendent") shall mean the utilities plant manager or his authorized deputy, agent or representative.

Pollutant shall mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment (sometimes termed "treatment") shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by

process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards (sometimes termed "standards") shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards (sometimes termed "prohibited discharges") shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 21-151 of this article.

Properly shredded garbage shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer shall mean the common sewer controlled by the city.

Public works director shall mean the director of public works or his authorized deputy, agent or representative.

Publicly owned treatment works shall mean a "treatment works," as defined by section 212 of the Act (33 U.S.C. §1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Sanitary sewer shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, storm water, and surface waters that are not intentionally admitted.

Septic tank shall mean a subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes together with:

- (1) A sewer line constructed with solid pipe, with the joints sealed, connecting the impervious tank with a plumbing stub out; and
- (2) A subsurface system of trenches, piping, and other materials constructed to drain the clarified discharge from the tank and distribute it underground to be absorbed or filtered.

Septic tank waste (sometimes termed "septage") shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage shall mean the spent water of a community including but not limited to human excrement and gray water (household showers, dishwashing operations, etc.). The equivalent term is "wastewater."

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

Shall is mandatory (see "May")

Significant industrial user (SIU) shall mean:

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

Slug load (sometimes termed "slug") shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and may adversely affect the collection system and/or performance of the wastewater facilities or which could cause a violation of the prohibited discharge standards in section 21-151 of this article.

Standard industrial classification (SIC) code shall mean a classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

Storm drain (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source and excluding sewage and industrial wastes other than unpolluted cooling water.

Storm water shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.

Surcharge shall mean the additional fees assessed against industrial users whose wastewater characteristics exceed established limits in order to recoup the additional costs of treatment and to reduce the economic benefit of user non-compliance.

Total suspended solids (TSS) shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtration as approved by EPA and referred to as nonfilterable residue.

Unpolluted water shall mean water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

User (sometimes termed "industrial user") shall mean a source of indirect discharge of non-domestic wastes.

Wastewater shall mean the spent water of a community. From the standpoint of the source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any ground water, surface water, and stormwater that may be present.

Wastewater facilities (sometimes termed "treatment plant" or "wastewater works") shall mean that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste including the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent. Also referred to as a water pollution control plant (WPCP) or a wastewater treatment facility (WTF).

Watercourse shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

(Ord. of 3-7-89, § 2.1-2.36; Ord. Of 4-2-91; update)

Sec. 21-60. Compliance with regulatory requirements.

The provisions of this article shall not be deemed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to Public Law 92-500, shall be considered a part of this article upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in 40 CFR 403.

(Ord. of 3-7-89, art. 9)

Sec. 21-61. Conflict of regulations.

In the event a wastewater discharge is made to a POTW under the jurisdiction of an approved sewer use ordinance for another governing authority, the more restrictive requirement shall prevail.

(Ord. of 3-7-89, § 13.3)

Sec. 21-62. Notification of Violation.

When the plant manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the plant manager may serve upon that user a written notice of violation. Within five days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the plant manager. Submission of this plan in no way relieves the

user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the plant manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (Ord. of 3-7-89, § 10.1; update)

Sec. 21-63. Show cause hearing.

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

Sec. 21-64. Issuance of order.

In the event of violation of this article, the plant manager or authorized employees may verbally instruct the owner as to the necessary corrective action. If the owner fails to carry out verbal instructions in a timely manner or if a serious violation or hazard to public health exists, the plant manager may issue to the owner a written order stating the nature of the violation, the corrective action, and the time limit for completing the corrective action. The record of the mailing of said notice or order shall be prima facie evidence thereof and failure of said owner or owners to receive same shall in no way affect the validity of any proceedings conducted pursuant to this article.

(a) *Consent orders.* The plant manager may enter into consent orders, assurances of voluntary compliance, compliance schedules, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to paragraphs (b) and (c) of this section and shall be judicially enforceable.

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

(c) *Cease and desist orders.* When the plant manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the plant manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. of 3-7-89, § 10.2; update)

Sec. 21-65. Failure to comply.

Failure to comply with any written order duly issued by the plant manager pursuant to this article will constitute a separate misdemeanor and upon conviction thereof shall be punishable as provided by the laws of the state. Compliance with this article is required notwithstanding the fact that a written order might not have been issued.

(Ord. of 3-7-89, § 10.3)

Sec. 21-66. Hearing authorized.

(a) Upon the receipt of a notice of a violation of this article and/or an order of the city requiring an act or thing to be done or to cease, the owner or owners of any premises then in question may, in writing, demand a hearing before the city to present the evidence challenging the validity of the city's order. The owner may appear in person, by agent, or by attorney. Such demand must be filed with the city clerk and be made within five days from the receipt of the order being challenged. Upon receipt of a demand for a hearing, the city will set a date, time, and place for such hearing to be not less than 21 days from the date of filing of such demand.

