

**FRANKLIN, KENTUCKY**

**SEWER USE ORDINANCE AND USER CHARGE SYSTEM**

**ORDINANCE NO. 610.1**

**(Effective April, 2010)**

An ordinance of the City of Franklin, Kentucky, repealing and re-enacting in amended text and substance a previous Ordinance relating to the use of the municipally owned Sewer system of said city, deleting certain provisions and adding certain new provisions which comply with state and federal regulations.

This ordinance provides for the City of Franklin to protect its substantial investment in its wastewater collections and treatment system and to help assure compliance with its NPDES Permit. This ordinance also incorporates a "protection criteria" which protects the sewage treatment plan in terms of, (1) unit operations (2) sludge handling and disposal and (3) pass through of pollutants.

In addition, this ordinance provides that all persons in the service area of the City of Franklin must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The ordinance also provides for the issuance of permits to system users, for the regulation of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

All provisions of this Sewer Use Ordinance shall apply to all customers (including customers outside the Franklin city limits) of the Franklin Wastewater Collection/Treatment System. Except as otherwise provided herein, the Superintendent of the City of Franklin shall administer, implement, and enforce the provisions of this Ordinance.

WHEREAS, because the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, requires the passage of this Ordinance prior to the release of certain loan funds which the city urgently needs for improvements to the sewer system, which are already under construction; and

WHEREAS, it is provided in KRS 83A.060(7) that publication of an ordinance, in order to make it effective, need not be done in an emergency, upon the affirmative vote of two-thirds of the membership of the city's legislative body, provided that the legally required publication requirement is carried out within ten days from the date of enactment of the emergency ordinance; and

WHEREAS, it is essential in the public interest that the improvements to the sewer system be paid for in a timely fashion in order to save the City from defaulting under the terms of its contract with its contractors and suppliers, and to avoid significant additional costs, and therefore an emergency exists so that it is necessary and in the public interest to take whatever statutory steps are available

to pass this legislation as required by the above referenced State regulatory agency, and the City hereby declares such an emergency to exist;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FRANKLIN, KENTUCKY, ACTING BY AND THROUGH ITS COMMISSION, AS FOLLOWS:

SEWAGE DISPOSAL

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**I. DEFINITIONS:** Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) "The Act" means Federal Water Pollution Control Act Amendment of the 1972, also known as the Clean Water Act, (33 U.S.C. 1251 et. seq.), and subsequent amendments.
- (2) "Approval Authority" shall refer to the Director of the Division of Water; Department of Environmental Protection; Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky or the regional administrator of U. S. Environmental Protection Agency.
- (3) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (4) "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
- (5) "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- (6) "City" shall mean the City of Franklin or Board of Mayor and City Commission.

- (7) "C.O.D." (denoting chemical oxygen demand) shall mean the quantity of oxygen utilized in the oxidation of organic matter to carbon dioxide and water expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (8) "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
- (9) "Compatible Pollutant" shall mean such pollutants as biochemical oxygen demand, suspended solids, ph and fecal coli form bacteria, plus any additional pollutants as are now and may be in the future specified and controlled in the City's NPDES permit for its wastewater treatment works where said works have been designed and used to reduce or remove such pollutants.
- (10) "Control Authority (Legal Authority)" shall refer to the Superintendent as defined in this section or if the City's pretreatment program is not approved to the Approval Authority as defined in this section.
- (11) "EPA" shall mean the Environmental Protection Agency, an agency of the United States, or where appropriate, the term may be used as a designation for the administrator or other duly authorized official of said Agency.
- (12) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.
- (13) "Grab Sample" shall mean a single sample which is taken from a waste stream on a one-time basis from one sampling point.
- (14) "Incompatible Pollutant" shall mean any pollutant which is not a "compatible pollutant" as defined in this Article.
- (15) "Indirect Discharge" shall mean the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (16) "Industrial User" shall mean a source of discharge which introduces pollutants into the sanitary sewer from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.
- (17) "Industrial Wastes" shall mean the liquid wastes resulting from industrial and manufacturing processes and/or trade and business establishments, as distinct from sanitary wastewater.
- (18) "Interference Wastes" shall mean inhibition or disruption of the sewer systems, treatment processes or operations (including sludge treatment and disposal processes) which contributes to the violation of any requirements of the City's NPDES Permit.
- (19) "Significant Industrial User" shall mean any user which meets or exceeds any of the following criteria:

