

**ORDINANCE NO. 2011 – 981**

**AN ORDINANCE TO REWRITE RALEIGH CITY CODE  
PART 8 – PUBLIC UTILITIES, CHAPTER 2 – WATER AND  
SEWER SERVICE, ARTICLE C – USE OF SANITARY SEWER SYSTEM**

**WHEREAS**, new U.S. *Environmental Protection Agency* rules regarding *waste water pretreatment* permit streamlining became effective in November, 2005; and

**WHEREAS**, the North Carolina Division of Water Quality *Pretreatment* Emergency Response and Collection Systems recently developed guidance for municipalities to incorporate needed changes in their local sewer use ordinances; and

**WHEREAS**, this update is required to assure the sewer use ordinances meet requirement of State statutes and Federal streamlining rules, changes and modifications must be made to the City of Raleigh sewer use ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:**

**Section 1.** Raleigh City Code Part 8; Chapter 2; Article C be repealed and rewritten as follows:

**ARTICLE C.  
USE OF SANITARY SEWER SYSTEM**

**DIVISION 1.  
GENERAL PROVISIONS**

**Sec. 8-2111.  
PURPOSE AND POLICY.**

- (a) This article sets forth uniform requirements for direct and indirect contributors into the *waste water* collection and *treatment* system for the City of Raleigh, hereafter referred to as the *City*, and enables the *City* to comply with all applicable state and Federal laws, Federal regulations and state rules including 15A NCAC 02H Part .0900, the Clean Water Act (33 United States Code Section 1251 et seq.) and the General *Pretreatment* Regulations (40 CFR, Part 403).
- (b) The objectives of this article are:
  - (1) To prevent the introduction of *pollutants* into the *municipal waste water system* which will interfere with the operation of the system or contaminate the resulting sludge;

- (2) To prevent the introduction of *pollutants* into the *municipal waste water system* which will *pass through* the system, inadequately treated, into any *waters of the State* or otherwise be incompatible with the system;
  - (3) To promote reuse and recycling of industrial *waste water* and sludges from the municipal system;
  - (4) To protect both municipal personnel who *may* be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
  - (5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the *municipal waste water system*; and
  - (6) To ensure that the municipality complies with its *NPDES* or *Non-discharge Permit* conditions, sludge use and disposal requirements, and any other Federal or state laws to which the *municipal waste water system* is subject.
- (c) This article provides for the regulation of direct and indirect contributors to the *municipal waste water system*, through the issuance of permits to certain non-domestic *users* and through enforcement of general requirements for the other *users*, authorizes monitoring and enforcement activities, requires *user* reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- (d) This article *shall* apply to all *users* of the *municipal waste water system*. [Note: as authorized by *G.S. 160A-312* and/or *G.S. 153A-275*.] Except as otherwise provided herein, the *POTW Director shall* administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the *POTW Director may* be delegated by the *POTW Director* to other *City* personnel. By discharging *waste water* into the *municipal waste water system*, *industrial users* located within or outside the *City* limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

**Sec. 8-2112.**

**DEFINITIONS AND ABBREVIATIONS.**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, *shall* have the meanings hereinafter designated:

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

***Approval Authority*:** The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources (DENR) or his designee.

***Authorized representative of the industrial user:***

- (1) If the *industrial user* is a corporation, *authorized representative shall* mean:
  - a. The president, secretary, 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 (1) or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) *persons* or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (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 *industrial user* is a partnership or sole proprietorship, an *authorized representative shall* mean a general partner or the proprietor, respectively.
- (3) If the *industrial user* is a Federal, state or local government facility, an *authorized representative shall* mean 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*.
- (5) If the designation of an *authorized representative* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to *POTW Director* prior to or together with any reports to be signed by an *authorized representative* not to exceed thirty (30) days.

***Baseline monitoring report (BMR):*** A required report for all *industrial users* subject to a *categorical pretreatment standard*. A *BMR* provides information that documents an *industrial user's* compliance status with all applicable *pretreatment standards*.

***Biochemical oxygen demand (BOD):*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees Centigrade, usually expressed as a concentration (*e.g.*, mg/l).

**Building sewer:** A sewer conveying *waste water* from the premises of a *user* to the *POTW*.

**Bypass:** The intentional diversion of waste streams from any portion of a *user's treatment* facility.

**Categorical standards:** *National categorical pretreatment standards* or *pretreatment standards*.

**Consumer of sewer services** or **consumer:** Any *person* who *discharges waste water* or other substances regulated by this Article into the *POTW* or otherwise uses the *POTW* and who is not an *industrial user*.

**Control Authority:** Refers to the *POTW* organization if the *POTW* organization's *pretreatment program* approval has not been withdrawn.

**Division:** The Division of Water Quality of the North Carolina Department of Environment and Natural Resources.

**Environmental Protection Agency** or **EPA:** The U.S. *Environmental Protection Agency*, or where appropriate, the term *may* also be used as a designation for the Administrator or other duly authorized official of said *agency*.

**Food preparation or serving facility:** Any commercial, or industrial facility that prepares or serves food, including a restaurant, cafe, cafeteria, snack bar, grill, deli, catering service, bakery, grocery store, butcher shop, or similar establishment.

**Grab sample:** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

**Grease and septage haulers:** Any *person* or business entity permitted by DENR to remove and haul grease or septage which would otherwise be transported to the *POTW*.

**Hazardous waste:** A substance which, if otherwise disposed of, would be a *hazardous waste* under 40 CFR Part 261.

**Holding tank waste:** Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

**Indirect discharge** or **discharge:** The *discharge* or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of *the Act* (33 U.S.C. 1317), into the *POTW* (including *holding tank waste discharged* into the system).

**Industrial user** or **user:** Any *person* who is a source of *indirect discharge*.

**Interference:** The inhibition or disruption of the *POTW* collection system, *treatment* processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of

any requirement of the *Control Authority's* (and/or the *POTW's* if different from the *Control Authority's*) *NPDES*, collection system, or *non-discharge permit* or prevents sewage sludge use or disposal in compliance with specified applicable state and Federal statutes, regulations or permits. The term includes prevention of sewage sludge use or disposal by the *POTW* in accordance with Section 405 of *the Act* (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA), or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the *POTW*.

**Medical waste:** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and potentially contaminated laboratory wastes.

**National categorical pretreatment standard or Categorical standard:** Any regulation containing *pollutant discharge* limits promulgated by *EPA* in accordance with Sections 307(b) and (c) of *the Act* (33 U.S.C. 1317) which applies to a specific category of *industrial users*, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471.

**National prohibitive discharge standard or Prohibitive discharge standard:** Absolute prohibitions against the *discharge* of certain substances; these prohibitions appear in Section 8-2113 of this article and are developed under the authority of Section 307(b) of *the Act* and 40 CFR, Section 403.5.

**New source:**

- (1) Any building, structure, facility, or installation from which there *may* be a *discharge* of *pollutants*, the construction of which commenced after the publication of proposed *categorical 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 Section 307(c), 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 *waste water* 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 paragraphs (1)b. or (1)c. above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) For purposes of this definition, construction of a *new source* 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 definition.

***Noncontact cooling water:*** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

***National Pollutant Discharge Elimination System, or NPDES, permit:*** A permit issued pursuant to Section 402 of *the Act* (33 U.S.C. 1342), or pursuant to G.S. 143-215.1 by *the State* under delegation from the *EPA*.

***Non-discharge permit:*** A permit issued by *the State* pursuant to G.S. 143-215.1(d) for a waste which is not *discharged* directly to *surface waters of the State* or for a *waste water treatment* works which does not *discharge* directly to *surface waters of the State*.

***Pass through:*** A *discharge* which exits the *POTW* into *waters of the State* in quantities or concentrations which, alone or with *discharges* from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the *Control Authority's* (and/or

*POTW's*, if different from the *Control Authority's*) *NPDES*, collection system, or *non-discharge permit*.

**Person:** Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, state, and local government entities.

**pH:** A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

**Pollutant:** Any "waste" as defined in *G.S. 143-213(18)* and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, *medical wastes*, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of *waste water* (e.g., *pH*, temperature, TSS, turbidity, color, metals, *BOD*, *COD*, toxicity, and odor).

**POTW Director:** The City of Raleigh Director of Public Utilities, or *authorized representative*.

**POTW treatment plant:** That portion of the *POTW* designed to provide *treatment* to *waste water*.

**Pretreatment or treatment:** The reduction of the amount of *pollutants*, the elimination of *pollutants*, or the alteration of the nature of *pollutant* properties in *waste water* prior to or in lieu of discharging or otherwise introducing such *pollutants* into a *POTW* collection system and/or *treatment plant*. The reduction or alteration *may* be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the *pollutants* unless allowed by an applicable *pretreatment standard*.