(b) The hearing provided for in this section shall apply to any customer's complaint, dispute, or challenge of the city's rules, regulations, resolutions, ordinances, or policies. Upon the customer's written complaint filed with the clerk, the city shall set a hearing as provided herein or at a time agreed upon by the parties.

(Ord. of 3-7-89, § 10.5)

Sec. 21-67. Consideration of evidence.

Evidence before the city of any hearing conducted pursuant to sections 21-63 or 21-66 or 21-70(d) shall be admitted in accordance with the rules of evidence of the superior courts of the state; provided, however, the city may take official notice of any order, rule, regulation, or any other document, record, or entry contained in its official record or minutes for evidentiary purposes.

(Ord. of 3-7-89, § 10.6)

Sec. 21-68. Effect of decision.

For the purposes of this article, the decisions of the city will prevail in any instance in which there is a conflict between it and the health officer on any issue of sanitation, or the lack of it, and its effect on human health or well being.
(Ord. of 3-7-89, § 10.7)

Sec. 21-69. Injunction of violations.

The violation of any provisions of this article may be enjoined by instituting appropriate proceedings for injunction in the courts of competent jurisdiction in this state. Any public nuisance which is injurious to the public health, safety, or comfort may be abated by instituting appropriate proceedings for injunction in the court of competent jurisdiction in this state. Such actions may be maintained notwithstanding the fact that such violation also constitutes a crime, and notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the city.
(Ord. of 3-7-89, § 10.4)

Sec. 21-70. Authority to disconnect service.

(a) *Termination on due cause.* The city reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when:

- (1) Acids or chemicals damaging to sewer lines or treatment process are released into the public sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater; or
- (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is discharging wastewater into the public sewer that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or
- (3) The customer:
 - a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority; or
 - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process; or
 - c. Fails to pay monthly bills for sanitary sewer services, surcharges, or fines, when due; or
 - d. Repeats a discharge of prohibited wastes into public sewers.

(b) *Notification.* The processes for discontinuance of service are presented in section 21-167.

(c) *Emergency suspensions.* The plant manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, or that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the plant manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The plant manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the plant manager that the period of endangerment has passed, unless the termination proceedings in paragraph (d) of this section are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the plant manager prior to the date of any show cause or termination hearing under sections 21.63 or 21.70(d) of this article.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this article.

(d) *Termination of discharge.*

In addition to the provisions in paragraph 21-159(f) of this article, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in section 21-151 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 21-63 of this article why the proposed action should not be taken. Exercise of this option by the plant manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. of 3-7-89, §§ 12.1, 12.2, 12.3; update)

Sec. 21-71. Administrative fines.

(a) When the plant manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the plant manager may fine such user in an amount not to exceed \$1000.00. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 2% of the unpaid balance, and interest shall accrue thereafter at a rate of 2% per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(c) Users desiring to dispute such fines must file a written request for the plant manager to reconsider the fine along with full payment of the fine amount within seven days of being notified of the fine. Where a request has merit, the plant manager may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The plant manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
(update)

Sec. 21-72. Judicial enforcement remedies.

(a) *Injunctive relief.* When the plant manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the plant manager may petition the superior court of Carroll or Douglas county through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The plant manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

(1) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The plant manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

- (1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six months, or both.
- (2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000.00, or be subject to imprisonment for not more than six months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six months, or both.
- (4) In the event of a second conviction, a user shall be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six months, or both.

(d) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The plant manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the plant manager may take other action against any user when the circumstances warrant. Further, the plant manager is empowered to take more than one enforcement action against any noncompliant user.
(update)

Sec. 21-73. Supplemental enforcement action.

(a) *Performance bonds.* The plant manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the plant manager to be necessary to achieve consistent compliance.

(b) *Liability insurance.* The plant manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(c) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) *Assessment of damages.* When a discharge of waste causes an obstruction, damage, or any other impairment to the facilities, or any expense of whatever character or nature to the city, the plant manager shall assess the expenses incurred by the city to clear the obstruction, repair damage to the facilities, and any other expenses or damages incurred by the city. The plant manager shall file a claim with the user, or any other person causing said damages, seeking reimbursement for any and all expenses or damages suffered by the city. If the claim is ignored or denied, the plant manager shall notify the city attorney to take such measures as shall be appropriate to recover any expense or other damages suffered by the city.

(e) *Public nuisances.* A violation of any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the plant manager. Any person(s) creating a public nuisance shall be subject to the provisions of the city code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

(f) *Informant rewards.* The plant manager may pay up to five hundred dollars (\$500.00) for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty levied against the user, the plant manager may disperse up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed five thousand dollars (\$5,000.00).

(g) *Contractor listing.* Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the plant manager.

(h) *Severability.* If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

Sec. 21-74. Publication of users in significant noncompliance.

The plant manager shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

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

Sec. 21-75. Malicious damage.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
(Ord. of 3-7-89, art. 7)

Sec. 21-76. Powers and authority of inspectors.

