

# CHAPTER 7 INDUSTRIAL WASTEWATER PRETREATMENT

## SEC. 13-701. DEFINITIONS.

UNLESS THE CONTEXT SPECIFICALLY INDICATES OTHERWISE, THE MEANINGS OF THE TERMS USED IN THIS CHAPTER SHALL BE AS FOLLOWS:

- 1) *Abnormal wastes* shall mean any waste having a suspended solids, BOD, or EPA Method 1664A n-Hexane extraction materials content or any other parameter in excess of that normally found in municipal sewage and having any wastes containing materials in concentrations that are incompatible with the wastewater system. Any waste that contains more than three hundred twenty-five (325) mg/l of suspended solids or has a BOD in excess of three hundred (300) mg/l or n-Hexane extraction materials content in excess of one hundred (100) mg/l shall be considered an abnormal industrial waste. Further, wastes containing toxic or poisonous substances in concentrations greater than those permitted by EPA rules and regulations shall be considered abnormal industrial wastes.
- 2) *Act* shall mean the Water Pollution Control Act Amendments of 1972 as amended, Public Law 92-500.
- 3) *Best management practices (BMPs)* shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 13-702. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- 4) *Biochemical oxygen demand (BOD)* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter, or mg/l).
- 5) *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 the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- 6) *Building sewer* shall mean the extension of the building drain to the public sewer or other place of disposal.
- 7) *Categorical standards* shall mean national pretreatment standards.
- 8) *Combined sewer* shall mean a sewer receiving both surface runoff and sewage.

- 9) *Compatible pollutant* shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permits for its wastewater treatment plants where the plants have been designed and used to reduce or remove such pollutants.
- 10) *Cooling water* shall mean the water discharged from any use such as air conditioning, cooling, or refrigeration, during which the only pollutant added to the water is heat.
- 11) *City* shall mean the City of Clarksville, Tennessee, the mayor, the city engineer, the general manager, the wastewater division manager, the pretreatment coordinator, the wastewater treatment plant superintendent, the wastewater collection system supervisor, the sewer lift station supervisor or their duly authorized representatives.
- 12) *Wastewater division manger* shall mean the manager of the sewage works of the city, or his authorized deputy, agent, or representative.
- 13) *Domestic wastes* shall mean liquid wastes:
  - a) From the noncommercial preparation, cooking, and handling of food or
  - b) Containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.
- 14) *EPA* shall mean the Environmental Protection Agency, an agency of the federal government, or its successor agency or body.
- 15) *Equivalent flow* shall mean the hydraulic flow adjusted to reflect the excessive waste loading of an industrial discharge; the highest concentration of any one (1) waste parameter shall determine the equivalent flow.
- 16) *Extraneous flow* shall mean any storm water, water runoff resulting from natural precipitation, drainage, or any other water the wastewater system is not designed to handle or accept.
- 17) *Garbage* shall mean solid wastes form the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- 18) *Grab sample* shall mean a sample which is taken from the waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- 19) *Hearing authority* shall mean the quasijudicial body that has the authority to adjudicate this chapter.
- 20) *Incompatible pollutant* shall mean any pollutant that is not a compatible pollutant as defined in this section.
- 21) *Industrial user* shall mean a source of indirect discharge which does not constitute a "discharge of pollutants" under regulation issued pursuant to section 402 of the Act.
- 22) *Industrial wastes* shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- 23) *Interference* shall mean a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or

operations or its sludge processes; or exceeds the design capacity of the treatment works or the collection system.

- 24) *Major user* shall mean any industrial user of the city's wastewater system whose nondomestic flow or loading is greater than an equivalent flow of twenty-five thousand (25,000) gallons per day (gpd) but less than ten (10) percent of the average daily flow for which the system was designed.
- 25) *Minor user* shall mean any user whose flow or loading is equivalent to twenty-five thousand (25,000) gpd or less.
- 26) *National pollutant discharge elimination system (NPDES)* shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone and the oceans pursuant to section 402 of the Act.
- 27) *National pollution discharge elimination system permit or NPDES permit* shall mean a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).
- 28) *Natural outlet* shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.
- 29) *Parameter* shall mean a specified characteristic of the wastewater relevant to its treatability (BOD, suspended solids, grease, etc.).
- 30) *Person* shall mean any individual, firm, company, partnership, corporation, association, group, or society and includes the state and agencies, districts, commissions and political subdivisions created by or pursuant to state law.
- 31) *pH* shall mean the logarithm of the reciprocal of the mass of hydrogen ions in moles per liter of solution.
- 32) *Pretreatment* shall mean the application of physical, chemical, and/or biological processes to reduce the amount of pollutant properties in a wastewater prior to discharging such wastewater into the publicly owned wastewater treatment system.
- 33) *Pretreatment standards* shall mean all applicable federal rules and regulations implementing section 307 of the Act, as well as any non-conflicting state or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.
- 34) *Properly shredded garbage* shall mean the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ( 1/2) inch (1.27 centimeters) in any dimension.
- 35) *Public sewer* shall mean a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.
- 36) *Publicly owned treatment works (POTW)* shall mean the wastewater treatment facility owned and operated by the city.
- 37) *Sanitary sewer* shall mean a sewer which carries wastewater and to which storm, surface, and ground waters are not intentionally admitted.