**Pretreatment program:** The program for the control of *pollutants* introduced into the *POTW* from non-domestic sources which was developed by the *City* in compliance with 40 CFR 403.8 and approved by the *Approval Authority* as authorized by *G.S. 143-215.3(a)(14)* in accordance with 40 CFR 403.11.

**Pretreatment requirements:** Any substantive or procedural requirement related to *pretreatment*, other than a *pretreatment standard*.

**Pretreatment standards:** Prohibited *discharge standards*, *categorical standards*, or local limits which apply to an *industrial user*.

**Publicly-owned treatment works (POTW) or municipal waste water system:** A *treatment works* as defined by Section 212 of *the Act* (33 U.S.C. 1292) which is owned in this instance by the *City*. This definition includes any devices or systems used in the collection, storage,

*treatment*, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey *waste water* to the *POTW treatment plant*. For the purposes of this article, *POTW shall* also include any sewers that convey *waste waters* to the *POTW* from *persons* outside the *City* who are, by contract or agreement with the *City*, or in any other way, *users* of the *City's POTW*.

***Severe property damage:*** Substantial physical damage to *property*, damage to the *user's 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.

***Significant industrial user:*** An *industrial user* who *discharges waste water* into a publicly owned *treatment* works and who:

- (1) *Discharges* an average of 25,000 gallons per day or more of process *waste water* to the *POTW*(excluding sanitary, *noncontact cooling* and boiler blowdown *waste waters*); or
- (2) Contributes process *waste water* which makes up five percent or more of the *NPDES* or *Non-discharge* permitted flow limit or organic capacity of the *POTW treatment plant*. In this context, organic capacity refers to *BOD*, TSS, Ammonia; Total Phosphorus, and Total Nitrogen; or
- (3) Is required to meet a *national categorical pretreatment standard*; or
- (4) Is found by the *City*, the Division of Water Quality or the U.S. *Environmental Protection Agency (EPA)* to have the potential for impact, either singly or in combination with other contributing *industrial users*, on the *waste water treatment* system, the quality of sludge, the system's effluent quality, or compliance with any *pretreatment standards or requirements*.
- (5) Subject to Division of Water Quality approval under 15A NCAC 02H .0907(b), the *Control Authority* may determine that an *industrial user* meeting the criteria in paragraphs (1) and (2) above has no reasonable potential for adversely affecting the *POTW's* operation or for violating any *pretreatment standards* or *pretreatment requirement*, the *POTW's* effluent limitations and conditions in its *NPDES* or *non-discharge permit*, or to limit the *POTW's* sludge disposal options, and thus is not a *significant industrial user*.
- (6) Subject to Division of Water Quality approval under 15A NCAC 02H .0907(b), the *Control Authority* may determine that an *industrial user* meeting the criteria in paragraph (3) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a non-significant categorical *industrial user*.

***Significant noncompliance or SNC:*** The status of noncompliance of a *Significant Industrial User* when one or more of the following criteria are met. Additionally, any *Industrial User* who meets the criteria in Part (1)c.; (1)d.; or (5) below *shall* also be *SNC*.

- (1) Violations of *waste water discharge* limits.
  - a. Chronic violations of *waste water discharge* limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same *pollutant* parameter (not including flow) during a six-month period exceed by any magnitude a numeric *pretreatment standard or requirement* including instantaneous limits, as defined by 40 CFR Part 403.3(1).
  - b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same *pollutant* parameter during a six-month period equal or exceed the product of the numeric *pretreatment standard or requirement* including instantaneous limits, as defined by 40 CFR Part 403.3(1) multiplied by the applicable TRC; (TRC = 1.4 for *BOD*, TSS, fats, oil, and grease); 1.2 for all other *pollutants* (except flow and *pH*).
  - c. Any other violation of a *pretreatment standard or requirement* as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the *Control Authority* and/or *POTW Director* determines has caused, alone or in combination with other *discharges, interference or pass through*; or endangered the health of the sewage *treatment* plant personnel or the public.
  - d. Any *discharge* of a *pollutant* or *waste water* that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in either the *Control Authority's* or the *POTW's*, if different from the *Control Authority's*, exercise of its emergency authority to halt or prevent such a *discharge*.
- (2) Violations of compliance schedule milestones, contained in a *pretreatment* permit or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.
- (3) Failure to provide reports for compliance schedule, self-monitoring data, *baseline monitoring reports*, ninety (90) day compliance reports, and periodic compliance reports within thirty (30) days from the due date.
- (4) Failure to accurately report noncompliance.

- (5) Any other violation or group of violations that the *Control Authority* and/or *POTW Director* determines will adversely affect the operation or implementation of the local *pretreatment* program

***Slug load, slug discharge or slug:*** Any *discharge* at a flow rate or concentration which has a reasonable potential to cause *interference* or *pass through*, or in any other way violates the *POTW's* regulations, local limits, or *industrial user* permit conditions. This can include but is not limited to spills and other accidental *discharges*; *discharges* of a non-routine, episodic nature; a non-customary batch *discharge*; or any other *discharges* that can cause a violation of the prohibited *discharge* standards in Section 8-2113 of this ordinance.

***Standard Industrial Classification (SIC):*** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

***Stormwater:*** Any flow occurring during or following any form of natural precipitation and resulting there from.

***Suspended solids:*** The total suspended matter that floats on the surface of, or is suspended in, water, *waste water* or other liquids, and which is removable by laboratory filtering.

***Toxic substances:*** Substances listed or defined as toxic in 15A NCAC 2B Section .0200.

***Upset:*** An exceptional incident in which there is unintentional and temporary noncompliance with *categorical pretreatment standards* because of factors beyond the reasonable control of the *user*. An *upset* does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

***Vehicle maintenance facility:*** Any commercial or industrial facility where automobiles, trucks, or equipment are serviced or maintained, including garages, service stations, repair shops, oil and lubrication shops, or similar establishments.

***Waste water:*** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, *treatment* facilities and institutions, together with any groundwater, surface water, and *stormwater* that *may* be present, whether treated or untreated, which are contributed into or permitted to enter the *POTW*.

***Waste water permit:*** As set forth in Section 8-2127 of this article.

***Waters of the State:*** All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon *the State* or any portion thereof.

This article is gender neutral and the masculine gender *shall* include the feminine and vice-versa. "*Shall*" is mandatory; "*may*" is permissive or discretionary. The use of the singular *shall* be construed to include the plural and the plural *shall* include the singular as indicated by the context of its use.

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

- (1) *BOD: Biochemical Oxygen Demand.*
- (2) CFR: Code of Federal Regulations.
- (3) COD: Chemical Oxygen Demand.
- (4) *EPA: Environmental Protection Agency.*
- (5) gpd: Gallons per day.
- (6) l: Liter.
- (7) mg: Milligrams.
- (8) mg/l: Milligrams per liter.
- (9) *G.S.: North Carolina General Statutes.*
- (10) *NPDES: National Pollutant Discharge Elimination System.*
- (11) O & M: Operation and maintenance.
- (12) *POTW: Publicly-owned treatment works.*
- (13) RCRA: Resource Conservation and Recovery Act.
- (14) *SIC: Standard Industrial Classification.*
- (15) SWDA: Solid Waste Disposal Act.
- (16) TSS: Total *suspended solids.*
- (17) TN: Total Nitrogen.
- (18) U.S.C.: United States Code.
- (19) F.O.G.: Fats, Oils, Grease.

(20) TP: Total Phosphorus.

**DIVISION 2.  
GENERAL SEWER USE REQUIREMENTS**

**Sec. 8-2113.  
PROHIBITED DISCHARGE STANDARDS.**

**(a) General prohibitions.**

No *person, user or consumer shall* contribute or cause to be contributed into the *POTW*, directly or indirectly, any *pollutant or waste water* which causes *interference or pass through*. These general prohibitions apply to all *users or consumers* of a *POTW* whether or not the *user or consumer* is a *significant industrial user* or subject to any national, state, or local *pretreatment standards or requirements*.

**(b) Specific prohibitions.**

No *person, user or consumer shall* contribute or cause to be contributed into the *POTW* the following *pollutants, substances, or waste water*:

- (1) *Pollutants* which create a fire or explosive hazard in the *POTW*, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the *POTW* resulting in *interference* [but in no case solids greater than one-quarter (1/4) inch in any dimension].
- (3) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause *interference or pass through*; but in no case, concentrations greater than one hundred (100) mg/l.
- (4) Any *waste water* having a *pH* less than 5.0 or more than 12.0 or *waste water* having any other corrosive property capable of causing damage to the *POTW* or equipment. Any *pH* above 12.5 is considered hazardous under 40 CFR 261.22.
- (5) Any *waste water* containing *pollutants*, including oxygen-demanding *pollutants*, in sufficient quantity (flow and/or concentration), either singly or by interaction with other *pollutants*, to cause *interference* with the *POTW*.
- (6) Any *waste water* having a temperature greater than one hundred fifty (150) degrees Fahrenheit (sixty-six (66) degrees Celsius), or which will inhibit

biological activity in the *POTW treatment plant* resulting in *interference*, but in no case *waste water* which causes the temperature at the introduction into the *treatment plant* to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius).