- a. All categorical industrial users.
  - b. Any Noncategorical industrial user which:
    - (i) Discharges 25,000 gallons per day or more of process wastewater (Process Wastewater" excludes sanitary, non-contact cooling and boiler wastewaters); or
    - (ii) Contributes a process wastewater which makes up five (5) percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the treatment plant; or
    - (iii) Has a reasonable potential in the opinion of the control or approval authority, to adversely affect the POTW treatment plant (inhibition, pass through of pollutants, sludge contamination, or endangerment of POTW workers).
- "Process blowdown"
- (20) "Monitoring" shall mean the measurement, continuous or intermittent, of wastewater quality and quantity.
  - (21) "National Pollutant Discharge Elimination System" or "NPDES Permit" shall mean a permit for treated wastewater discharge issued to the City pursuant to Section 402 of the Act.
  - (22) "National Pretreatment Standard" of "Pretreatment Standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act which applies to industrial users. These standards are further segregated as:
    - a. "National Pretreatment Standards: Prohibited Discharges" - establishes prohibitions on pollutants introduced into the sanitary sewer system pursuant to 40 CFR Section 403.5 and applies to all industrial users.
    - b. "National Pretreatment Standard: Categorical Standards" - specifies quantities or concentrations of pollutants or pollutant properties which may be discharged to the sanitary sewer pursuant to 40 CFR Section 403.6 and applies only to specific industrial categories.
  - (23) "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
  - (24) "New Source" shall mean any building, structure, facility, or installation from which there is or may be a discharge, the construction of which commenced:
    - a. After proposal of pretreatment standards in accordance with section 307 (c) of the Act which are applicable to such source; or

- b. After proposal of Pretreatment Standards in accordance with Section 307 (c) of the Act which are applicable to such source, but only if the Standards are promulgated in accordance with Section 307 (c) within 120 days of their proposal.
- (25) "Pass Through" shall mean the discharge of pollutants through the treatment system into a natural outlet in quantities or concentrations which are a cause of or significantly contribute to any violation of the NPDES Permit, this includes pollutants subject to "National Pretreatment Standards: Categorical Standards".
- (26) "Person" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or the legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (27) "ph" means the hydrogen ion activity of a solution and is expressed as the logarithm of the reciprocal of the hydrogen ion activity in moles per liter at a given temperature.
- (28) "Pollution" shall mean the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.
- (29) "Pretreatment Facility" or " Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the treatment system. The reduction or alteration can be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR Section 403.6(d).
- (30) "Pretreatment Requirement" shall mean any substantive or procedural requirement related to pretreatment other than a National Pretreatment Standard, imposed on an industrial User.
- (31) "Process Water" shall mean "industrial wastes" as described in this Article.
- (32) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.
- (33) "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
- (34) "Publicly Owned Treatment Works" or "POTW" shall mean a treatment works as defined by Section 212 of the Act, which is owned by a municipality. This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the municipality as defined in Section 1502 (A) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

- (35) "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the wastewater treatment works to maintain the capacity and performance for which such works were designed and constructed. The term operations and maintenance includes replacement.
- (36) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
- (37) "Sanitary Wastewater" shall mean liquid wastes discharges from: the sanitary conveniences at dwellings (including apartment houses and motels), office buildings, industrial plants, or institutions and from the non-commercial preparation, cooking and handling of food, as distinct from industrial wastes.
- (38) "Sewage" or "Wastewater" shall mean a combination of the water carried wastes from residences, business building, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
- (39) "Sewer" shall mean a pipe or conduit for carrying sewage.
- (40) "Shall" is mandatory; "May" is permissive.
- (41) "Significant Noncompliance (SNC)" shall mean:
- a. Violations of wastewater discharge limits.
    - (i) Chronic Violations. Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period (any magnitude of exceedance).
    - (ii) Technical Review Criteria (TRC) Violations. Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six (6) month period:
 