(a) *Right of entry-Inspection and sampling.* Duly authorized employees or agents of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, testing, and determining whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the plant manager ready access to all parts of the premises for the purposes of inspection, photographing, video recording, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the plant manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The plant manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

- (3) The plant manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semi-annually to ensure their accuracy. A calibration check shall be performed and recorded each time wastewater samples are taken. Calibration of all measuring devices shall be maintained to within $\pm 10\%$ of actual flow.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the plant manager and shall not be replaced. The costs of clearing such access shall be born by the user.
- (5) Unreasonable delays in allowing the plant manager access to the user's premises shall be a violation of this article.
- (6) While performing the necessary work on private properties referred to in this article, the authorized employees or agents of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the employees, and the city shall indemnify the company against loss or damage to its property by such employees or agents and against liability claims and demands for personal injury or property damage asserted against the company, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this article.

(b) *Same-Easements.* Duly authorized employees or agents of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within such easement. All entry and subsequent work, if any, on such easement, shall be done in full accordance with the terms of the fully negotiated easement pertaining to the private property involved.

(c) *Same-Search warrants.* If duly authorized employees or agents of the city have been refused access to a building, structure, or property, or any part thereof, and are able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the plant manager may seek issuance of a search warrant from any court of appropriate jurisdiction.
(Ord. of 3-7-89, art. 8; update)

Sec. 21-77. Use of public sewers required.

The following requirements are established for the use of public sewers:

- (1) All premises shall be provided, by the owner thereof, with at least one toilet. All toilets shall be kept clean and in sanitary working condition.
- (2) No person shall dispose of human excrement except in a toilet.

- (3) It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city, any wastewater or other polluted waters, including septic tank effluent or cesspool overflow to any open drain or well-penetrating, water-bearing formation, except where suitable treatment has been provided in accordance with subsequent provisions of this article.
 - (4) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
 - (5) The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes situated within the city's jurisdiction and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 30 days after date of official notice to do so, provided that such public sewer is within 100 feet of the property line and access is available.
 - (6) All sinks, dishwashing machines, lavatories, basins, showerbaths, bathtubs, laundry tubs, washing machines, and similar plumbing fixtures or appliances shall be connected to the public sewer; provided, that where no sewer is available, septic tanks or other private subsurface disposal facilities approved by the health officer may be used.
- (Ord. of 3-7-89, art. 3)

Sec. 21-78. Service Charges.

- (a) *Need.* It is necessary to fix and collect sewer service charges, pretreatment surcharges, and other related fees from customers. Such charges shall be published separate from this article and the revenue received shall be used for operation, maintenance, debt retirement, and other authorized expenses.
- (b) *Pretreatment charges and fees.* The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:
 - (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
 - (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
 - (3) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (4) Fees for filing appeals; and
 - (5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the city.

(c) *Establishment of limits for imposing surcharges.* All persons discharging industrial wastes into the public sewers shall be charged and assessed a surcharge, in addition to any sewer service charges, if these wastes have a concentration greater than the following:

CONSTITUENT	UNITS	CONCENTRATION
Ammonia nitrogen	mg/l	Over 25
Biochemical oxygen demand	mg/l	Over 250
Chemical oxygen demand	mg/l	Over 500
Oils, fats, greases and wax	mg/l	Over 100
Phosphorus	mg/l	Over 8.0
Total Suspended Solids	mg/l	Over 250

The amount of the surcharge, which is hereby charged and assessed against all persons discharging industrial wastewater into the public sewers, shall reflect the cost incurred by the city in handling the excess wastes. This surcharge shall include a proportionate share of charges for maintenance and operation of the water pollution control facilities including depreciation and other incidental expenses.

(d) *Formula determining surcharges.* When any or all of the constituents enumerated in subsection (c) exceed the concentration levels given, the city shall calculate surcharges based on the following formula:

$$\text{Amount of surcharge} = \text{combined cost factors} \times \text{effluent flow (mgd)}$$

The cost factor for each constituent shall be determined by multiplying the quantity of the constituent in excess of the surcharge limit by the average annual cost of removal of one pound of the constituent. The rates of surcharges for each of the aforementioned constituents shall be determined annually by the plant manager in order that the above factors may correctly represent current treatment costs. The industrial waste surcharge cost factors shall not be increased in any year by more than 20 percent of the charge for the preceding year without written approval of the council.

(e) *Rates and fees available.* All sewer service charges, surcharges, pretreatment fees, and any other related fees shall be available for review at city hall.
(Ord. of 3-7-89, § 11.2; update)

Secs. 21-79-21-100. Reserved.

DIVISION 2. PRIVATE WASTEWATER DISPOSAL

Sec. 21-101. When required.

Where a public sanitary sewer is not available under the provisions of section 21-77, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the state department of human resources.
(Ord. of 3-7-89, § 4.1; Ord. of 4-2-91, § 4.1)

Sec. 21-102. Discontinuance; connection to public sewer.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within 30 days after notice. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall then be cleaned of sludge and filled with suitable material.
(Ord. of 3-7-89, § 4.6; Ord. of 4-2-91, § 4.2)

Sec. 21-103. Maintenance.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
(Ord. of 3-7-89, § 4.7; Ord. of 4-2-91, § 4.3)

Sec. 21-104. Subsurface facilities restricted.