- (7) Any *pollutants* which result in the presence of toxic gases, vapors or fumes within the *POTW* in a quantity that *may* cause acute worker health and safety problems.
- (8) Any trucked or hauled *pollutants*, except at *discharge* points designated by the *POTW Director* in accordance with Section 8-2121 of this article.
- (9) Any noxious or malodorous liquids, gases, or solids or other *waste water* which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (10) Any substance which *may* cause the *POTW's* effluent or any other product of the *POTW* such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case *shall* a substance *discharged* to the *POTW* cause the *POTW* to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of *the Act*; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (11) Any *waste water* which imparts color which cannot be removed by the *pretreatment* process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the *treatment plant's* effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- (12) Any *waste water* containing any radioactive wastes or isotopes except as specifically approved by the *POTW Director* in compliance with applicable state or Federal regulations.
- (13) *Stormwater*, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, *noncontact cooling water* and unpolluted industrial *waste water*, unless specifically authorized by the *POTW Director*.
- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l, unless specifically authorized by the *POTW Director*.

- (15) Any sludges, screenings or other residues from the *pretreatment* of industrial wastes, unless specifically authorized by the *POTW Director*.
- (16) Any *medical wastes*, except as specifically authorized in the medical facility's Policy for Disposal of *Medical Wastes* after it has been approved by the *POTW Director* as an attachment to and as part of the medical facility's *waste water discharge* permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the *municipal waste water system*.
- (18) Any material that would be identified as *hazardous waste* according to 40 CFR Part 261 if not disposed of in a sewer except as *may* be specifically authorized by the *POTW Director*.
- (19) Any *waste water* causing the *treatment* plant effluent to violate state water quality standards for *toxic substances* as described in 15A NCAC 2B .0200.
- (20) *Waste water* causing, alone or in conjunction with other sources, the *treatment* plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which *may* cause excessive foaming in the *municipal waste water system*.
- (23) At no time *shall* two (2) successive readings on an explosion hazard meter, at the point of *discharge* into the system (or at any point in the system) be more than five (5) per cent nor any single reading over ten (10) per cent of the lower explosive limit (LEL) of the meter.
- (24) Any type of paper product, other than toilet paper.
- (25) Any type of cloth, including diapers and wash cloths.
- (26) Any type of disposable diaper.
- (27) Any type of tobacco product, including cigarettes, cigars, chewing tobacco, and snuff.
- (28) Any type of condom.
- (29) Any type of personal hygiene product, including tampons, sanitary napkins, and towelettes.

- (30) Wood, debris, or wood product, including trees, limbs, roots, leaves, yard waste, grass clippings, or lumber.
- (31) Construction material, debris, or tools, including rocks, gravel, cement, concrete, masonry bricks or block, shovels, and hand tools.
- (32) Adhesives, glue, dye, or stones used in the manufacture of products.
- (33) Product containers, including boxes, bottles, cans, or buckets.
- (34) Appliances or parts of appliances.
- (35) Vehicles or parts of vehicles.
- (36) Rope, string, twine, thread, or similar materials.
- (37) Material made of fabric, including carpet, blankets, sheets, sleeping bags.
- (38) Trash bags, whether paper or plastic.
- (39) All other solids or liquids, other than wastes from the human body, that *may* accumulate in sewer pipes and cause or contribute to blockages.

**(c) Processing and storage of prohibited *pollutants*, substances, etc.**

*Pollutants*, substances, *waste water*, or other wastes prohibited by this section *shall* not be processed or stored in such a manner that they could be *discharged* to the *municipal waste water system*. All floor drains located in process or materials storage areas must *discharge* to the *industrial user's pretreatment* facility before connecting with the system.

**(d) Actions of *POTW Director* upon determination of violation.**

When the *POTW Director* determines that a *user(s)* or *consumer(s)* is contributing to the *POTW* any of the substances enumerated in subsection (b) above in such amounts which *may* cause or contribute to *interference* of *POTW* operation or *pass through*, the *POTW Director* shall:

- (1) Advise the *user(s)* or *consumer(s)* of the potential impact of the contribution on the *POTW* in accordance with Section 8-2140.4 of this article; and
- (2) Take appropriate actions in accordance with Division 4 of this article for such *user* or *consumer* to protect the *POTW* from *interference* or *pass through*.

**Sec. 8-2114.**

**NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

*Users* subject to *categorical pretreatment standards* are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 which standards are incorporated herein.

- (1) Where a *categorical pretreatment standard* is expressed only in terms of either the mass or the concentration of a *pollutant in waste water*, the *POTW Director* may impose equivalent concentration or mass limits consistent with the requirements set forth with 40 CFR 403.6(c).
- (2) When *waste water* subject to a *categorical pretreatment standard* is mixed with *waste water* not regulated by the same *standard*, the *POTW Director* 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, consistent with the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its *discharge* are fundamentally different from the factors considered by the *EPA* when developing the *categorical pretreatment standard*.
- (4) A *user* may obtain a net gross adjustment to a *categorical standard* consistent with the requirements set forth in 40 CFR 403.15.
- (5) A *user* may request a removal credit adjustment to a *categorical pretreatment standard* pursuant to the requirements set forth in 40 CFR 403.7.

**Sec. 8-2115.**

**LOCAL LIMITS.**

- (a) An industrial waste survey is required prior to an *industrial user, consumer*, or other *person* discharging *waste water* containing in excess of the following daily average *discharge* limits. Industrial waste survey information will be used to develop *user-specific* local limits when necessary to ensure that the *POTW's* maximum allowable headworks loading is not exceeded for particular *pollutants* of concern. *User-specific* local limits for appropriate *pollutants* of concern shall be included in *waste water pretreatment* permits.

0.005 mg/l antimony

0.005 mg/l arsenic

1.000 mg/l barium

0.005 mg/l beryllium  
0.003 mg/l cadmium  
0.050 mg/l chromium  
0.038 mg/l copper  
0.010 mg/l cyanide  
1.000 mg/l iron  
0.00875 mg/l lead  
0.0001 mg/l mercury  
0.005 mg/l molybdenum  
0.005 mg/l nickel  
0.005 mg/l selenium  
0.010 mg/l silver  
0.175 mg/l zinc  
1.0 mg/l nitrate nitrogen  
10 mg/l sulfide  
55 mg/l sulfate  
65 mg/l chloride  
1.000 mg/l fluoride  
1.000 ug/l phenolic compounds  
300 mg/l BOD  
250 mg/l TSS  
20 mg/l NH<sub>3</sub>-N  
5 mg/l PO<sub>4</sub>-P

- (b) *Industrial user*-specific local limits for appropriate *pollutants* of concern shall be included in *waste water permits* and are considered *pretreatment standards*. The *POTW Director* may impose mass limits in addition to, or in place of, the concentration-based limits above.

**Sec. 8-2116.**  
**STATE REQUIREMENTS.**

State requirements and limitations on *discharges* shall apply in any case where they are more stringent than Federal requirements and limitations or those in this article.

**Sec. 8-2117.**  
**RIGHT OF REVISION.**

The *City* reserves the right to establish limitations and requirements which are more stringent than those required by either state or Federal regulation if deemed necessary to comply with the objectives presented in Section 8-2111 of this article or the general and specific prohibitions in Section 8-2113 of this article, as is allowed by 40 CFR 403.4.

**Sec. 8-2118.**  
**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 the limitations contained in the *national categorical pretreatment standards*, unless expressly authorized by an applicable *pretreatment standard*, or in any other *pollutant*-specific limitation developed by the *City* or *State*.

**Sec. 8-2119.**  
**PRETREATMENT OF WASTE WATER.**

(a) ***Pretreatment facilities.***

*Users* shall provide *waste water pretreatment* as necessary to comply with this article and *waste water permits* issued under Section 8-2127 of this article and shall achieve compliance with all *national categorical pretreatment standards*, local limits, and the prohibitions set out in Section 8-2113 of this article within the time limitations as specified by the *EPA*, *the State*, or the *POTW Director*, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the *user's* expense. Detailed plans showing the *pretreatment* facilities and operating procedures shall be submitted to the *City* for review, and shall be approved by the *POTW Director* before construction of the facility. The review of such plans and operating procedures shall in no way relieve the *user* from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the *City* under the provisions of this article. Any subsequent changes in the *pretreatment* facilities or method of operation

*shall* be reported to and be approved by the *POTW Director* prior to the *user's* initiation of the changes.