- 38) *Sewer* shall mean a pipe or conduit for carrying wastewater.
- 39) *Shall* is mandatory; may is permissive.
- 40) *SIC* shall designate standard industrial classification, a system developed by the office of management and budget, executive branch, U.S. Government, to promote the comparability of statistics describing industrial users. The SIC defines establishments in accordance with the type of activity in which they are engaged.
- 41) *Significant user* means all industrial users subject to categorical pretreatment standards, and any other industrial user that: Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the publicly owned treatment works (POTW) (excluding sanitary, noncontact cooling and boiler blow-down wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or 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. Upon finding that an industrial user meeting these criteria 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 an industrial user, determine that such industrial user is not a significant industrial user.
- 42) *Slug load* or *slug discharge* shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 13-702. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's regulations, local limits, or permit conditions
- 43) *Standard methods* shall mean "Standard Methods for the Examination of Water and Wastewater" published jointly by the Water Pollution Control Federation, the American Water Works Association, and the American Public Health Association.
- 44) *Storm drain* (sometimes termed *storm sewer* ) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.
- 45) *Storm water* shall mean any extraneous flow resulting from natural precipitation.
- 46) *Suspended solids* shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- 47) *Toxic pollutant* shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.
- 48) *Twenty-four-hour flow proportional composite sample* shall mean a sample consisting of several effluent portions collected during a 24-hour period in which the portions of sample are proportioned to the flow and combined to form a representative sample.

- 49) *Unpolluted water* shall mean water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of known receiving water quality standards.
- 50) *User* shall mean any person who discharges wastewater into the city's wastewater system or who causes or permits wastewater to be discharged.
- 51) *Wastewater* or *sewage* shall mean a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments.
- 52) *Wastewater system* shall mean all separate sanitary sewers, all combined sewers, all wastewater pumping stations, all wastewater treatment plants, and all other facilities provided and owned by the city for the collection and treatment of sanitary sewage and industrial waste, together with their appurtenances and any additions, expansions, or improvements that hereafter may be made thereto by the city. It shall also include all sewers that discharge into the public sanitary sewerage system, even though those sewers may not have been constructed with funds of the city. It does not include separate storm sewers, culverts, or other drains that have been constructed for the sole purpose of carrying storm and surface runoff, the discharge from which is not and does not become tributary to the wastewater treatment facilities.
- 53) *Wastewater treatment plant* shall mean any arrangement of devices and structures used for treating wastewater.
- 54) *Wastewater works* shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
- 55) *Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Terms not otherwise defined herein, if questioned shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater.

**( ORD. NO. 88-2007-08, 4-7-08 )**

## SEC. 13-702. PROHIBITIONS AND LIMITATIONS OF WASTEWATER DISCHARGES.

- 1) *Deleterious wastes enumerated.* No deleterious industrial wastes shall be discharged to the city's wastewater system. An industrial waste shall be considered deleterious to the wastewater system if it may cause any of the following effects:
  - a) Violations of pretreatment standards as adopted by the city.
  - b) Violations by the treatment plant of its discharge permit or applicable receiving water standards, applicable air pollution permits, or solid waste permits.
  - c) Chemical reaction either directly or indirectly with the material of construction of the wastewater system in such a manner as to impair the strength or durability of the sewer structure.
  - d) Mechanical action that will destroy the sewer structure.
  - e) Restriction of the hydraulic capacity of the sewer structure.
  - f) Restriction of the normal inspection or maintenance of the sewer structure.
  - g) Danger to public health and safety.
  - h) Obnoxious conditions inimical to public interest.
- 2) *Prohibited discharges.* No persons shall discharge or cause or allow to be discharged or deposited into the city's wastewater system any wastewater that contains the following:
  - a) *Petroleum-based oils and greases.*
    - i) Oil grease, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will violate federal pretreatment standards, cause interference to the wastewater treatment plant process, or pass through the process untreated.
    - ii) Wastewater from industrial facilities containing floatable fats, wax, grease, or oils.
  - b) *Explosive mixtures.* Liquids, solids, or gases that by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater system or its operation. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the city's wastewater system be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromides, carbides, hydrides, and sulfides.
  - c) *Noxious material.* Noxious or malodorous solids, liquids, or gases that either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life or that are or may be of sufficient concentration to prevent entry into a sewer for its maintenance and repair.

- d) *Improperly shredded garbage.* Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half-inch in any dimension.
- e) *Radioactive wastes.* Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use or that may cause damage or hazards to the wastewater system or operating personnel.
- f) *Solid or viscous wastes.* Solid or viscous wastes that will or may cause obstruction to the flow in a sewer or otherwise interfere with the proper operation of the wastewater system. Prohibited materials include, but are not limited to, greases, uncomminuted garbage, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances, or other substances with a specific gravity in excess of two and sixty-five hundredths (2.65).
- g) *Excessive discharge rate.* Wastewaters at a flow rate or containing such concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration, quantities, or flow during normal operation that would cause a treatment process upset and subsequent loss of treatment efficiency.
- h) *Toxic substances.* Any toxic substances that would cause the concentration of the wastewater at the influent structure of the treatment facility to exceed the limits in table 1. The city shall monitor the treatment works influent for each parameter in the following tables. Each industrial user shall be responsible for monitoring and reporting these requirements. In the event that the influent at the treatment works reaches or exceeds the levels established by the table, the city shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city such remedial measures as are necessary, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The city shall also recommend changes to any of these criteria in the event the publicly owned treatment works' effluent standards are changed, that there are changes in any applicable law or regulation affecting them, or in the event changes are needed for more effective operation of the publicly owned treatment works. The intent of these limitations is to prevent:
  - i) Interference with the operation of the treatment works;
  - ii) Pass through of pollutants in violation of the publicly owned treatment works' NPDES permit limitations; and
  - iii) Municipal sludge contamination.