Group I - Conventional Pollutants (BOD, TSS, and Fats, Oil and Grease)	TRC = 1.4 or 40% Over the Limit for Compatible Pollutants TRC = 1.2 or 20% Over the Limit for Incompatible Pollutants
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    - (iii) Any other violation or violations of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass through; or endangered the health of the sewage treatment personnel or the public.
    - (iv) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the exercise of its emergency authority to halt or prevent such a POTWs

discharge.

- b. Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.
  - c. Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and aperiodic reports within thirty (30) days from the due date.
  - d. Failure to accurately report noncompliance.
  - e. Any other violation or group of violations which the control authority (legal authority) considers to be significant.
- (42) "Slug" shall mean wastewaters at a flow rate or containing such concentrations or quantities of pollutants that exceeds for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities or flow during normal operation and that would cause a treatment process upset and subsequent loss of treatment efficiency.
- (43) "Standard Industrial Classification" of "SIC" shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (44) "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- (45) "Superintendent" shall mean the Mayor or his designee.
- (46) "Suspended Solids" shall mean the total suspended matter that is in suspension or floating on the surface in water, sewage, or other liquids, and which are removable by laboratory filtering, expressed in terms of weight and concentration (milligrams per liter (mg/l)).
- (47) "Toxic Pollutant" shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of 33 U.S.C. 1317.
- (48) "Twenty-four hours, flow proportional composite sample" shall mean a sample consisting of several effluent portions collected during a twenty-four (24) hour period in which the portions of sample are proportionate to the flow to combine to form a representative sample.
- (49) "Useful Life" shall be the estimated period during which a treatment works will be operated.
- (50) "User" shall mean any individual, firm, company, association, society, corporation or group.

- (51) "User Charge" shall mean a charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works.
- (52) "Wastewater Treatment Works" shall mean all facilities for collecting, pumping, treating and disposal of sewage.

Scientific terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

## **II. SANITARY SEWER EXTENSIONS**

### (1) Policy.

It is the policy of the city that the city's sewer construction program shall, subject to the provision of this subsection, be primarily directed toward general construction of necessary trunk lines and maintenance of existing lines, that the city will not henceforth be involved in construction of collector systems within or incident to any new development or extension of any existing development, and, that new construction of sanitary sewer trunk lines from existing sewer lines to new or proposed developments be carried out, so far as is practicable, pursuant to this subsection. It is the further policy of the city that the cost of extending the city's sewer system shall be borne by those persons receiving the benefit of such extensions.

### (2) Application for Sewer Service Extension

Any person desiring that the city extend its sanitary sewer system to provide service to a particular area may make application to the board of commissioners through the City Clerk for approval of such extension. This application shall be in writing and shall be of such form and substance as the Superintendent shall from time to time direct by written and published regulation, but shall specifically include the applicant's name and mailing address, a complete legal description of the area proposed to be served by the requested extension, a statement of the number of sewer taps projected by the applicant to be brought on the proposed extension, and a detailed statement of the reasons why the requested extension should be approved. Applications shall be accompanied by a development plat, and a topographical map shall be prepared by an engineer licensed to practice in the Commonwealth of Kentucky which shall be to a scale of no smaller than one-inch equals 100 feet, shall reflect the location of existing sanitary sewer facilities with relation to the area proposed to be served by the requested extension, and shall depict the proposed collection system, if any, within the area proposed to be served (including size and location of proposed lines). An application fee of \$100 shall be collected by the City Clerk upon receipt of each application, and all costs associated with the preparation and submission of the application shall be paid by the applicant.