**(b) Additional pretreatment measures.**

- (1) Whenever deemed necessary, the *POTW Director* may require *users* to restrict their *discharge* during peak flow periods, designate that certain *waste water* 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 *POTW Director* 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 *waste water discharge* permit *may* be issued solely for flow equalization.
- (3) All *food preparation or serving facilities* and all *vehicle maintenance facilities* connected to the *City's* sanitary sewer system *shall* install, maintain, and keep in continuous operation a grease trap interceptor. The interceptor *shall* be sized in accordance with standards established by the Public Utilities Department. *Food preparation or serving facilities* and *vehicle maintenance facilities* *shall* maintain a *written* record of maintenance performed on the interceptor for a minimum of three (3) *years* and *shall* immediately produce that record upon the *City's* request.
- (4) *Users* with the potential to *discharge* flammable substances *may* be required to install and maintain an approved combustible gas detection meter.

**Sec. 8-2120.**

**ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.**

- (a) The *POTW Director* *shall* evaluate whether each *significant industrial user* needs a plan or other action to control and prevent *slug discharges*. All *SIUs* must be evaluated within one year of being designated an *SIU*. The *POTW Director* may require any *user* to develop, submit for approval, and implement such a plan. Alternatively, the *POTW Director* may develop such a plan for any *user*.
- (b) All *SIUs* are required to notify the *POTW* immediately of any changes at its facility affecting the potential for spills and other accidental *discharges*, *discharges* of a non-routine, episodic nature, a non-customary batch *discharge*, or a *slug load*. Also see Sections 8-2132 and 8-2133 of this article.
- (c) A *slug* control plan *shall* address, at a minimum, the following:

- (1) Description of *discharge* practices, including non-routine batch *discharges*;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the *POTW Director* of any accidental or *slug discharge*, as required by Section 8-2133 of this article; and
- (4) Procedures to prevent adverse impact from any *slug discharge*. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic *pollutants*, including solvents, and/or measures and equipment for emergency response.

**Sec. 8-2121.**

**HAULED WASTE WATER.**

- (a) Septic tank waste *may* be introduced into the *POTW* only at locations designated by the *POTW Director*, and at such times as are established by the *POTW Director*. Such waste *shall* not violate Division 2 of this article or any other requirements established by the *City*. The *POTW Director may* require septic tank waste haulers to obtain *waste water discharge* permits.
- (b) The *POTW Director shall* require haulers of industrial waste to obtain *waste water discharge* permits. The *POTW Director may* require generators of hauled industrial waste to obtain *waste water discharge* permits. The *POTW Director also may* prohibit the disposal of hauled industrial waste. The *discharge* of hauled industrial waste is subject to all other requirements of this article.
- (c) Industrial waste haulers *may discharge* loads only at locations designated by the *POTW Director*. No load *may be discharged* without prior consent of the *POTW Director*. The *POTW Director may* collect samples of each hauled load to ensure compliance with applicable standards. The *POTW Director may* require the industrial waste hauler to provide a waste analysis of any load prior to *discharge*.
- (d) 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*.

**Sec. 8-2122.**

**GREASE AND SEPTAGE HAULERS.**

- (a) *Grease and septage haulers* must hold a permit issued by DENR to engage in the business activity for any *person, consumer or user* discharging *waste water* to the *POTW*.
- (b) Any *person, consumer or user* using a *grease and septage hauler* not holding a current and valid license issued by DENR is in violation of this Article.

**DIVISION 3.**

**FEES**

**Sec. 8-2123.**

**PURPOSE.**

- (a) It is the purpose of this Division to provide for the recovery of costs from *users* of the *City's waste water* disposal system for the implementation of the program established herein.
- (b) The applicable charges or fees *shall* be set forth in the *City's* schedule of charges and fees. A copy of these charges and fees will be made available from the *POTW Director*.

**Sec. 8-2123.1.**

**USER CHARGES.**

- (a) A *user* charge *shall* be levied on all *users* including, but not limited to, *persons, firms, corporations or governmental entities* that *discharge, cause or permit the discharge* of sewage into the *POTW*.
  - (1) The *user* charge *shall* reflect, at a minimum, the cost to the *City* of debt service, and operation and maintenance costs (including, but not limited to, replacement costs) of the *POTW*.
  - (2) Each *user shall* pay its proportionate share of cost based on the volume of the *user's* flow.
  - (3) The *POTW Director shall* review annually the sewage contributions of *users*, the total costs of debt service, and operation and maintenance costs of the *POTW* (including, but not limited to, replacement costs) and *shall* make recommendations to the *City Council* for adjustments in the schedule of charges and fees as necessary.
  - (4) The costs to the *City* for repair, remedial measures, and other costs caused by unlawful *discharges* of *pollutants* into the *POTW*.

**Sec. 8-2124.**  
**SURCHARGES.**

- (a) All *industrial users* of the *POTW* are subject to industrial waste surcharges on *discharges* which exceed the following levels:
- (1) *BOD* greater than three hundred (300) mg/l and/or sixty-three (63) pounds.
  - (2) *COD* greater than five hundred (500) mg/l and/or one hundred four (104) pounds.
  - (3) *TSS* greater than two hundred fifty (250) mg/l and/or fifty-two (52) pounds.
  - (4) *TN* greater than thirty (30) mg/l and/or six (6) pounds.
  - (5) *TP* greater than five (5) mg/l and/or one (1) pound.
  - (6) *F.O.G.* greater than three hundred (300) mg/l and/or sixty-three (63) pounds.
- (b) The amount of surcharge will be based upon the mass emission rate (in pounds per day) *discharged* above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees.
- (1) The volume of flow used in determining the total *discharge* of *waste water* for payment of *user* charges and surcharges *shall* be based on the following:
    - a. Metered water consumption as shown in the records of meter readings maintained by the *City*; or
    - b. If required by the *City* or at the individual discharger's option, other flow monitoring devices which measure the actual volume of *waste water discharged* to the sewer. Such devices *shall* be accessible and safely located, and the measuring system *shall* be installed in accordance with plans approved by the *City*. The metering system *shall* be installed and maintained at the *user's* expense according to arrangements that *may* be made with the *City*.
    - c. Where any *user* procures all or part of his water supply from sources other than the *City*, the *user shall* install and maintain at his own expense a flow measuring device of a type approved by the *City*.
  - (2) The character and concentration of the constituents of the *waste water* used in determining surcharges *shall* be determined by samples collected and analyzed by the *City* and/or *industrial user*. Samples *shall* be collected in such a manner as to be representative of the actual *discharge* and *shall* be analyzed using procedures set forth in Section 8-2137 of this article.

- (3) The determination of the character and concentration of the constituents of the *waste water discharge* by the *POTW Director* or his duly appointed representatives *shall* be binding as a basis for charges.

**Sec. 8-2125.**  
**PRETREATMENT PROGRAM ADMINISTRATION CHARGES.**

The schedule of charges and fees adopted by the *City* may include charges and fees for:

- (1) Reimbursement of costs of setting up and operating the *pretreatment program*;
- (2) Monitoring, inspections and surveillance procedures;
- (3) Reviewing *slug* control plans, including accidental and/or *slug load discharge* procedures and construction plans and specifications;
- (4) Permitting; and other fees as the *City* may deem necessary to carry out the requirements of the *pretreatment program*.
- (5) *Pretreatment* permit fees, as established below, *shall* be collected either at the time of submittal of application for a new permit, a permit modification or permit renewal. Also, the annual administrative, sampling and inspection fee *shall* be paid to the *City* within 30 days of receipt of the *City* invoice, else the permit and permission to *discharge* be rescinded. These fees *shall* be collected, in addition to any other *user* charges and fees required by *City* ordinances and resolutions. The fees *shall* be collected by the *City* Public Utilities Department as follows:

Significant Industrial User (SIU)

New permit application or permit modification . . .	\$200.00
Existing permit renewal . . . . .	\$100.00
Annual administrative, sampling and inspection . . .	\$200.00

Non-Significant Industrial User (Non-SIU)

New permit application or permit modification . . . .	\$100.00
Annual administrative, sampling and inspection . . .	\$100.00

**DIVISION 4.  
WASTE WATER DISCHARGE PERMIT APPLICATION AND ISSUANCE**

**Sec. 8-2126.  
WASTE WATER DISCHARGERS.**

It *shall* be unlawful for any *person* to connect or *discharge* to the *POTW* without first obtaining the permission of the *City*. When requested by the *POTW Director*, a *user* must submit information on the nature and characteristics of its *waste water* within thirty (30) days of the request. The *POTW Director* is authorized to prepare a form for this purpose and *may* periodically require *users* to update this information.

**Sec. 8-2127.  
WASTE WATER PERMITS.**

All *significant industrial users* shall obtain a *significant industrial user* permit prior to the commencement of *discharge* to the *POTW*. Existing *industrial users* who are determined by the *POTW Director* to be *significant industrial users* shall obtain a *significant industrial user* permit within one hundred eighty (180) days of receiving notification of the *POTW Director's* determination. *Industrial users* who do not fit the *significant industrial user* criteria *may*, at the discretion of the *POTW Director*, be required to obtain a *waste water discharge* permit for non-*significant industrial users*.