No subsurface disposal facilities shall be installed in any place where the health officer deems the use of such facilities to be a menace to human health or well being.
(Ord. of 3-7-89, § 4.8; Ord. of 4-2-91, § 4.4)

Sec. 21-105. Flush toilets required.

Every flush toilet shall be connected to a public sewer where available or to a septic tank. Flush toilets shall be provided at all times with sufficient running water under pressure to flush the toilet clean after each use.
(Ord. of 3-7-89, § 4.9; Ord. of 4-2-91, § 4.5)

Sec. 21-106. Privies prohibited.

No pit privy shall be allowed within the city.
(Ord. of 3-7-89, § 4.10; Ord. of 4-2-91, § 4.6)

Sec. 21-107. Discharge of septic tanks in sewer systems.

(a) *Restricted.* It shall be unlawful to empty, dump, throw or otherwise discharge, into any manhole, catch basin or other opening, into the city sewer system, or any system connected with and discharging into the sewer system, the contents of any septic tank, sludge, sewage, or other similar matter or material, except as provided in subsection (b) of this section.

(b) *Permits.* The plant manager is hereby authorized to grant permits to discharge the contents of septic tanks at locations specified by the city. Such permits may be revoked at any

time if, in the opinion of the plant manager, continued dumping of such matter into the sewers will be injurious to the sewer system or treatment process.

(c) *Charges.* A charge shall be made for the privilege of dumping the contents of septic tanks, as provided in separate rules. A record shall be kept of such dumpings and statements rendered at the first of each month. The amount of such statements shall be payable within ten days after rendition. Failure to pay the accounts due within such ten-day period shall be cause for revoking the permit.

(d) *Direct connection to sewers.* Upon application to and recommendation of the plant manager, the clarified effluent of a septic tank may be directly connected to the public sewer. Ownership, care, and maintenance shall continue to be the responsibility of the customer. No charge for dumping, as outlined in subsection (c) of this section shall be made provided the proper permit is completed for each instance in which dumping becomes necessary. The customer will be responsible for normal sewer service charges as outlined in section 21-78. (Ord. of 3-7-89, § 4.11; Ord. of 4-2-91, § 4.7)

Sec. 21-108. Alternative and experimental on-site sewage management systems.

(a) *General information.* The city recognizes that on-site sewage management systems employing solids retention and on-site soil absorption of sewage effluent, if designed properly and installed in suitable soil, are usually ecologically safe and do adequately protect the public health.

- (1) The city further recognizes that substantial portions of our jurisdiction's undeveloped land area are marginally suitable or totally unsuitable for conventional septic tank systems, and that continued installation of such systems will have a detrimental effect on the public health. Where appropriate, and after thorough assessment of alternatives, the city will consider alternative on-site sewage management systems and/or modifications for areas with soils which may have marginal suitability in their present condition, including community-managed on-site sewage management systems and combinations of public or community sewage treatment systems and on-site sewage management systems.
- (2) When considering proposals for alternative on-site sewage management systems, priority shall be given to those situations where the alternative system will resolve an existing sewage management problem. Any person or community desiring to install an alternative on-site sewage management system shall submit the following to the city:
 - a. Plans and specifications, along with any engineering, laboratory, or field data required.
 - b. Information as required on the application for an individual on-site sewage management system construction permit, and any additional information as may be required by the city. If the proposal for the system is approved, the person making application will be informed by the city of any requirements for maintenance, and any monitoring procedures deemed necessary by the city. Reduction of water usage by the installation of water conserving fixtures and devices should be considered in overall strategy.

(3) *Experimental on-site sewage management systems.* The city may consider proposals for the use of experimental on-site sewage management systems. Acceptance or denial of such proposals shall depend on many site and system specific-factors, including a primary consideration that the remainder of the site is suitable for a conventional septic tank system in the event of failure of the experimental system.
(Ord. of 3-7-89, § 4.12; Ord. of 4-2-91, § 4.8)

Sec. 21-109. Correction of non-functioning facility.

Any premise that has a septic tank, privy, or any other sewage, industrial waste, or liquid waste disposal system, located thereon that does not function in a sanitary manner shall be corrected within 30 days from the receipt of written notification from the city that such system is not functioning in a sanitary manner, and order that such system be corrected.
(Ord. of 3-7-89, § 4.12; Ord. of 4-2-91, § 4.9)

Sec. 21-110. Connection to public system prohibited.

Premises with private water systems shall not be connected with the public sewerage system.
(Ord. of 3-7-89, § 4.13; Ord. of 4-2-91, § 4.10)

Sec. 21-111. Additional requirements.