TABLE I. PROTECTION CRITERIA  
 INCOMPATIBLE POLLUTANT INFLUENT LIMITATIONS FOR THE CLARKSVILLE WASTEWATER  
 TREATMENT PLANT

Pollutant	Maximum Daily Average Concentration (mg/l)
Arsenic	0.10
Cadmium	0.01
Chromium (total)	0.34
Copper	1.0
Cyanide	0.05
1, 2 and 1, 4 dichlorobenzene	1.6
Iron	10.0
Lead	0.1
Mercury	0.007
Nickel	0.26
Silver	0.94
Tetrachloroethylene	0.1
Toluene	1.0
Zinc	0.29

TABLE II. PROTECTION CRITERIA  
 COMPATIBLE POLLUTANT INFLUENT LIMITATIONS FOR THE CLARKSVILLE WASTEWATER  
 TREATMENT PLANT

Pollutant	Maximum Daily Average Concentration (mg/l)	Maximum Instantaneous Concentration (mg/l)
5-day BOD	245	270
TSS	238	270



Modification of federal categorical pretreatment standards. Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" (as defined hereinafter) shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent that is achieved by the system when ninety-five (95) percent of the samples taken measured according to the procedures set forth in section 403.7(c)(2) of title 40 of the Code of Federal Regulations, part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, part 403, section 403.7 are fulfilled and prior approval from the approval authority is obtained.

- i) *Unpolluted waters and extraneous flow.* Any unpolluted water of extraneous flow, including, but not limited to, water from cooling systems or of storm water origin that will increase the hydraulic load on the wastewater treatment system.
  - ii) *Discolored material.* Wastes with objectionable color or that cause excessive discoloration (such as, but not limited to, dye wastes, vegetables, and tanning solutions).
  - iii) *Corrosive wastes.* Any waste that will cause corrosion or deterioration of the wastewater system. All wastes discharged to the city's wastewater system must have a pH value in the range of six (6) to nine (9) standard units. Prohibited materials include, but are not limited to, acids, bases, sulfides, concentrated chloride and fluoride compounds, and substances that react with water to form acid or basic products.
  - iv) *Thermal pollution.* Any wastewater that has a temperature equal to or greater than one hundred fifty (150) degrees Fahrenheit or equal to or less than thirty-two (32) degrees Fahrenheit that will cause the temperature of the receiving wastewater at the plant to exceed one hundred four (104) degrees Fahrenheit.
  - v) *Trucked or hauled pollutants.* Any trucked or hauled pollutants, except at discharge points designated and approved by the city.
- 3) *Limitations on wastewater discharges.* The normal upper limits on compatible pollutants are three hundred (300) mg/l for biochemical oxygen demand, three hundred twenty-five (325) mg/l for suspended solids, and one hundred (100) mg/l for oils and greases. Customers discharging wastewater containing compatible pollutants within the range of concentrations listed below may be allowed to discharge and be charged a surcharge in accordance with section 13-509:
- a) Biochemical oxygen demand (BOD) within three hundred (300) mg/l to one thousand (1,000) mg/l.
  - b) Suspended solids within three hundred twenty-five (325) mg/l to eight hundred (800) mg/l.

- c) Animal and/or vegetable oils and greases within one hundred (100) mg/l to three hundred (300) mg/l. Customers discharging wastewater containing compatible pollutants greater than the upper limit concentrations listed in this section may be issued a violation of their wastewater permit in addition to the surcharge.
- 4) *Septic tank and other disposal system discharges.* No person, firm, association, or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreted disposal system into the publicly owned treatment works unless the person, firm, association, or corporation obtains a permit from the city to perform such acts or service. Any person, firm, association, or corporation desiring a permit to perform such services shall complete and file with the city an application on the form prescribed by the city. Upon any such application, the city shall issue the permit when the conditions of this section have been met, providing the city is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. The waste hauler permit shall be conditional upon payment of annual user charges and dumping charges as established by the gas, water, and sewer committee. The city shall designate approved locations for the emptying and cleansing of all equipment used on the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association, or corporation to empty or clean such equipment at any place other than a place so designated. No person, firm, association, or corporation rendering services under the permit herein provided for shall discharge any incompatible pollutant.

**( ORD. NO. 88-2007-08, 4-7-08 )**

**SEC. 13-703. PRETREATMENT CONTROL OF  
PROHIBITED WASTES.**

- 1) *Regulatory actions.* If wastewaters containing any substances described in section 13-702 are discharged or proposed to be discharged into the city's wastewater system, the city may take any action necessary to:
  - a) Prohibit the discharge of such wastewater.
  - b) Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances to comply with this chapter.
  - c) Require the pretreatment necessary, including storage facilities or flow equalization, to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations.
  - d) Recover costs for maintenance of flow in the wastewater system. Recover in full costs incurred to maintain flow in the wastewater system as a result of the discharge, including the following costs:
    - i) Personnel costs.
    - ii) Equipment rental.
    - iii) Supplies used.
    - iv) Overhead.
    - v) Taxes.
    - vi) Debt service or capital costs.

In regard to extraneous flow, the method of charging therefore shall be in accordance with the charges and fees in effect at that time of billing.

In addition, parties found to be responsible for damages to the wastewater system caused by abnormal or deleterious wastes shall be liable to the city and/or any third parties for claims for personal injury and/or property damages caused by such abnormal and/or deleterious wastes.

**The city shall also have the authority to:**

- e) Make special agreement or arrangements to treat high strength wastes provided unit operations, sludge handling or disposal, and pass-through pollutant standards are not exceeded, thereby violating the NPDES permit. In order for any exemption or grant to be approved, the requesting industry must demonstrate good management practices including, but not limited to, preventing or reducing the contribution of pollutants to the sewer system, preventative operating and maintenance procedures, scheduling of

activities, process changes, prohibiting of activities, and other management practices to reduce the quantity and quality of effluent discharge and drainage.