**(1) *Significant industrial user determination.***

All *persons* proposing to *discharge* non-domestic *waste water*, or proposing to change the volume or characteristics of an existing *discharge* of non-domestic *waste water* shall request from the *POTW Director* a *significant industrial user* determination. If the *POTW Director* determines or suspects that the proposed *discharge* fits the *significant industrial user* criteria he will require that a *significant industrial user* permit application be filed.

**(2) *Significant industrial user permit application.***

*Users* required to obtain a *significant industrial user* permit shall complete and file with the *City* an application in the form prescribed by the *POTW Director*, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. *Significant industrial users* shall apply for a *significant industrial user* permit within thirty (30) days after notification of the *POTW Director's* determination in subsection (1) above. The application shall include at a minimum the information required by 15A NCAC 02H 0.0916(c)(1)(A-M):

- a. Name of *industrial user*;
- b. Address of *industrial user*;

- c. *Standard industrial classification (SIC)* codes or expected classification and *industrial user* category;
- d. *Waste water* flow;
- e. Types and concentrations (or mass) of *pollutants* contained in the *discharge* including but not limited to those mentioned in Division 2 of this article, any of the priority *pollutants* (Section 307(a) of *the Act*) which the applicant knows or suspects are present in the *discharge* and any other *pollutant* of concern to the *POTW*;
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation, and locations of *discharge* points;
- g. Description of products manufactured or services supplied and existing on-site *pretreatment* facilities;
- h. Raw materials used or stored at the site;
- i. Flow diagram or sewer map for the *industrial user*;
- j. Number of employees;
- k. Operation and production schedules;
- l. Description of current and projected waste reduction activities;
- m. Where known, the nature and concentration of any *pollutants* in the *discharge* which are limited by any *City*, *State*, or *Federal pretreatment standards*, and a statement regarding whether or not the *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 for the *user* to meet applicable *pretreatment standards*;
- n. 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*. The completion date in this schedule *shall* not be longer than the compliance date established for the applicable *pretreatment standard*. The following conditions apply to this schedule:

- (i) 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*. No increment in the schedule *shall* exceed nine (9) *months*.
- (ii) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the *user shall* submit a progress report to the *POTW Director* including, at 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. In no event *shall* more than nine (9) *months* elapse between such progress reports to the *POTW Director*.
- o. If subject to a *categorical standard*, a *baseline monitoring report* in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in Section 8-2128 of this article;
- p. Any other information as *may* be deemed by the *POTW Director* to be necessary to evaluate the permit application.

**(3) Application signatories and certification.**

All *waste water discharge* permit applications and *user* reports must be signed by the current *authorized representative* of the *user* on file with the *POTW Director* and/or Municipality as defined in 8-2112 of this article 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.

**(4) Application review and evaluation.**

The *POTW Director* will evaluate the data furnished by the *user* and *may* require additional information.

- a. The *POTW Director* is authorized to accept applications for the *City* and shall refer all applications to the *POTW* staff for review and evaluation.
- b. Within thirty (30) days of receipt the *POTW Director* shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

**(5) Tentative determination and draft permit.**

- a. The *POTW* staff shall conduct a review of the application and an onsite inspection of the *significant industrial user*, including any *pretreatment* facilities, and shall prepare a *written* evaluation and tentative determination to issue or deny the *significant industrial user* permit.
- b. If the staff's tentative determination in subsection (5)a. above is to issue the permit, the following additional determinations shall be made *in writing*:
  - (i) proposed *discharge* limitations for those *pollutants* proposed to be limited;
  - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
  - (iii) a brief description of any other proposed special conditions which will have significant impact upon the *discharge* described in the application.
- c. The staff shall organize the determinations made pursuant to subsections (5)a. and b. above and the *City's* general permit conditions into a *significant industrial user* permit.

**(6) Permit Supporting Documentation.**

The *Control Authority* staff shall prepare the following documents for all *significant industrial user* permits:

- a. An Allocation Table (AT) listing permit information for all *significant industrial users*, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with *Division* approved maximum allowable loadings of the *POTW*, including flow, on forms or in a format approved by the *Division*. The AT

*shall* be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

- b. The basis, or rationale, for the *pretreatment* limitations, including the following:
  - (i) documentation of categorical determination, including documentation of any calculations used in applying *categorical pretreatment standards*; and
  - (ii) documentation of the rationale of any parameters for which monitoring has been waived consistent with 40 CFR Part 403.12(e)(2).

**(7) Final action on *significant industrial user* permit applications.**

- a. The *POTW Director shall* take final action on all applications not later than ninety (90) days following receipt of a complete application.
- b. The *POTW Director* is authorized to:
  - (i) issue a *significant industrial user* permit containing such conditions as are necessary to effectuate the purposes of this article and *G.S. 143-215.1*;
  - (ii) issue a *significant industrial user* permit containing time schedules for achieving compliance with applicable *pretreatment standards and requirements*;
  - (iii) modify, revoke and/or suspend any permit(s);
  - (iv) deny a permit application when in the opinion of the *POTW Director* such *discharge* may cause or contribute to *pass through* or *interference* of the *waste water treatment* plant or where necessary to effectuate the purposes of *G.S. 143-215.1*.

**(8) Hearings.**

**a. Initial adjudicatory hearing.**

An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/*user* assessed a civil penalty under Section 8-2140.5 of this article, or one issued an administrative order under Section 8-2140.4 of this article, including an order to suspend or terminate a *user's discharge*, *shall* have the right to an adjudicatory

hearing before the *POTW Director* or other hearing officer appointed by the *POTW Director* upon making *written* demand, identifying the specific issues to be contested, to the *POTW Director* within thirty (30) days following receipt of the *significant industrial user* permit, civil penalty assessment, or administrative order. Unless such *written* demand is made within the time specified herein, the action *shall* be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified *may* be adjudicated. The *POTW Director shall* make a final decision on the contested permit, penalty or order within forty-five (45) days of the receipt of the *written* demand for a hearing. The *POTW Director shall* transmit a copy of the decision by registered or certified mail. The terms and conditions of a permit under appeal *shall* be as follows:

- (i) New permits: Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (ii) Renewed permits: Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (iii) Terminated Permits: Upon appeal, including review in the General Courts of Justice, of a permit which has been suspended or terminated, the permit is in effect until either the conclusion of review or until the parties reach a mutual resolution except when the *POTW Director* has suspended or terminated the permit in accordance with the procedures established in 8-2140.4.

**b. Final appeal hearing.**

Any decision of the *POTW Director* made as a result of an adjudicatory hearing held under Section 2127(8)a. above *may* be appealed to the *City Council* upon filing a *written* demand within ten (10) days of receipt of notice of each decision(s). Hearings held under this section *shall* be conducted in accordance with the City of Raleigh procedures set forth in Section 10-2141. Failure to make *written* demand within the time specified herein *shall* bar further appeal. A final decision on the appeal *shall* be made within ninety (90) days of the date the appeal was filed and a *written* copy of the decision *shall* be transmitted by registered or

certified mail. The decision is a final decision for the purposes of seeking review in the courts.

**c. Official record.**

When a final decision is issued under Section 8-2127(8)b. above, the *City Council shall* prepare an official record of the case that includes:

- (i) all notices, motion, and other like pleadings;
- (ii) a copy of all documentary evidence introduced;
- (iii) a certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;
- (iv) a copy of the final decision of *City Council*.

**d. Review in the courts.**

Any *person* against whom a final order or decision of the *City Council* is entered, pursuant to the hearing conducted under Section 8-2127(8)b.(ii) above, *may* seek review of the order or decision by filing a *written petition for review* by the Superior Court of Wake County within thirty (30) days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Wake County along with a copy to the *City*. Within thirty (30) days after receipt of the copy of the, written Petition for Writ of Certiorari, or any other written request filed in the court, the *City Council shall* transmit to the reviewing court the original or a certified copy of the official record.

**(9) Permit modification.**

a. Modifications of permits *shall* be subject to the same procedural requirements as the issuance of permits except as follows:

- (i) changes in the ownership of the *discharge* when no other change in the permit is indicated;
- (ii) a single modification of any compliance schedule not in excess of four (4) *months*;
- (iii) modification of compliance schedules (construction schedules) in permits for *new sources* where the new schedule will not begin to *discharge* until control facilities are operational.

Any changes or new conditions in the permit *shall* include a reasonable time schedule for compliance.