No statement contained in this division shall be construed to interfere with any additional requirements that may be imposed by the city.
(Ord. of 3-7-89, § 4.14; Ord. of 4-2-91, § 4.11)

Sec. 21-112-21-125. Reserved.

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

Sec. 21-126. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(Ord. of 3-7-89, § 5.1)

Sec. 21-127. Permit application.

The owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the city. A permit and inspection fee as specified elsewhere shall be paid at the time the application is filed.

(Ord. of 3-7-89, § 5.2)

Sec. 21-128. Liability for costs; indemnification of city.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer.

(Ord. of 3-7-89, § 5.3)

Sec. 21-129. Single connection required.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

(Ord. of 3-7-89, § 5.4)

Sec. 21-130. Use of old materials.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the public works director, to meet all requirements of this article.

(Ord. of 3-7-89, § 5.5)

Sec. 21-131. Specifications for construction.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in construction shall all conform to the requirements of the Standard Plumbing Code as written by Southern Building Code Congress International, Inc., or other applicable rules and regulations of the state, Carroll County and the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply.

(Ord. of 3-7-89, § 5.6; Ord. of 4-2-91)

Sec. 21-132. Point of connection.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. 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.
(Ord. of 3-7-89, § 5.7)

Sec. 21-133. Surface runoff restricted.

No person shall make connection of roof down-spouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to a public sanitary sewer unless such connection is approved for purposes of disposal of polluted surface drainage.
(Ord. of 3-7-89, § 5.8)

Sec. 21-134. Inspections.

The applicant for the building sewer permit shall notify the public works director when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the public works director or his representative.
(Ord. of 3-7-89, § 5.9)

Sec. 21-135. Excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
(Ord. of 3-7-89, § 5.10)

Sec. 21-136. Determination of availability, costs.

The city will define the availability of sewers and any costs associated with sewer permits or construction.
(Ord. of 3-7-89, § 5.11)

Sec. 21-137. Specifications for connections.

The connection of the building sewer into the public sewer shall conform to the requirements of the Standard Plumbing Code as written by Southern Building Code Congress International, Inc., or other applicable rules and regulations of the state, Carroll County and the city or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the public works director before installation.
(Ord. of 3-7-89, § 5.12; Ord. of 4-2-91)

Sec. 21-138. Infiltration, inflow from building drain, sewer.

If any building drain and/or building sewer permits the entrance of infiltration or inflow, the city may:

- (1) Require the owner to repair the building drain and/or building sewer.
- (2) Charge the owner a sewer rate that reflects the costs of the additional expense of sewage treatment from the owner's property.
- (3) Require the owner to disconnect his sewer from the city sewer system.
(Ord. of 3-7-89, § 5.13; Ord. of 4-2-91)

Sec. 21-139 - 21-150. Reserved.

DIVISION 4. USE RESTRICTIONS AND REGULATIONS

Sec. 21-151. General sewer use requirements.

- (a) *Prohibited discharge standards.*
- (1) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (2) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21. Examples of prohibited wastes include but, are not limited to, gasoline, benzene, naphtha, fuel oil, or flammable or explosive liquid, solid, or gas;
 - b. Any waters or wastes having a pH lower than 6.0 or greater than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the POTW;
 - c. 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 wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders;
 - d. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - e. Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant and/or lift station to exceed 104°F (40°C);
 - f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - g. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, result in the presence of toxic gases, vapors, or fumes, or create any hazard in the receiving waters of the wastewater treatment plant.

- h. Trucked or hauled pollutants, except at discharge points designated by the plant manager in accordance with paragraph 21-162(e) of this article;
- i. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- j. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- l. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the plant manager;
- m. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- n. Medical wastes, except as specifically authorized by the plant manager in a wastewater discharge permit;
- o. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- p. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- q. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l; or
- r. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5% or any single reading over 10% of the lower explosive limit of the meter.

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

(b) *National categorical pretreatment standards.* The categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471 are hereby incorporated.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the plant manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the plant manager shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (c) *Reserved.*
- (d) *Local limits.* The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

31.0 mg/l ammonia nitrogen

0.23 mg/l arsenic

32 mg/l barium

455 mg/l BOD₅

0.008 mg/l cadmium

0.540 mg/l chromium

455 mg/l COD

0.05 mg/l copper

0.082 mg/l cyanide

0.025 mg/l lead

0.0021 mg/l mercury

0.33 mg/l nickel

250 mg/l oil and grease

8.7 mg/l phosphorus

0.008 mg/l selenium

0.58 mg/l silver

8.9 mg/l total phenols

579 mg/l total suspended solids

0.21 mg/l zinc

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

(e) *City's right of revision.* The city reserves the right to establish, by article or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(f) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The plant manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. of 3-7-89, § 6.3, 6.12)(update)

Sec. 21-152. Restricted discharges–Unpolluted waters.

No person shall discharge or cause to be discharged any unpolluted waters such as cooling water, or unpolluted industrial process waters to any sanitary sewer without the written consent of the city.

(update)

Sec. 21-153. Prohibited discharges–Sanitary wastewaters.