- f) Take other remedial action as may be deemed necessary or desirable to achieve the purpose of this chapter.
  - g) Require grease, oil, and sand interceptors when, in the opinion of the city engineer or his representative, they are necessary for the proper handling of liquid waste containing grease in excessive amounts of any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity and must be approved by the city engineer or his representative prior to installation and shall be located as to be readily and easily accessible for cleaning and inspection.
  - h) Require the owner of any property serviced by a building sewer carrying industrial wastes to install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- 2) *Submission of plans.* When pretreatment or equalization of wastewater flows prior to discharge into any part of the city's wastewater system is required by the city, plans, specifications, and other pertinent data or information related to the pretreatment or flow control facilities shall first be submitted to the city for written approval. The approval shall not exempt the discharger of such facilities from compliance with any applicable code, ordinance, rule, regulation, or order of any governmental authority. Any subsequent alterations or additions to the pretreatment or flow control facilities shall not be made without due notice to and prior approval of the city. The approval shall not operate to waive any other requirements of this chapter or relieve any person from civil or criminal liability under this chapter or any other applicable law that either is currently enacted or may be enacted in the future.
- 3) *Pretreatment facilities operations.* If pretreatment or control of waste flows is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws.
- 4) *Powers and authority of inspectors.*
- a) The city engineer, wastewater division manager or their duly authorized employees, and agents representing the state or the federal government are hereinafter designated governmental inspectors for compliance with this chapter. The governmental inspectors bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The governmental inspector shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

- b) While performing the necessary work on private properties referred to in subsection (a), the governmental inspectors 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 governmental inspectors. The governmental agency shall indemnify the company against loss or damage to its property by governmental inspectors and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in subsection (1)(h).
  - c) The governmental inspectors bearing proper credentials and identification shall be permitted to enter all private properties through which the governmental agency holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- 5) *Physical protection from accidental discharge.* Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the expense of the owner or operator. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and be approved before construction of the facilities. Review and approval of such plans and operational procedures shall not relieve the industrial user from the responsibility to modify his facilities as necessary to meet the requirements of this chapter. The city may require an alarm system or diking or other facilities to protect against accidental discharges.
- 6) *Reporting of accidental discharge.* If for any reason a facility does not or is not able to comply with any prohibition or limitation in this chapter, the facility responsible for the discharge shall immediately notify the wastewater division manager or his representative by the quickest means possible so that corrective action may be taken to protect the wastewater system. In addition, a written report addressed to the wastewater division manager or his representative detailing the date, time, and cause of the accidental discharge; the quantity and characteristics of the discharge; and corrective action taken to prevent future discharges shall be filed by the responsible industrial facility within five (5) days of the occurrence of the noncomplying discharge or incident.
- 7) *Accidental discharge/slug discharge control plans.* The wastewater division manager or his representative shall evaluate whether each significant industrial user needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The wastewater division manager or his representative may require any user to develop, submit for approval or implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the wastewater division manager or his representative may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
- a) Description of discharge practices, including non-routine batch discharges;

- b) Description of stored chemicals;
- c) Procedures for immediately notifying the wastewater division manager or his representative of any accidental or slug discharge, as required by section 13-705; and
- d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

**( ORD. NO. 88-2007-08, 4-7-08 )**

## SEC. 13-704. INDUSTRIAL WASTEWATER MONITORING AND REPORTING.

- 1) *Discharge reports.*
  - a) Every significant and major industrial user shall file a periodic discharge report at such intervals as are designated by the city. The city may require any other industrial user discharging or proposing to discharge into the wastewater system to file these periodic reports.
  - b) A discharge report shall include, but need not be limited to, the following: Nature and process, volume, rates of flow, mass emission concentrations of controlled pollutants, compliance with BMPs, or other information that relates to the generation of waste. These reports may also include the chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged. In addition to discharge reports, the city may also require information in the form of annual self-monitoring reports.
  - c) Individuals authorized to sign significant industrial user reports include:
    - i) If the user is a corporation; the president, secretary, treasure, 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 the manager of one (1) or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements, and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - ii) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
    - iii) If the user is a federal, state, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his documented designee.
    - iv) The individuals described in paragraphs (i) through (iii) may designate a duly 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.

2) *Records and monitoring.*

- a) All industrial users who discharge or propose to discharge to the city's wastewater system shall maintain such records of production and related factors, effluent flows, BMPs, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this chapter and any applicable state or federal pretreatment standards or requirements.
- b) Such records shall be made available upon the request of the city. All such records relating to compliance with pretreatment standards shall be made available to EPA officials upon demand. A summary of such data, including the industrial user's compliance with this chapter, shall be prepared and submitted to the city annually. All records relating to compliance with pretreatment standards shall be made available to local, state, or federal compliance and enforcement officials upon request. These records shall remain available for a period of at least three (3) years.
- c) The owner or operator of any premises of a facility discharging industrial wastes into the city's system shall install, at his own cost and expense, suitable monitoring equipment and manholes to facilitate the accurate observation, sampling, and measurement of the wastes. Such equipment shall be maintained in proper working order and kept safe and accessible at all times.
- d) Monitoring equipment shall be located and maintained on the industrial user's premises outside the building. When such a location would be impractical or cause undue hardship on the user, the city may allow the facility to be constructed in the public street or sidewalk area, provided that the public agency having jurisdiction over the street or sidewalk gives approval and that the facility is so located as not to be obstructed by public utilities, landscaping, or parked vehicles.
- e) When more than one (1) user can discharge into a common sewer, the city may require the installation of separate monitoring equipment for each user. If there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the city may require that separate monitoring facilities be installed for each separate discharge.
- f) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the city's requirements and all applicable construction standards and specifications.