### (3) Preliminary Review of Application; Feasibility

Upon receipt of an application filed in compliance with Subsection (2), the Clerk shall note thereon the date and hour of receipt of the application and shall forward a copy of same, together with



supporting documents and drawings, to the city's consulting engineer, or other authorized representative, for preliminary review. The consulting engineer, shall within a reasonable time from the date of his receipt of the application, make a written report to the City Manager, which shall contain a preliminary evaluation of the feasibility of the requested extension, based upon all relevant factors, including but not limited to physical characteristics of the subject land area, cost economics, and existing long-range, comprehensive sewerage development plans. This report shall classify the requested extension as either feasible or not feasible, and shall contain a construction cost estimate, including costs for preparation of contract documents, construction drawings, and all other necessary materials. If the requested extension is classified not feasible, the report shall contain a brief explanation of the proposal deficiencies. If the requested extension is classified as feasible, the report shall contain a statement of the dollar amount of sewer tap fees which would be necessary over a stated time period to make the proposed extension cost effective. In the event that the total cost of the proposed construction, because of the need for the city's ability to service areas other than the subject area of the application from the requested sewer extension, exceeds the estimated cost of an extension sufficient only to service the subject area of the application, the consulting engineer shall note that fact in his report and shall include a statement of the estimated cost of constructing a facility sufficient to service only the subject area of the application. Immediately upon receipt of this report, the City Manager shall file the original thereof with the application and shall direct copies of the report to the Superintendent and to the applicant.

(4) Action of Board of Commissioners

- a. A proposed extension which has been classified not feasible shall not be presented to the Board of Commissioners for consideration. Such an application may be modified and resubmitted to the City Clerk as a new application, in which case the City Clerk shall collect an application fee, the same as if the modified application were an original application.
- b. A proposed extension which has been classified feasible shall be presented to the Board of Commissioners by the City Manager at the next regularly scheduled Board meeting after the City Manager's receipt of a copy of the consulting engineer's report. The applicant may be in attendance at this meeting. The applicant shall be afforded an opportunity at the meeting, to be heard by the Board concerning the proposed extension and shall be subject to examination thereon.
- c. After the applicant has been afforded an opportunity to be heard concerning the requested extension, the commissioners shall, by appropriate motion as seconded, vote by the majority of the members thereof in attendance and approve or deny the application for extension of the city's sanitary sewer facilities.
- d. The City Clerk shall record the approval or disapproval of the application in the minutes of the meeting and shall note the approval or disapproval upon the face of the application. The City Clerk shall forthwith notify the applicant of the board of Commissioners' action by certified mail, with return receipt requested. Any approval made by the Board under this section shall be conditioned upon the applicant's compliance with the provision of Subsection (5).

(5) Construction of Extension; Bond Required

- a. Any extension of the city's sanitary sewer system approved by the Board of Commissioners under this subsection shall be constructed by the contractor approved by the city, subject, however, to the provisions of this section.
- b. Any applicant whose application hereunder has been approved shall in writing guarantee that the city will receive total sewer tap fees from the proposed extension in at least the amount and within the time period stated in the consulting engineer's report on the application. The applicant's obligation that the city will receive such amount of sewer taps within such time period shall be secured by bond, with sufficient surety, or other approved security. This bond shall be in an amount equal to the total dollar amount of tap fees required by the consulting engineer's report to be guaranteed by the applicant. Liability of the applicant and his surety under the bond shall be conditioned upon the city's receiving the total dollar amount of tap fees required by the consulting engineer's report to be guaranteed by the applicant within the time period set out in that report.
- c. Upon the applicant's providing the written guarantee and bond provided for hereinabove, the city shall, by and through its duly authorized officers and agents, proceed to construct the requested sewer extension, by advertising for and receiving bids for the construction of the proposed extension. Construction of the proposed extension will be carried out as if the applicant were in no manner involved therewith. All planning, construction supervision, and any and all other phases of the construction of the subject extension shall be carried on by the city's authorized agent, and the applicant shall have no interest in or control over the subject extension and/or the planning and/or the construction thereof.