No person shall discharge or cause to be discharged any sanitary wastewater into a storm sewer system.

(Ord. of 3-7-89, § 6.2)

Sec. 21-154. Limited discharges.

The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the city are as follows:

- (1) Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
- (2) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

- (3) All industrial discharges to the city sewer system must comply with the federal industrial pretreatment standards (40 CFR 403) and those industrial pretreatment standards developed by the state environmental protection division.
 - (4) Any waters or wastes containing taste- or odor-producing substances exceeding limits which may be established by the city.
 - (5) Quantities of flow, concentrations, or both which constitute a slug.
 - (6) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (Ord. of 3-7-89, § 6.4)

Sec. 21-155. Control of hazardous wastes.

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 above and which in the judgement of the city, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes,
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers,
 - (3) Require control over the quantities and rates of discharge, and/or
 - (4) Require surcharge payment to cover added cost of handling and treating the wastes.
- (Ord. of 3-7-89, § 6.5)

Sec. 21-156. Control structure.

(a) When required by the city the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable 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 accessible and safely located and shall be constructed in accordance with approved plans. As a minimum, the structure shall be weathertight, and include a permanent access ladder, explosion proof lighting and ventilation blowers, two 20 ampere ground fault interrupter circuit 110 volt outlets, and any other suitable appurtenances as required. The structure shall include an open channel measuring flume or weir, whichever is most appropriate for waste flow and content characteristics. The metering device shall have a permanent built-in bubble tube for flow measurement. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe, accessible, and fully operational at all times. This requirement will be on a case-by-case basis.

(b) In the event that no special manhole is required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(Ord. of 3-7-89, § 6.7, 6.14)

Sec. 21-157. Required information regarding discharges.

The industrial users may be required to provide information needed to determine compliance with this article. These requirements may include:

- (1) Wastewater discharge peak rate and volume over a specified time period;
- (2) Chemical analyses of wastewaters;
- (3) Information on raw materials, processes, and products affecting wastewater volume and quality;
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;
- (5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
- (6) Details of wastewater pretreatment facilities; and
- (7) Details of systems to prevent and control the losses of materials through spills to the public sewer.

(Ord. of 3-7-89, § 6.8)

Sec. 21-158. Wastewater discharge permit application.

(a) *Wastewater analysis.* When requested by the plant manager, a user must submit information on the nature and characteristics of its wastewater within seven days of the request. The plant manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

(b) *Wastewater discharge permitting-Required.*

- (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the plant manager, except that a significant industrial user that has filed a timely application pursuant to paragraph (c) of this section may continue to discharge for the time period specified therein.
- (2) The plant manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in division I. of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(c) *Same-Existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within 30 days after said date, apply to

the plant manager for a wastewater discharge permit in accordance with paragraph (e) of this section, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this article except in accordance with a wastewater discharge permit issued by the plant manager.

(d) *Same–New connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with paragraph (e) of this section, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

(e) *Same–Application contents.* All users required to obtain a wastewater discharge permit must submit a permit application. The plant manager may require all users to submit as part of an application the following information:

- (1) All information required by section 21-163(a)(2) of this article;
- (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes, and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (7) Time and duration of discharges; and
- (8) Any other information as may be deemed necessary by the plant manager to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(f) *Wastewater discharge permit decisions.* The plant manager will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the plant manager will determine whether or not to issue a wastewater discharge permit. The plant manager may deny any application for a wastewater discharge permit.
(update)

Sec. 21-159. Wastewater discharge permit issuance process.

(a) *Wastewater discharge permit duration.* A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater

discharge permit may be issued for a period less than five years, at the discretion of the plant manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

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

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
- b. A statement that the wastewater discharge permit is nontransferable;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- h. Other conditions as deemed appropriate by the plant manager to ensure compliance with this article, and state and federal laws, rules, and regulations.

(c) *Wastewater discharge permit appeals.* The plant manager shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the plant manager to reconsider the terms of a wastewater discharge permit within 14 days of notice of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the plant manager fails to act within 14 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the superior court for Carroll or Douglas county within the time permitted by law.

(d) *Wastewater discharge permit modification.* The plant manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.
- (e) *Wastewater discharge permit transfer.* Wastewater discharge permits may not be transferred to a new owner.
- (f) *Wastewater discharge permit revocation.* The plant manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) Failure to notify the plant manager of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the plant manager of changed conditions pursuant to paragraph 21-163(e) of this article;
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (4) Falsifying self-monitoring reports;
 - (5) Tampering with monitoring equipment;
 - (6) Refusing to allow the plant manager timely access to the facility premises and records;
 - (7) Failure to meet effluent limitations;
 - (8) Failure to employ or retain the services of a certified wastewater operator or a certified industrial wastewater operator;
 - (9) Failure to pay fines or surcharges;
 - (10) Failure to pay sewer charges;
 - (11) Failure to meet compliance schedules;
 - (12) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (13) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - (14) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(g) *Wastewater discharge permit reissuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with paragraph 21-158(e) of this article, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

(h) *Regulation of waste received from other jurisdictions.*

(1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the plant manager shall enter into an inter-municipal agreement with the contributing municipality.