3) *Inspection, sampling, and analysis.*

- a) *Sample collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting report.
  - i) Except as indicated in subsections (ii) or (iii), the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the wastewater division manager or his representative. Where time-proportional



composite sampling or grab sampling is authorized by the wastewater division manager or his representative, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the wastewater division manager or his representative, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- ii) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
  - iii) For sampling required in support of baseline monitoring and 90-day compliance reports, if required by the permit, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the wastewater division manager or his representative may authorize a lower minimum. For the reports required by this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
- b) *Analysis of wastewater.* All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with 40 CFR, Part 136, or equivalent methods approved by the EPA and shall be determined at the control manhole provided or upon suitable samples taken at the control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards of life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises are appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.
- c) *Sampling frequency.* Sampling of industrial wastewater for the purpose of compliance determination with respect to the prohibitions and limitations of section 13-702 shall be done at such intervals as the city may designate. However, significant industrial users are required to report, within twenty-four (24) hours, any noncompliance and have two (2) additional samples taken and analyzed within thirty (30) days for those parameters found to be in violation. If the city performed the sampling and analysis in lieu of the industrial user, the city will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.
- d) *Representative samples.* 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 it monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

**(ORD. NO. 88-2007-08, 4-7-08)**

## SEC. 13-705. INDUSTRIAL DISCHARGE PERMIT SYSTEM.

- 1) *Wastewater discharge permits required.* All industrial users proposing to connect to or discharge into any part of the city's wastewater system shall first obtain a discharge permit. Any existing industrial users connected to or discharging to any part of the city's system shall obtain a wastewater discharge permit within ninety (90) days from and after the effective date of this chapter.
- 2) *Permit application.* Industrial users seeking a wastewater discharge permit shall complete and file with the city an application prepared on the form prescribed by the city and accompanied by an application fee, the amount of which is to be established by the gas, water, and sewer committee. In support of this application, the user shall submit the following information:
  - a) Name, address, and SIC number of the applicant.
  - b) Volume of wastewater being or to be discharged.
  - c) Wastewater constituents and characteristics, including, but not limited to, those set forth in section 13-702 as determined by an approved wastewater analytical laboratory.
  - d) Time and duration of the discharge.
  - e) Average and 15-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
  - f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers and appurtenances by size, location, and elevation.
  - g) Description of activities, facilities, and plant processes on the premises, including all materials and types of materials that are or could be discharged, or other evidence that satisfies the city.
  - h) The type, amount, and rate of production of each product made.
  - i) Number and type of employees and hours of work.
  - j) Any other information the city may deem necessary to evaluate the permit application.
- 3) The provisions of this section may be modified to protect patents, trade secrets, or other classified production information, if requested and agreed to by the city.
- 4) The city shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit, subject to terms and conditions provided herein. If a discharge permit is denied, then the applicant may appeal to the hearing authority.
- 5) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges, and fees established by the city. The

conditions of wastewater discharge permits shall be uniformly enforced in accordance with this chapter and applicable state and federal regulations. Permit conditions shall include the following:

- a) Payment of all charges and fees when due during permit period.
  - b) The average and maximum wastewater constituents and characteristics.
  - c) Limits on rates and time of discharge or requirements for flow regulation and/or equalization.
  - d) Requirements for installation of inspection and sampling facilities and specifications for monitoring programs.
  - e) Requirements for maintaining and submitting technical reports and plant records related to wastewater discharges.
  - f) Daily average and daily maximum discharge rates or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge.
  - g) BMPs required by a pretreatment standard, local limits, state, or local law.
  - h) Slug control requirements.
  - i) Compliance schedules.
  - j) Other conditions to ensure compliance with this chapter.
  - k) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.
- 6) *Duration of permits.* Permits shall be issued for a specified time period, not to exceed five (5) years. If the user is not notified by the city one hundred eighty (180) days prior to the expiration of the permit, the permit shall automatically be extended one hundred eighty (180) days from the date of notice. The terms and conditions of the permit may be subject to modification and changed by the city during the life of the permit if the limitations or requirements identified in section 13-502 are modified and/or changed. The permittee shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- 7) *Transfer of a permit.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, a new user, different premises, or a new or changed operation.
- 8) *Revocation of a permit.* Any user who violates any of the conditions of his permit listed below, any provisions of this chapter, or any applicable state or federal regulations is subject to having his permit revoked. Violations subjecting a user to revocation of his permit include, but are not limited to, the following:
- a) Failure of a user to report the wastewater quantity, constituents, or characteristics accurately.

- b) Failure of a user to report significant changes in operations or wastewater constituents and characteristics.
  - c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
  - d) Violations of conditions of the permit.
- 9) *Change of potential for slug discharge.* The permit holder must notify the wastewater division manager or his representative immediately if the potential for slug discharge(s) changes.
- 10) *Continuing to discharge.* Any person who discharges or continues to discharge without a permit is in violation of this chapter and shall be subject to the procedures of section 13-707.
- 11) *Significant noncompliance (SNC).* Instances of SNC are industrial user violations, which meet one (1) or more of the following criteria:
- a) Violations of wastewater discharge limits.
    - i) *Chronic violations.* Sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as provided in subsection (3);
    - ii) *Technical review criteria (TRC) violations.* Thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as provided in subsection (3), multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
    - iii) *Other violations of an effluent limit.* Any other violation(s) of a pretreatment standard or requirement (daily maximum, average, instantaneous limit, or narrative standard) that the wastewater division manager or his representative determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of the POTW personnel or the public;
    - iv) *Discharge of a pollutant causing endangerment.* Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the publicly owned treatment works (POTW) exercise of its emergency authority to halt or prevent such a discharge.
  - b) Compliance schedule milestones. Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.
  - c) Reports. Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within thirty (30) days from the due date.
  - d) Failure to accurately report noncompliance.

e) Any other violation or group of violations that the city considers to be significant.