(6) Applicant or Surety Default

- a. If at the expiration of the time period provided in the consulting engineer's report concerning the subject extension, the city has not received a total dollar amount in tap fees from the subject extension equal to or greater than the amount of such tap fees specified in the consulting engineer's report, the City Clerk, shall immediately upon the expiration of such time period notify the applicant and his surety of that fact, by certified mail with return receipt requested. The notice shall set forth the total amount of tap fees received to date from the subject extension. The applicant and his surety shall immediately upon receipt of such notice of deficiency be jointly and severally liable to the city for payment of an amount equal to the difference between the total amount of tap fees guaranteed by the applicant and the total amount of tap fees received by the city during the specified time period from the subject extension. Tap fees received by the city from a collection system or other extensions of the sewer line for which application was originally made and accepted shall not be considered in determination of the deficiency, if any, in the tap fees guaranteed by the applicant or his surety.
- b. Should the applicant and his surety fail to pay the city the amount of the deficiency

in sewer taps within ten days of their receipt of notice thereof, the City will institute proceedings to collect the sums due and for forfeiture of the bond, and the applicant and the surety shall be responsible for all costs associated with said action as well as subject to a penalty as set forth in Section IX.

(7) Privately Funded Sewer Extensions

- a. Any person desiring to construct a sanitary sewer line either as a trunk line or a distribution line which shall be constructed and paid for by persons other than the city, may make application to the city for such line(s) to be accepted and maintained as a part of the city's sewer system.
- b. Applications shall be in writing and shall be accompanied by a development plat, and a topographical map shall be prepared by an engineer licensed to practice in the Commonwealth of Kentucky which shall be to a scale of no smaller than one-inch equals 100 feet, shall reflect the location of existing sanitary sewer facilities with relation to the area proposed to be served by the extension, and shall depict the proposed collection system, if any, within the area (including size and location of proposed lines). An application fee of \$100 shall be collected by the City Clerk upon receipt of each application, and all costs associated with the preparation and submission of the application shall be paid by the applicant. The applicant shall be further required to comply with all applicable rules of the Franklin-Simpson Planning and Zoning Commission, and State or Federal regulations.
- c. Upon the applicant's providing the written information set forth above the applicant may proceed to construct the requested sewer extension. Construction of the proposed extension and all planning, construction supervision, and any and all other phases of the construction of the subject extension shall be completed under the supervision and inspection of the City Engineer. Specifically the City Engineer shall inspect and approve all phases of the construction, and no lines shall be accepted by the city until certified by its engineer.

**III. REQUIREMENTS FOR PROPER SEWAGE DISPOSAL**

(1) Disposal of Human and Animal Excrements

It shall be unlawful for a user to place, deposit, or permit to be deposited, in any unsanitary manner on public or private property within the City of Franklin or any area under the jurisdiction of the said City, any human or animal excrement, garbage, or other objectionable waste.

(2) Discharge of Sewage or Polluted Waters

It shall be unlawful to directly discharge to any natural outlet within the City of Franklin or in any area under the jurisdiction of the said City, any sewage or other polluted waters, except in accordance with Section (5) of this Article.

(3) Septic Tank, Cesspool, Privy Vault, and Privy Construction

Except as hereafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Requirement of Sewer Connections

The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the City or any area under the jurisdiction of said City and abutting on any street, highway, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at his expense to connect such facilities directly with the reasonably available proper public sewer in accordance with the provisions of this ordinance within ninety (90) days after date of official notice to do so. Sanitary sewer service shall be deemed reasonably available by the Superintendent if there is an existing sanitary sewer manhole within 500 feet of the owner's property or, if after proper request and approval, the City agrees to extend the sanitary sewer line and install a manhole within 500 feet of the owner's property line. Except that Sanitary sewer service shall not be deemed reasonably available if the property owner should be required to bore under a Railroad or major State Highway.