- b. Within nine (9) *months* of the promulgation of a *national categorical pretreatment standard*, the *waste water discharge* permit of *users* subject to such standards *shall* be revised to require compliance with such standard within the time frame prescribed by such standard. Where a *user*, subject to a *national categorical pretreatment standard*, has not previously submitted an application for a *waste water discharge* permit as required by subsection Section 8-2127(2), the *user shall* apply for a *waste water discharge* permit within one hundred eighty (180) days after the promulgation of the applicable *national categorical pretreatment standard*.
- c. A request for a modification by the permittee *shall* constitute a waiver of the sixty-day notice required by *G.S. 143-215.1(b)* for modifications.

**(10) Permit conditions.**

- a. The *POTW Director shall* have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this article and *G.S. 143-215.1*. *Waste water permits shall* contain, but are not limited to, the following:
  - (i) a statement of duration (in no case more than five (5) *years*);
  - (ii) a statement of non-transferability;
  - (iii) applicable effluent limits based on *categorical standards* or local limits or both;
  - (iv) applicable monitoring, sampling, reporting, notification, and recordkeeping 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;
  - (v) requirements for notifying the *POTW* in the event of an accidental *discharge* or *slug load* as defined in 8-2112 of this article;
  - (vi) requirements to implement a spill control plan or other controls for prevention of accidental *discharges* and/or *slug loads* as defined in 8-2112 of this article, if determined by the *POTW Director* to be necessary for the *user*; and

- (vii) requirements for immediately notifying the *POTW* of any changes at its facility affecting the potential for spills and other accidental *discharges*, or *slug load* as defined in 8-2112 of this article. Also see 8-2132 and 8-2133 of this article.
  - (viii) a statement of applicable civil and criminal penalties for violation of *pretreatment standards and requirements* and any applicable compliance schedule.
- b. In addition, permits *may* contain, but are not limited to, the following:
- (i) limits on the average and/or maximum rate of *discharge*, and/or requirements for flow regulation and equalization;
  - (ii) limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified *waste water pollutants* or properties;
  - (iii) requirements for the installation of *pretreatment* technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of *pollutants* into the *treatment* works;
  - (iv) development and implementation of waste minimization plans to reduce the amount of *pollutants discharged* to the *municipal waste water system*;
  - (v) the unit charge or schedule of *user* charges and fees for the management of the *waste water discharged* to the system;
  - (vi) requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - (vii) specifications for monitoring programs which *may* include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;
  - (viii) requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s);
  - (ix) compliance schedules for meeting *pretreatment standards and requirements*;

- (x) requirements for submission of periodic self-monitoring or special notification reports;
- (xi) requirements for maintaining and retaining plans and records relating to *waste water discharges* as specified in Section 8-2139.1 and affording the *POTW Director*, or his representatives, access thereto;
- (xii) requirements for prior notification and approval by the *POTW Director* of any new introduction of *waste water pollutants* or of any significant change in the volume or character of the *waste water* prior to introduction in the system;
- (xiii) requirements for the prior notification and approval by the *POTW Director* of any change in the manufacturing and/or *pretreatment* process used by the permittee;
- (xiv) a statement that compliance with the 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 terms of the permit;
- (xv) other conditions as deemed appropriate by the *POTW Director* to ensure compliance with this article, and state and Federal laws, rules, and regulations.

**(11) Permits duration.**

Permits *shall* be issued for a specified time period, not to exceed five (5) *years*. A permit *may* be issued for a period less than a *year* or *may* be stated to expire on a specific date.

**(12) Permit transfer.**

*Waste water permits* are issued to a specific *user* for a specific operation. A *waste water discharge* permit *shall* not be reassigned or transferred or sold to a new *owner*, new *user*, different premises, or a new or changed operation.

**(13) Permit reissuance.**

A *significant industrial user* *shall* apply for permit reissuance by submitting a complete permit application in accordance with Section 8-2127 a minimum of one hundred eighty (180) days prior to the expiration of the existing permit.

**DIVISION 5.  
REPORTING REQUIREMENTS**

**Sec. 8-2128.  
BASELINE MONITORING REPORTS.**

(a) Within either one hundred eighty (180) days after the effective date of a *categorical pretreatment standard*, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing *categorical users* currently discharging to or scheduled to *discharge* to the *POTW* shall submit to the *POTW Director* a report which contains the information listed in subsection (b) below. At least ninety (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 *POTW Director* a report which contains the information listed in subsection (b) below. A *new source* shall report the method of *pretreatment* it intends to use to meet applicable *categorical standards*. A *new source* also shall give estimates of its anticipated flow and quantity of *pollutants* to be *discharged*.

(b) *Users* described above shall submit the information set forth below.

**(1) Identifying information.**

The name and address of the facility, including the name of the operator and *owner*.

**(2) Environmental permits.**

A list of any environmental control permits held by or for the facility.

**(3) 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.

**(4) 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).

**(5) Measurement of *pollutants*.**

- a. The *categorical pretreatment standards* applicable to each regulated process.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the *POTW Director*, 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 Section 8-2137 of this article.
- c. Sampling must be performed in accordance with procedures set out in Section 8-2138 of this article and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

**(6) Certification.**

A statement, reviewed by the *user's* current *authorized representative* as defined in 8-2112 of this article 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*.

**(7) 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 Section 8-2129 of this article.

**(8) Signature and certification.**

All *baseline monitoring reports* must be signed and certified in accordance with Section 8-2127(3) of this article.

**Sec. 8-2129.  
COMPLIANCE SCHEDULE PROGRESS REPORTS.**

The following conditions *shall* apply to the compliance schedule required by Section 8-2128(b)(7) of this article.

- (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 (9) *months*;
- (3) The *user shall* submit a progress report to the *POTW Director* no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the *user* to return to the established schedule; and
- (4) In no event *shall* more than nine (9) *months* elapse between such progress reports to the *POTW Director*.

**Sec. 8-2130.**

**REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.**

Within ninety (90) days following the date for final compliance with applicable *categorical pretreatment standards*, or in the case of a *new source* following commencement of the introduction of *waste water* into the *POTW*, any *user* subject to such *pretreatment standards and requirements shall* submit to the *POTW Director* a report containing the information described in Section 8-2128(b)(4) through (b)(6) of this article. 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 8-2127(3) of this article.

**Sec. 8-2131.**

**PERIODIC COMPLIANCE REPORTS.**

Municipalities *may* sample and analyze *user discharges* in lieu of or in addition to requiring the *users* to conduct sampling and analysis.

- (a) All *significant industrial users shall*, at a frequency determined by the *POTW Director*, but in no case less than once every six months, submit a report indicating the nature and concentration of *pollutants* in the *discharge* which are

limited by *pretreatment standards* and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in Sections 8-2137 and 8-2138 of this article. All periodic compliance reports must be signed and certified in accordance with Section 8-2127(3) of this article.

If a *user* subject to the reporting requirement in this section monitors any *pollutant* more frequently than required by the *POTW Director*, using the procedures prescribed in Sections 8-2137 and 8-2138 of this article, the results of this monitoring *shall* be included in the report.

**Sec. 8-2132.**

**REPORTS OF CHANGED CONDITIONS.**

Each *user* must notify the *POTW Director* of any planned significant changes to the *user's* operations or system which might alter the nature, quality, or volume of its *waste water* at least thirty (30) days before the change. The permittee *shall* not begin the changes until receiving written approval from the *Control Authority*. See Section 8-2133(d) of this article for other reporting requirements.

- (1) The *POTW Director* may require the *user* to submit such information as *may* be deemed necessary to evaluate the changed condition, including the submission of a *waste water discharge* permit application under Section 8-2127 of this article.
- (2) The *POTW Director* may issue a *waste water discharge* permit under Section 8-2127 of this article or modify an existing *waste water discharge* permit under Section 8-2127 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 or pollutant increases of twenty (20) per cent or greater, and the *discharge* of any previously unreported *pollutants*.

**Sec. 8-2133.**

**REPORTS OF POTENTIAL PROBLEMS.**

- (a) In the case of any *discharge*, including, but not limited to, accidental *discharges*, *discharges* of a non-routine, episodic nature, a non-customary batch *discharge*, or a *slug load* as defined in 8-2112 of this article, that *may* cause potential problems for the *POTW*, the *user shall* immediately telephone and notify the *POTW Director* of the incident. This notification *shall* include the location of the *discharge*, type of waste, concentration and volume, if known, and corrective actions taken by the *user*.
- (b) Within five (5) days following such *discharge*, the *user shall*, unless waived by the *POTW Director*, 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.

- (c) A notice *shall* be permanently posted on the *user's* bulletin board or other prominent place advising employees whom to call in the event of a *discharge* described in subsection (a) above. Employers *shall* ensure that all employees, who *may* cause such a *discharge* to occur, are advised of the emergency notification procedure.
- (d) All *SIUs* are required to notify the *POTW* immediately of any changes at its facility affecting the potential for spills and other accidental *discharges*, *discharges* of a non-routine, episodic nature, a non-customary batch *discharge*, or a *slug load* as defined in Section 8-2112 of this article.