12) *Annual publication of significant violations.* The city shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant noncompliance, as defined in this section, with any provisions of this section or any permit or order issued hereunder during the period since the previous publication.

**(ORD. NO. 88-2007-08, 4-7-08)**

## SEC. 13-706. WASTE SURCHARGE.

- (1) *Who is to be charged.* In the event the city waives the requirements of section 13-702 and/or section 13-703 for any customer and that customer discharges to the city's wastewater system abnormal wastes otherwise prohibited or limited under section 13-702 and/or section 13-703, then the customer shall pay a surcharge as hereinafter set forth.
- (2) *Annual review of treatment cost.* The costs of treatment for flow, BOD, suspended solids, grease, and any other parameter, the discharge of which is limited by the NPDES permit, removed by the city's wastewater system, will be reviewed at the end of each fiscal year and adjusted to cover the cost of operating the pretreatment program.
- (3) *Waste of less than specified strength.* No reduction in sewerage service charges, fees, or taxes shall be permitted because certain industrial wastes discharged to the city's sewerage system contain less than three hundred twenty-five (325) mg/l of suspended solids, three hundred (300) mg/l of BOD, or one hundred (100) mg/l of freon-extractable materials.
- (4) *Reduction of sewerage bills when unpolluted waste is excluded from the system.* The monthly sewer charge can be reduced upon and to the extent of satisfactory demonstration to the city that the sources of the extraneous flow and extraneous flows into the customer's sewer service lines have been eliminated. The industrial user to account for the water use difference can install a sewer flow meter.
- (5) *Method of billing.* The surcharge provided for in this section may be included in the city's combined bill for water and sewerage services.
- (6) *Determination of surcharge.*

(a) The City will determine its surcharge for each parameter based on the following formula:

$$(0.0083453)(F)(TC)(Pa - Pm) = \text{Surcharge } (\$)$$

Where:

F = Monthly flow in thousand gallons

TC = Treatment costs for servicing wastewater treatment works per unit of parameter

Pa = Parameter, actual

Pm = Parameter, maximum allowable

(b) The surcharge for extraneous flow shall be at the current rate of one thousand (1,000) gallons of wastewater as set forth in the city's schedule of charges and fees [subsection 13-312(5)].

The total surcharges payable to the city shall be the total of the surcharges for BOD, suspended solids, grease, extraneous flow, and other parameters, the discharge of which is limited by the city's NPDES permit.

**( ORD. NO. 88-2007-08, 4-7-08 )**

## SEC. 13-707. ENFORCEMENT PROCEDURES.

- 1) *Hearing authority.*
  - a) *Composition.*
    - i) *Voting membership.* The hearing authority either shall be the utilities committee of the city council or shall consist of three (3) persons appointed by the city council with terms to be set by the city council.
    - ii) *Ex officio membership.* The following representatives shall constitute the ex officio (nonvoting) membership of the hearing authority and shall serve a continuous term.
      - (a) The mayor of the city.
      - (b) The city engineer, who shall serve as secretary of the hearing authority.
      - (c) The wastewater division manager.
  - b) *Conflict of interest.* In the event of a conflict of interest involving any voting member of the hearing authority, the mayor of the city shall temporarily replace the voting member and assume his voting status until the conflict is adjudicated.
- 2) *Notification of violation.* Whenever the city finds that any person has violated or is in violation of a section of this chapter or any prohibition, limitation, or requirement contained herein, he may serve upon the person a written notice stating the nature of the violation and providing a reasonable time, not to exceed thirty (30) days, for the satisfactory correction thereof.
- 3) *Show-cause hearing.*
  - a) The city may order any industrial user which causes or contributes to violation of this section or wastewater permit or order issued hereunder, to show cause why a 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 and the reasons for such action, and a request that the user show cause why this 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 ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.
  - b) The hearing authority shall conduct the hearing and take the evidence; issue notices of hearings requesting the attendance and testimony of witnesses and requesting the production of evidence relevant to any matter involved in any such hearings; and prepare a report of the evidence and hearing, including transcripts and other evidence, together with recommendations for action thereon.
  - c) At any public hearing, testimony taken before the hearing authority or any person designated by it must be under oath and recorded. The transcript so recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.



- d) After the hearing authority has reviewed the evidence, it may issue an order to the party responsible for the discharge dictating that, following a specified time period, adequate corrective action be taken.
  - e) The hearing authority can hear appeals on previously denied discharge permits and rule on these cases.
  - f) The hearing authority can hear appeals on enforcement actions issued under the city's sewer use ordinance and rule on these cases.
- 4) *Enforcement actions.*
- a) *Consent orders.* The city is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to section 13-707.
  - b) *Compliance order.* When the city finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued there under, the city may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.
  - c) *Administrative orders.* When the city finds that a user has violated or continues to violate the provisions set forth in this program, or the order issued thereunder, the city may issue an order for compliance to the user responsible for the discharge. Orders may contain any requirements as might be reasonable, necessary, and appropriate to address the noncompliance, including but not be limited to the installation of pretreatment technology, additional self-monitoring, and management practices.
  - d) *Cease and desist orders.* When the city finds that an industrial user has violated or continues to violate this section or any permit or order issued hereunder, the city may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
    - i) Comply forthwith.
    - ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
  - e) *Administrative fines.* Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Each day on which noncompliance shall occur or continue may be deemed a separate and distinct violation. Such assessments may be added to the user's next

scheduled sewer service charge and the city shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the city to reconsider the fine within ten (10) days of being notified of the fine. Where the city believes a request has merit, a hearing shall be convened on the matter with fifteen (15) days of receiving the request from the industrial user.