(5) Private Sewage Disposal

The disposal of sewage by means other than the use of the available sanitary sewage system shall be in accordance with local, county, state, and federal law. The disposal of sewage by private disposal systems shall be permissible only in these instances where service from the available sanitary sewage system is not available.

(6) Storm Sewer Discharge

It shall be unlawful for any user, without exception, to discharge sanitary wastewater into the storm sewer system.

**IV. BUILDING SEWER PERMITS AND PROPER CONNECTIONS**

(1) Sewer Connections

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

(2) Building Sewer Permits

There shall be two (2) classes of building sewer permits; (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. Their permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of ten (\$10.00) dollars shall be paid to

the City at the time the application is filed.

(3) Cost of Sewer Connection

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

(4) Users Per Connection

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or any interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Use of Existing Sewer Connection

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

(6) Design Consideration for Building Sewers

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the following requirements:

- a. The minimum size of a building sewer shall be four (4) inches.
- b. The minimum depth of a building sewer shall be eighteen (18) inches.
- c. Four (4) inch building sewers shall be laid on a grade greater than 1/8 inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.
- d. Slope and alignment of all building sewers shall be neat and regular.
- e. Building sewers shall be constructed only of (1) concrete or clay sewer pipe using rubber or neoprene compression joints of approved type; (2) cast iron soil pipe with leaded or compression joints; (3) polyvinyl chloride pipe with solvent welded or with rubber compression joints of approved type; or (5) such other materials of equal or superior quality as may be approved by the Superintendent. Under no circumstances will cement mortar joints be acceptable.
- f. A cleanout shall be located five (5) feet outside of the building, one as it taps onto the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than

seventy-five (75) feet apart at horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart, for larger pipes, and a cleanout shall be located at the property line, where the service line connects to the City's main sewer and/or City tap. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a four (4) inch pipe.

- g. Connections of building sewers to the public sewer system shall be made at the appropriate wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or installing a tee-saddle or tee-insert of a type approved by the Superintendent. All such connections shall be made gas-tight and watertight.
- h. The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8 inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the Owner.
- i. The method to be used in excavating, place of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
- j. An installed building sewer shall be gas tight and water tight.

#### (7) Maintenance of Building Sewers

Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line from the building owned by the private property owner to the edge of the property line of the property owner as deemed necessary by the Superintendent to meet specifications of the City. If it is determined by a property owner that a problem exists in the sewer line between the property owner's line, and the City main sewer, the property owner may contact the Superintendent and request that the line be repaired or cleaned so that it will continue to accept effluent from the property owner's building. However, if the Superintendent and/or City

employees determine that there is no blockage in the City's portion of the line, commonly referred to as the "tap," or main sewer, or should it be determined that the property owner has not installed a cleanout in accordance with Section IV (6) (f) hereof and has not installed a cleanout at the owner's property line at grade level, the property owner shall be assessed a service charge equal to the actual cost incurred by the City in making the service call, or Fifty Dollars and 00/100 (\$50.00), whichever is greater.

(8) Illegal Connections

No user shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of uncontaminated surface runoff or groundwater to a building sewer or building which in turn is connected directly or indirectly to a public sanitary sewer.

(9) Design Considerations for Connecting Building and Public Sewers

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(10) Inspection of Building Sewers

The applicant for the building sewer permit shall notify the Superintendent when the building is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

(11) Excavation

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**V. PROHIBITIONS AND LIMITATIONS ON WASTEWATER DISCHARGES**

(1) Wastes Excluded from Discharge into Franklin's Sewerage System

All industrial users shall be subject to "National Pretreatment Standards: prohibited discharges" as detailed in 40 CFR, Section 403.5. In addition, no user shall discharge or allow to be discharged into the sewerage works any of the following materials:

- a. Unpolluted Waters This includes uncontaminated storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the (Kentucky Department for Environmental Protection). Industrial cooling water or unpolluted

process waters may be discharged, on approval of the (Kentucky Department for Environmental Protection), to a storm sewer, or natural outlet.