**Sec. 8-2134.**

**REPORTS FROM UNPERMITTED USERS.**

All *users* not required to obtain a *waste water discharge* permit *shall* provide appropriate reports to the *POTW Director* as the *POTW Director* may require.

All *users* classified as Non-Significant Categorical *Industrial Users* under Section 8-2112 *shall* provide appropriate reports to the *POTW Director* as the *POTW Director* may require. At a minimum, this *shall* include the Annual Certification of continuing to meet the Non-Significant Categorical *Industrial User* criteria as required under 40 CFR 403.12(q).

**Sec. 8-2135.**

**NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.**

- (a) If sampling performed by a *user* indicates a violation, the *user* must notify the *POTW Director* immediately and not less than within twenty-four (24) hours of becoming aware of the violation. The *user* *shall* also repeat the sampling and analysis and submit the results of the repeat analysis to the *POTW Director* within thirty (30) days after becoming aware of the violation. If allowed by the [*POTW Director*}, the *user* is not required to resample:
  - (i) if the *POTW Director* monitors at the *user's* facility at least once a month; or
  - (ii) if the *POTW Director* samples between the *user's* initial sampling and when the *user* receives the results of this sampling.

**Sec. 8-2136.**

**DISCHARGE OF HAZARDOUS WASTE BY INDUSTRIAL USERS.**

No industrial user shall discharge any hazardous wastes without notification to and approval by the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days before the discharge commences. The user shall not begin the discharge until receipt of written approval from the City. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under Section 8-2132 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 8-2128, 8-2130, and 8-2131 of this article.
- (b) Dischargers are exempt from the requirements of subsection (a) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation 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 POTW Director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- (d) In the case of any notification made under this section, the *user shall* certify that it has a program in place to reduce the volume and toxicity of *hazardous wastes* generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to *discharge* any substance not otherwise permitted to be *discharged* by this article, a permit issued there under, or any applicable Federal or state law.

**Sec. 8-2137.**

**ANALYTICAL REQUIREMENTS.**

All *pollutant* analyses, including sampling techniques, to be submitted as part of a *waste water discharge* permit application or report *shall* be performed by a laboratory certified by the State of North Carolina Laboratory Certification Program, and 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 the *EPA*.

**Sec. 8-2138.**

**SAMPLE COLLECTION.**

- (a) All *waste water* samples must be representative of the *user's discharge*. *Waste water* 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*.
- (b) *Grab samples* must be used for *pH*, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other *pollutants* as required by 40 CFR 136. The *POTW shall* determine the number of grabs necessary to be representative of the *user's discharge*. See 40 CFR 403.12(g)(5) for additional *grab sample* number requirements for *BMR* and 90 Day Compliance Reports. Additionally, the *POTW Director may* allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) Composite Samples: All *waste water* composite samples *shall* be collected with a minimum of hourly aliquots or grabs for each hour that there is a *discharge*. All *waste water* composite samples *shall* be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the *POTW Director*. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

**Sec. 8-2139.**  
**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.

**Sec. 8-2139.1.**  
**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. These records *shall* remain available for a period of at least three (3) *years*. This period *shall* be automatically extended for the duration of any litigation concerning the *user* or the *City*, or where the *user* has been specifically notified of a longer retention period by the *POTW Director*.

**Sec. 8-2139.2.**  
**GREASE INTERCEPTOR MAINTENANCE RECORDS.**

- (a) Grease interceptor maintenance records must include the following information.
1. FSE - name and physical location.
  2. Date and time of each grease interceptor service.
  3. Name of grease interceptor service company.
  4. Name and signature of *person* doing said service.
  5. Established service frequency and type of service (Example Full pump out, partial pump out, on site *treatment*, etc.).
  6. Number and size of each grease interceptor serviced.
  7. Approximated amount, per best professional judgment, of grease and solids removed from each grease interceptor.
  8. Total volume of waste removed from each grease interceptor.
  9. Destination of removed wastes, food solids, and *waste water* disposal.

- (b) Maintenance records that do not include all the above information will be considered incomplete. Incomplete records are a violation of the City of Raleigh Sanitary Sewer Use Ordinance and *may* subject the facility to penalty assessments and/or service termination.

**DIVISION 6.  
COMPLIANCE MONITORING**

**Sec. 8-2140.  
MONITORING FACILITIES.**

- (a) The *City* requires the *user* to provide and operate, at the *user's* own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the *Building sewer* and/or internal drainage systems. The monitoring facility should normally be situated on the *user's* premises, but the *City may*, when such a location would be impractical or cause undue hardship on the *user*, allow the facility to be constructed in the public *street* or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (b) There *shall* be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment *shall* be maintained at all times in a safe and proper operating condition at the expense of the *user*.
- (c) Whether constructed on public or private *property*, the sampling and monitoring facilities *shall* be provided in accordance with the *City's* requirements and all applicable local construction standards and specifications. Construction *shall* be completed within ninety (90) days following *written* notification by the *City*.

**Sec. 8-2140.1.  
INSPECTION AND SAMPLING.**

The *City* will inspect the facilities of any *user* to ascertain whether the purpose of this article is being met and all requirements are being complied with. *Persons* or occupants of premises where *waste water* is created and *discharged shall* allow the *City*, *Approval Authority* and the *EPA* or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The *City*, *Approval Authority*, and the *EPA shall* have the right to set up on the *user's property* such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a *user* has security measures in force which would require proper identification and clearance before entry into their premises, the *user shall* make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the *City*, *Approval Authority* and the *EPA* will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the *POTW Director's*, *City's*, *Approval Authority's*, or the *EPA's* access to the *user's* premises *shall* be a violation of this article. Unreasonable delays *may* constitute denial of access.

**Sec. 8-2140.2.**  
**SEARCH WARRANTS.**

If the *POTW Director, City, Approval Authority*, or the *EPA*, has been refused access to a building, structure, or *property*, or any part thereof, and is able to demonstrate probable cause to believe that there *may* be a violation of this 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 *POTW Director, City, Approval Authority*, or the *EPA may* seek issuance of a search warrant.

**Sec. 8-2140.3.**  
**CONFIDENTIAL INFORMATION.**

- (a) Information and data on a *user* obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections *shall* be available to the public or other governmental *agency* without restriction unless the *user* specifically requests and is able to demonstrate to the satisfaction of the *POTW Director* that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the *user*. Any such request must be asserted at the time of submission of the information or data.
- (b) When requested by the *person* furnishing a report, 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 upon *written* request to governmental *agencies* for uses related to this article, the *National Pollutant Discharge Elimination System (NPDES) permit, non-discharge permit*, and/or the *pretreatment programs*; provided, however, that such portions of a report *shall* be available for use by *the State* or any state *agency* in judicial review or enforcement proceedings involving the *person* furnishing the report. *Waste water* constituents and characteristics will not be recognized as confidential information.
- (c) All records relating to compliance with *pretreatment standards shall* be made available to officials of the *Approval Authority* and the *EPA* upon request.

**DIVISION 7.**  
**ENFORCEMENT**

**Sec. 8-2140.4.**  
**ADMINISTRATIVE REMEDIES.**

**(a) Notification of violation.**

Whenever the *POTW Director* finds that any *industrial user, consumer* or other *person* has violated or is violating this article, *waste water permit*, or any prohibition,

limitation, or requirements contained therein or any other *pretreatment requirement* the *POTW Director* may serve upon such a *person* a *written* notice stating the nature of the violation. Within thirty (30) days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof *shall* be submitted to the *City* by the *industrial user, consumer* or other *person*. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

**(b) Consent orders.**

The *POTW Director* is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the *person* responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders *shall* have the same force and effect as an administrative order issued pursuant to Section 8-2140.4(d), below.

**(c) Show cause hearing.**

The *POTW Director* may order any *industrial user, consumer* or other *person* who causes or is responsible for an unauthorized *discharge*, has violated this article or is in noncompliance with a *waste water discharge* permit to show cause why a proposed enforcement action should not be taken. In the event the *POTW Director* determines that a show cause order should be issued, a notice *shall* be served on the *industrial user, consumer* or other *person* specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the *industrial user, consumer* or other *person* show cause why this proposed enforcement action should not be taken. The notice of the hearing *shall* be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service *may* be made on any agent or *officer* of a corporation.

The *POTW Director* *shall* review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under Section 8-2140.5 nor is any action or inaction taken by the *POTW Director* under this section subject to an administrative appeal under Section 8-2127(8).