- f) *Injunctive relief.* Whenever an industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the city, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user. The city shall have such remedies to collect these fees as it has to collect other sewer service charges.
- g) *Civil penalties.*
  - i) Any industrial user who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the city for a civil penalty of not more than ten thousand dollars (\$10,000.00) plus actual damages incurred by the publicly owned treatment works (POTW) per day for as long as the violation continues. In addition to the above described penalty and damages, the city may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
  - ii) The city shall petition the court to impose, assess, and recover such sums. In determining amount of 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, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.
- h) *Criminal prosecution.*
  - i) Any industrial user who willfully or negligently violates any provision of this chapter or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one year or both.
    - i) In the event of a second conviction, the user shall be punishable by a fine not to exceed ten thousand dollars (\$10,000.00) per violation per day or imprisonment for not more than three (3) years or both.
    - ii) Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one year or both.

- iii) In the event of a second conviction, the user shall be punishable by a fine not to exceed ten thousand dollars (\$10,000.00) per violation per day or imprisonment for not more than three (3) years or both.
- iv) Any discharge in violation of the substantive provisions of this chapter or an order of the hearing authority shall be considered a public nuisance. If any person discharges sewage, industrial waste, extraneous flow, or other wastes into the city's wastewater system contrary to the substantive provisions of this chapter or any order of the hearing authority, the city attorney may commence action for appropriate legal and/or equitable relief in the chancery or circuit courts of Montgomery County, Tennessee. Such action may be in lieu of or in addition to proceedings before the hearing authority.

**(ORD. NO. 88-2007-08, 4-7-08)**

## SEC. 13-708. PENALTY AND INSURANCE.

- 1) *Liability for violations.* Any person who is found to have violated an order of the hearing authority or who fails to comply with any provision of this chapter and the orders, rules, and regulations issued hereunder shall be fined under the general penalty clause for this code for each offense. In addition to the penalties provided herein, the city may recover all damages or costs resulting from the violation and may recover reasonable attorney's fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, and regulations issued hereunder. The protection of public sanitary sewers and public waters is hereby deemed to be of such importance to the public health and welfare that scienter, negligence, or intent shall not be considered an element of this offense and lack of scienter, negligence, or intent shall not be a defense. This provision shall in no way be construed to waive any common law or statutory cause of action for damages. The city shall have the right to terminate water and sewer service to those industrial users who habitually violate any portion of the sewer use ordinance.
- 2) *Alarms and insurance.* In any case in which the city determines deleterious wastes pose a threat to the public or to the wastewater system set forth in subsection 13-702(1), he may require the person responsible for the discharge of deleterious wastes to provide a detection and warning system to be approved by the city and to provide an insurance policy or bond in whatever amount deemed necessary that names the city as insured or bond recipient.
- 3) *Amount of insurance.* This insurance shall protect the city from damage to the wastewater system caused by abnormal and/or deleterious wastes and from judgments against the city from suits of personal injury and/or property damage caused by the abnormal and/or deleterious wastes.
- 4) *Distribution of damage liability.* Such insurance policies shall provide that where two (2) or more users of the wastewater system discharge deleterious wastes that are found to have caused or contributed to damage to the sewers and/or resulted in suits against the city, the insurer shall not require proof of the extent of damages caused by each user but shall cover the full extent of any loss, provided the city does not recover from any combination of insurers more than the full amount of the loss resulting from suits and/or damage to sewers.

(ORD. NO. 88-2007-08, 4-7-08)

## SEC. 13-709. ENFORCEMENT RESPONSE GUIDE.

The enforcement actions taken in response to violations of the city's pretreatment program are as follows:

Description of Terms:

PC--Pretreatment Coordinator

WWDM--Wastewater Division Manager

AO--Administrative Order

IU--Industrial User

NOV--Notice of Violation

POTW--Public Owned Treatment Works

NA--Not Applicable

**ENFORCEMENT RESPONSE GUIDE TABLE  
UNAUTHORIZED DISCHARGE (NO PERMIT)**

NONCOMPLIANCE	NATURE OF VIOLATION	CATEGORY/FINE RANGE		ENFORCEMENT RESPONSE	PERSONNEL
Industrial user survey	Failure to return	1	No penalty	1 st - phone call repeated terminate service	PC
Unpermitted discharge	IU unaware of requirements, no harm to POTW or environment	1	No penalty	Phone call, NOV with application	PC
	IU unaware of requirements, harm to POTW or environment (significant non-compliance)	4	\$1,000--\$5,000	AO and fine termination of service	WDM
	Failure to apply continues after notification by PC	5	\$5,000--\$10,000	Civil action in chancery court Criminal investigation termination of service	WDM
	IU has not submitted application within 10 days of due date	1	No penalty	Phone call, NOV	PC

**DISCHARGE PERMIT VIOLATIONS**

NONCOMPLIANCE	NATURE OF VIOLATION	CATEGORY/FINE RANGE		ENFORCEMENT RESPONSE	PERSONNEL
Exceeding of Local, State or Federal standards	Isolated, not significant	1	No penalty	Phone call, NOV	PC
	Isolated, significant (no harm)	2	\$50--\$500	AO to develop spill prevention plan (if not previously submitted)	WDM
	Isolated harmful to POTW or environment	3	\$500--\$1,000	Show cause hearing AO and fine	PC WDM
	Chronic or TRC, no harm	2	\$50--\$500	AO and fine	WDM
	Chronic or TRC, harm to POTW or environment	4	\$1,000--\$5,000	AO and fine termination of service	WDM