(2) Prior to entering into an agreement required by paragraph 1, above, the plant manager shall request the following information from the contributing municipality:

- a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- b. An inventory of all users located within the contributing municipality that are discharging to the POTW;
- c. A copy of the municipalities pretreatment program as approved by the state; and
- d. Such other information as the plant manager may deem necessary.

(3) An inter-municipal agreement, as required by paragraph (1), above, shall contain the following conditions:

- a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in paragraph 21-151(d) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;
- b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the plant manager; and which of these activities will be conducted jointly by the contributing municipality and the plant manager;
- d. A requirement for the contributing municipality to provide the plant manager with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- f. Requirements for monitoring the contributing municipality's discharge;

- g. A provision ensuring the plant manager access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the plant manager; and
- h. A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

(update)

Sec. 21-160. General permits.

The plant manager may issue a general permit on a case by case basis to any industrial or commercial user. Processes which are subject to a general permit include, but are not limited to, interceptors (such as sand or grease traps), silver reclamation (such as in photo processing), and mercury recovery (such as in hospitals and dental offices).

(update)

Sec. 21-161. Special agreements, arrangements.

No statement contained in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment.

(Ord. of 3-7-89, § 6.9)

Sec. 21-162. Pretreatment of wastes.

(a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in paragraph 21-151(a) of this article within the time limitations specified by EPA, the state, or the plant manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities, operating procedures, and maintenance plans shall be submitted to the plant manager for review, and shall be acceptable to the plant manager before such facilities are constructed. The review of such plans, operating procedures, and maintenance plans shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this article. The facilities shall be allowed to operate only as long as they are maintained in accordance with the approved maintenance plans.

(b) *Additional pretreatment measures.*

- (1) Whenever deemed necessary, the plant manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.
- (2) The plant manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control

facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, sand, or other harmful ingredients; except that such interceptors shall not normally be required for residential users. All interception units shall be of type and capacity approved by the city and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the city. At minimum, interceptors shall be maintained at least once every 90 days or more often if needed or if required by the plant manager. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms. The user shall be responsible for maintaining records detailing the dates of service, quantity of waste removed, end disposal site of waste, and hauler.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (5) All pretreatment facilities shall be operated and maintained continuously in satisfactory and effective operation by the owner at his expense. O&M records shall be made available to the plant manager immediately upon request.

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

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the plant manager of any accidental or slug discharge, as required by paragraph 21-163(f) of this article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(d) *Reuse and disposal.* Users shall provide for the proper reuse and/or disposal of all wastes, sludges, and other by-products of pretreatment in accordance with state and federal regulations. A chain-of-custody shall be used to track by-products to their ultimate point of disposal or reuse.

(e) *Hauled wastewater.*

- (1) Septic tank waste may be introduced into the POTW only at locations designated by the plant manager, and at such times as are established by the plant manager. Such waste shall not violate section 21-151 of this article or any other requirements established by the city. The plant manager may require septic tank waste haulers to obtain wastewater discharge permits.
 - (2) The plant manager shall require haulers of industrial waste to obtain wastewater discharge permits. The plant manager may require generators of hauled industrial waste to obtain wastewater discharge permits. The plant manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
 - (3) Industrial waste haulers may discharge loads only at locations designated by the plant manager. No load may be discharged without prior consent of the plant manager. The plant manager may collect samples of each hauled load to ensure compliance with applicable standards. The plant manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
 - (4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (Ord. of 3-7-89, § 6.6, 6.11; update)

Sec. 21-163. Reporting requirements.

- (a) *Baseline monitoring reports.*
 - (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the plant manager a report which contains the information listed in paragraph 2, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the plant manager a report which contains the information listed in paragraph (2)a.-e., below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
 - (2) Users described above shall submit the information set forth below:
 - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out

by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

- d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- e. *Measurement of pollutants.*
 - i. The categorical pretreatment standards applicable to each regulated process.
 - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the plant manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in paragraph (j) of this section.
 - iii. Sampling must be performed in accordance with procedures set out in paragraph (k) of this section.
- f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in paragraph (b) of this section.
- h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 21-165 of this article.

(b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by paragraph (a)(2)g. of this section:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine months;

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

(c) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the plant manager a report containing the information described in paragraph (a)(2)d.-f. of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 21-165 of this article.

(d) *Periodic compliance reports.*

- (1) All significant industrial users shall, at a frequency determined by the plant manager but in no case less than twice per year (in February and August unless otherwise specified), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 21-165 of this article.
- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the plant manager, using the procedures prescribed in section paragraph (j) of this section, the results of this monitoring shall be included in the report.

(e) *Reports of changed conditions.* Each user must notify the plant manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

- (1) The plant manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under paragraph 21-158(e) of this article.