**(d) Administrative orders.**

When the *POTW Director* finds that an *industrial user, consumer* or other *person* has violated or continues to violate this article, permits or orders issued hereunder, or any other *pretreatment requirement* the *POTW Director* may issue an order to cease and desist all such violations and direct those *persons* in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect, unless adequate *treatment* facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

**(e) Emergency suspensions.**

The *POTW Director* may suspend the *waste water treatment* service and/or *waste water permit* when such suspension is necessary in order to stop an actual or threatened *discharge* which presents or *may* present an imminent or substantial endangerment to the health or welfare of *persons* or the environment, interferes with the *POTW* or causes the *POTW* to violate any condition of its *NPDES* or *non-discharge permit*.

Any *industrial user, consumer* or other *person* notified of a suspension of the *waste water treatment* service and/or the *waste water permit* shall immediately stop or eliminate the contribution. A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension *may* be lifted or the *industrial user's, consumer's* or other *person's* *waste discharge* permit terminated.

In the event of a failure to comply voluntarily with the suspension order, the *POTW Director* shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the *POTW* system or endangerment to any individuals. The *POTW Director* shall reinstate the *waste water permit* and the *waste water treatment* service upon proof of the elimination of the noncompliant *discharge*. The *industrial user, consumer* or other *person* shall submit a detailed *written* statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the *POTW Director* prior to the date of the above described hearing.

**(f) Termination of permit or permission to *discharge*.**

The *POTW Director* may revoke any *industrial user's, consumer's*, or other *person's* *waste water discharge* permit or permission to *discharge* for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the *waste water* constituents and characteristics of his *discharge*;
- (2) Failure to report significant changes in operations, or *waste water* constituents and characteristics;

- (3) Refusal of reasonable access to the *industrial user's, consumer's* or other *person's* premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit or permission to *discharge*, conditions of this article, or any applicable State and Federal regulations.

Noncompliant *industrial users, consumers* or other *persons* will be notified of the proposed termination of their *waste water permit* and will be offered an opportunity to show cause under Section 8-2140.4 of this article why the proposed action should not be taken.

**(g) Investigative costs.**

The *POTW Director* may access the reasonable costs to the *City* of any investigation, inspection, or monitoring survey which revealed the violation against the *person* or business entity responsible for the violation.

**Sec. 8-2140.5.  
CIVIL PENALTIES.**

- (a) Any *user, consumer* or other *person* who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000.00) per day per violation.
  - (1). Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
    - i. For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or
    - ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this article, or the orders, rules, regulations and permits issued hereunder, only if the *POTW Director* determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the *POTW Director* shall consider the following:
  - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private *property* resulting from the violation;
  - (2) The duration and gravity of the violation;

- (3) The effect on ground or surface water quantity or quality or on air quality;
  - (4) The cost of rectifying the damage;
  - (5) The amount of money saved by noncompliance;
  - (6) Whether the violation was committed willfully or intentionally;
  - (7) The prior record of the violator in complying or failing to comply with the *pretreatment program*;
  - (8) The costs of enforcement to the *City*.
- (c) Appeals of civil penalties assessed in accordance with this section *shall* be as provided in Section 8-2127(8).

**Sec. 8-2140.6.**

**OTHER AVAILABLE REMEDIES.**

Remedies, in addition to those previously mentioned in this article, are available to the *POTW Director* who *may* use any single one (1) or combination against a noncompliant *user*, *consumer* or other *person*. Additional available remedies include, but are not limited to:

**(1) Criminal violations.**

The District Attorney *may*, at the request of the *City*, prosecute noncompliant *users*, *consumers* or other *persons* who violate provisions of *G.S. 143-215.6B*. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a *pretreatment* permit, or negligently fail to apply for a *pretreatment* permit, issued by local governments (*G.S. 143-215.6B(f)*), to knowingly and willfully violate any term, condition, or requirement of a *pretreatment* permit, or knowingly and willfully fail to apply for a *pretreatment* permit, issued by local governments (*G.S. 143-215.6B(g)*), to knowingly violate any term, condition, or requirement of a *pretreatment* permit issued by local governments, or knowingly fail to apply for a *pretreatment* permit, knowing at the time that a *person* is placed in imminent danger of death or serious bodily injury (*G.S. 143-215.6B(h)*), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (*G.S. 143-215.6B(i)*).]

**(2) Injunctive relief.**

Whenever a *user*, *consumer* or other *person* is in violation of the provisions of this article or an order or permit issued hereunder, the *POTW Director*, through the *City Attorney*, *may* petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

**(3) Water supply severance.**

Whenever an *industrial user, consumer* or other *person* is in violation of the provisions of this article or an order or permit issued hereunder, water service to the *industrial user, consumer* or other *person* may be severed and service will only recommence, at the *user's, consumer's* or other *person's* expense, after it has satisfactorily demonstrated ability to comply.

**(4) Public nuisances.**

Any violation of the prohibitions or effluent limitations of this article or of a permit or order issued hereunder, is hereby declared a public nuisance and *shall* be corrected or abated as directed by the *POTW Director*. Any *person(s)* creating a public nuisance *shall* be subject to the provisions of the *City Code* governing such nuisances, including reimbursing the *POTW* for any costs incurred in removing, abating, or remedying said nuisance.

**Sec. 8-2140.7.**

**REMEDIES NONEXCLUSIVE.**

The remedies provided for in this article are not exclusive. The *POTW Director* may take any, all, or any combination of these actions against a noncompliant *user, consumer* or other *person*. Enforcement of *pretreatment* violations will generally be in accordance with the *City's* Enforcement Response Plan. However, the *POTW Director* may take other action against any *user, consumer* or other *person* when the circumstances warrant. Further, the *POTW Director* is empowered to take more than one (1) enforcement action against any noncompliant *user, consumer* or other *person*.

**Policy reference** – City of Raleigh Enforcement Response Plan.

**Sec. 8-2140.8.**

**ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.**

At least annually, the *POTW Director* shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the *POTW*, a list of those *industrial users* which were found to be in *significant noncompliance*, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(10), with applicable *pretreatment standards and requirements*, during the previous 12 months.

**DIVISION 8.**  
**AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**Sec. 8-2140.9.**  
**UPSET.**

- (a) An *upset shall* constitute an affirmative defense to an action brought for noncompliance with *categorical pretreatment standards* if the requirements of subsection (b), below, are met.
- (b) 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* identify the cause(s) of the *upset*;
  - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (3) The *user* has submitted the following information to the *POTW Director* within twenty-four (24) hours of becoming aware of the *upset* [if this information is provided orally, a *written* submission must be provided within five (5) days]:
    - a. A description of the *indirect discharge* and cause of noncompliance;
    - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the *user* seeking to establish the occurrence of an *upset shall* have the burden of proof.
- (d) *Users* will have the opportunity for a determination on any claim of *upset* only in an enforcement action brought for noncompliance with *categorical pretreatment standards*.
- (e) *Users shall* control production of all *discharges* to the extent necessary to maintain compliance with *categorical pretreatment standards* upon reduction, loss, or failure of its *treatment* facility until the facility is restored or an alternative method of *treatment* is provided. This requirement applies in the situation where, among other things, the primary source of power of the *treatment* facility is reduced, lost, or fails.

**Sec. 8-2140.10.**

**PROHIBITED DISCHARGE STANDARDS DEFENSE.**

- (a) A *user shall* have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 8-2113(a) of this article or the specific prohibitions in Sections 8-2113(b)(2), (3), (5) through (7), (9) through (23) 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:
- (1) 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
  - (2) 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.
- (b) The references in Section 8-2140.10 refer only to specific prohibitions actually listed in the article; pursuant to 40 CFR Section 403.5(a)(2), the affirmative defense outlined in Section 8-2140.10 cannot apply to the specific prohibitions in Section 8-2113(b)(1), (4), and (8).

**Sec. 8-2140.11.**

**BYPASS.**

- (a) 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 provisions of subsections (b) and (c) below.
- (b) (1) If a *user* knows in advance of the need for a *bypass*, it *shall* submit prior notice to the *POTW Director*, at least ten (10) days before the date of the *bypass*, if possible.
- (2) A *user shall* submit oral notice to the *POTW Director* of an unanticipated *bypass* that exceeds applicable *pretreatment standards* within twenty-four (24) hours from the time it becomes aware of the *bypass*. A *written* submission *shall* also be provided within five (5) days of the time the *user* becomes aware of the *bypass*. The *written* submission *shall* contain a description of the *bypass* and its cause; the duration of the *bypass*, including exact dates and times, and, if the *bypass* has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the *bypass*.

- (c) (1) *Bypass* is prohibited, and the *POTW Director* 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 subsection (b) above.
- (2) The *POTW Director* may approve an anticipated *bypass*, after considering its adverse effects, if the *POTW Director* determines that it will meet the three (3) conditions listed in subsection (c)(1) above.

**Section 2.** No other portion of the Raleigh City Code be affected by this change.

**Adopted:** December 6, 2011

**Effective:** December 6, 2011

**Distribution:** Public Utilities – Carman, Jackson, Waldroup, Massengill, Buchan,  
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