## MONITORING AND REPORTING VIOLATIONS

NON-COMPLIANCE	NATURE OF VIOLATION	CATEGORY/FINE RANGE	ENFORCEMENT RESPONSE	PERSONNEL
<b>Reporting violation</b>	Report improperly signed or certified	1 No penalty	Phone call, NOV	PC
	Report improperly signed or certified after prior notice	2 \$50--\$500	Show cause hearing AO	PC WDM
	Isolated, not significant (<5 days late)	1 No penalty	Phone call, NOV	PC
	significant (>5 days late)	2 \$50--\$500	AO to submit and fine for each day late	WDM
	Report always late: failure to submit (significant non-compliance)	5 \$5,000--\$10,000	Civil action, chancery court termination of service	WDM
	Failure to report spill or discharge, no harm	1 No penalty	NOV	PC
	Failure to report spill or discharge with harm	3 \$500--\$1,000	AO and fine, civil action	WDM
	Repeated failure to report spills	5 \$5,000--\$10,000	AO and fine, civil action termination of service	WDM
	Falsification of records	5 \$5,000--\$10,000	Criminal investigation termination of service	WDM
<b>Failure to monitor correctly</b>	Failure to monitor all required permit pollutants	1 No penalty	NOV	PC
		2 \$50--\$500	AO	WDM
	Recurring failure to monitor	3 \$500--\$1,000	AO and fine, civil action	WDM

<b>Improper sampling</b>	<b>No evidence of intent</b>	1	<b>No penalty</b>	<b>NOV</b>	<b>PC</b>
	Evidence of intent	5	\$5,000--\$10,000	Criminal investigation termination of service	WDM
<b>Failure to install monitoring equipment</b>	Delay of less than 30 days	1	No penalty	NOV	PC
	Delay of more than 30 days	2	\$50--\$500	AO to install with fine for each additional day	WDM
	Recurring, violation of AO	5	\$5,000--\$10,000	Civil action, criminal investigation termination of service	WDM
	Missed milestone, less than 30 days, will affect final schedule	1	No penalty	NOV	PC
	Missed milestone, more than 30 days, will affect final schedule (good cause)	2	\$50--\$500	AO	WDM
	Missed milestone, more than 30 days, will affect final schedule (no good cause)	4	\$1,000--\$5,000	AO and fine, civil action termination of service	WDM
<b>Compliance schedule</b>	Recurring violations or violations of AO	5	\$5,000--\$10,000	Civil action, criminal investigation termination of service	WDM



## OTHER PERMIT VIOLATIONS

NONCOMPLIANCE	NATURE OF VIOLATION	CATEGORY/FINE RANGE		ENFORCEMENT RESPONSE	PERSONNEL
Waste stream dilution in lieu of pretreatment	Initial violation	2	\$50--\$500	AOL and fine	WDM
	Recurring	3	\$500--\$1,000	Show cause hearing termination of service	WDM
Failure to mitigate non-compliance or halt production	Does not cause harm	1	No penalty	NOV	PC
	Does cause harm	5	\$5,000--10,000	AO and fine, civil action	WDM
Failure to properly maintain and operate facility	Does not cause harm	1	No penalty	NOV	PC
	Does cause harm	4	\$1,000--\$5,000	AO and fine, civil action	PC

## VIOLATIONS DETECTED DURING SITE VISIT

NONCOMPLIANCE	NATURE OF VIOLATION	CATEGORY/FINE RANGE		ENFORCEMENT RESPONSE	PERSONNEL
<b>Entry denial</b>	Entry denied or consent withdrawn; copies of records denied	2	\$50--\$500	Obtain warrant and return to IU	PC
<b>Illegal discharge, violation of general discharge prohibitions</b>	No harm to POTW or environment	2	\$50--\$500	AO and fine	WDM
	Caused harm or evidence of intent or negligence	4	\$1,000--\$5,000	AO and fine, civil action criminal investigation	WDM
	Recurring, violation of AO	5	\$5,000--\$10,000	Termination of service	WDM
<b>Improper sampling</b>	Unintentional sampling at incorrect location	1	No penalty	NOV	PC
	Unintentional using of incorrect sample type	1	No penalty	NOV	PC
	Unintentional using incorrect sample techniques	1	No penalty	NOV	PC
<b>Inadequate record keeping</b>	Files incomplete or missing (no evidence of intent)	1	No penalty	NOV	PC
	Recurring	3	\$500--\$1,000	AO and fine	WDM
<b>Failure to report additional monitoring</b>	Inspection finds additional files (unintentional)	2	\$50--\$500	NOV	WDM
	Recurring (considered falsification)		\$1,000--\$5,000	AO and fine	WDM

## TIME FRAMES FOR ENFORCEMENT RESPONSES

All violations will be identified and documented within five (5) days of receiving compliance information.

Initial enforcement response involving contact with the IU and requesting information on corrective or preventative action will occur within fifteen (15) days of violation detections.

Follow up actions for continuing or recurring violations will be taken within sixty (60) days of initial enforcement response. For continuing violations, the response will include a compliance schedule.

Violations that threaten health, property or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.

All violations meeting the criteria for significant non-compliance will be addressed with an enforceable order within thirty (30) days of identification of the significant non-compliance.

Chronic and TRC violations will be determined by the PC on a six-month basis (April through September and October through March) per parameter as detailed in 40 CFR 403.8 (f) (2) (vii).

**(ORD. NO. 88-2007-08, 4-7-08)**