- (2) The plant manager may issue a wastewater discharge permit under paragraph 21-158(f) of this article or modify an existing wastewater discharge permit under paragraph 21-159(d) of this article in response to changed conditions or anticipated changed conditions.
 - (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutants.
- (f) *Reports of potential problems.*
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the plant manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
 - (2) Within five days following such discharge, the user shall, unless waived by the plant manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.
 - (3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph 1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (g) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the plant manager as the plant manager may require.
- (h) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the plant manager immediately upon becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the plant manager within 30 days after becoming aware of the violation. The plant manager may waive this requirement at his discretion.
- (i) *Notification of the discharge of hazardous waste.*
- (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste

stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under paragraph (e) of this section. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of paragraphs (a), (c), and (d) of this section.

- (2) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the plant manager, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.
- (6) The discharge of hazardous waste to the POTW is prohibited without prior written consent from the plant manager.

(j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(k) *Sample collection.*

- (1) Except as indicated in section (2), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the plant manager may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

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

(m) *Record keeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. In addition, a chain-of-custody will be used to track each sample from the time it is sampled until testing is complete and the sample is disposed of. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the plant manager. All forms used for record keeping shall be subject to the approval of the plant manager.

(update)

Sec. 21-164. Confidential information.

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

Sec. 21-165. Signatories and certification.

Wastewater discharge permit applications, user reports, and all other documents submitted by the user must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for

gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(update)

Sec. 21-166. Waiver of requirements.

There shall be no provision for the granting of variances for discharge of incompatible wastes. If a user begins to violate any of the provisions of this division, it shall be his responsibility to apply to the plant manager who can issue a temporary permit along with a compliance schedule for planning and construction of necessary treatment or pretreatment works. Each case will be carefully evaluated with respect to its effect on the wastewater treatment system and the environment prior to issuance of a temporary permit and compliance schedule.

(Ord. of 3-7-89, § 6.12)

Sec. 21-167. Discontinuance of service for failure to comply.

Failure to comply with the provisions of this division shall be cause for the discontinuance of sewer or water service to the offending person. The procedure shall be as follows: A written notice, signed by the plant manager, shall be delivered personally to the person then responsible for the offending use, outlining the conditions of the wastes which violate the city ordinances. In the event that the person in charge will not accept the notice, it shall be conveyed by registered mail to the responsible person. The person notified shall have 24 hours from the time of receipt of the notice, either personally delivered or received by registered mail, to correct the offending conditions. If correction is not made or a request for extension is not received by the city within 24 hours, it shall be mandatory that water or sewer service shall be discontinued to the offending person without further notice. If a request for an extension of time is received by the city, within 24 hours of the above notice and if circumstances are such that, in the opinion of the plant manager, the best interest of the city would be served by extending the time for correction of the offending condition, then he may grant an extension of time up to a maximum limit of 30 days.

(Ord. of 3-7-89, § 6.13)

Sec. 21-168. Unpolluted waters.

In the event that a customer is found to be diluting or equalizing wastewater with unpolluted waters, the city shall have the right, in the first such instance of violation, to double all service charges and surcharges for the month in which such violation is found to have occurred. In the event of subsequent instances of such violations, the city shall have the right to discontinue service in accordance with the procedure as set forth in section 21-167.

(Ord. of 3-7-89, § 6.15)

Sec. 21-169. Upset.

(a) For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user contacts the plant manager immediately upon becoming aware of the upset and provides the following:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) The user shall submit the information required in paragraphs (c)(3)a.-c. to the plant manager in writing within five days.

(e) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(f) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

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

Sec. 21-170. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in paragraph 21-151(a)(1) of this article or the specific prohibitions in sections paragraphs 21-151(a)(2)c.-g. and paragraphs 21-151(a)(2)i.-r. of this article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
(update)

Sec. 21-171. Bypass.

All industrial customers shall provide facilities and institute procedures as are reasonably necessary to prevent or minimize the potential for planned or accidental discharge (bypass) to the sewage treatment plant from liquid or raw material storage areas, from truck and rail car loading and unloading areas, in-plant transfer or processing and material handling areas, and diked areas or holding ponds.

(a) For the purposes of this section,

- (1) "Bypass" means the intentional diversion of waste streams, whether planned or accidental, from any portion of a user's treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) *Bypass allowed.* A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) *Advance knowledge of bypass.*

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Plant Manager, at least ten days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the plant manager of an unanticipated bypass that exceeds applicable pretreatment standards immediately upon becoming aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The plant manager may waive the written report on a case-by-case basis if the oral report has been received.

(d) *Bypass prohibited.*

- (1) Bypass is prohibited, and the plant manager may take an enforcement action against a user for a bypass, unless

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The user submitted notices as required under paragraph (c) of this section.
- (2) The plant manager may approve an anticipated bypass, after considering its adverse effects, if the plant manager determines that it will meet the three conditions listed in paragraph (d)(1) of this section.
- (update)

Sec. 21-172. Effective date.

This article shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