- b. Solid or Viscous Waters Solid or viscous substances which will or may cause obstruction to the flow in a sewer, or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, cannery wastes, bones, hair, hides or fleshings, entrails, whole blood, feathers, bulk solids, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper products, wood, plastic, tar, asphalt residues, painting residues, residues from refining or processing of fuel or lubricating oil, and similar substances.
- c. Explosive Mixtures. Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall a wastestream exhibit a closed cup flashpoint of less than 140 degrees Fahrenheit (60 deg. Centigrade) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzine, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, promates, carbides, hydrides, and any other substances which have a closed cup flashpoint of 140 deg. Fahrenheit (60 deg. Centigrade) or less, in any substance which the city, state, or EPA has notified the user is a fire hazard or a hazard to the sanitary sewer system.
- d. Improperly Shredded Garbage. Any garbage that has not been properly shredded (See Article I for definition). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- e. Corrosive Wastes Any waste which will cause corrosion or deterioration of the wastewater treatment works. All wastes discharged to the public sewer system must have a ph value in the range of six (6) to nine (9) standard units. Prohibited material, include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products.
- f. Oils and Grease. Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) or one hundred fifty (150) degrees F. (0 and 65 C).
- g. Noxious Materials. Noxious or malodorous solids, liquids or gases, which, either single or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or may be sufficient to prevent entry into a sewer for its



maintenance and repair.

- h. Discolored Materials Wastes with objectionable color such as dye waste.
- i. Toxic Substances Any toxic substances in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to Section 307 (a) of the Act, and chemical elements or compounds, phenols, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system, or that will pass through the system.
- j. Radioactive Wastes Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the sewerage facilities or personnel operation the system.
- k. High Temperature Wastes Any liquid or vapor having a temperature higher than one hundred four (104) degrees Fahrenheit, forty (40) degrees Centigrade.
- l. Flow rate or concentration. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or concentration which will cause Interference with the POTW.  
pollutant
- m. Any pollutants which, either alone or by interaction with other substances, produce toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- n. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through at the POTW.
- o. Any trucked or hauled pollutants, except at discharge points designated by the superintendent.
- p. Improperly Shredded Paper Products. Any ground paper products such as cups, dishes, napkins, milk products, etc., shall not be discharged into the sewerage works.

(2) Limitation on Wastewater Discharges

No person shall discharge or convey, or permit, or allow to be discharged or conveyed to a public sewer any wastewater containing pollutants of such character or quantity that will:

- a. Require unusual attention or expense to handle at the wastewater treatment facilities.
- b. Constitute a hazard to human or animal life, or to the stream or water course

receiving the treatment plant effluent.

- c. Violate, National Pretreatment Standards as promulgated by the EPA with appropriate effective dates.
- d. Cause the treatment plant to experience problems with unit operations, sludge handling and disposal options or compliance with its NPDES permit limitations.

In order to insure optimum and efficient operation of the Franklin wastewater treatment facilities, a table of "Protection Criteria Parameters and Local Effluent Limits for Industrial Users" is included as Table 1. This table establishes maximum effluent limits for individual discharges.

TABLE 1

PROTECTION CRITERIA PARAMETERS  
AND LOCAL EFFLUENT LIMITS FOR USERS

<u>Constituent</u>	<u>Daily Maximum Concentration (mg/l)</u>
<i>Compatible Pollutants:</i>	
Biochemical Oxygen Demand	300
Chemical Oxygen Demand	600
Total Suspended Solids	300
Nitrogen (Total Kjeldahl)	60
Nitrogen (Ammonia)	20
Fats, Oil and Grease	100
pH	6-9
<i>Incompatible Pollutants:</i>	
Antimony	5.0
Arsenic	0.6
Boron	1.0
Cadmium	0.36
Chromium (Total)	3.0
Copper	0.53
Cyanide, Amenable	1.0
Lead	0.2
Mercury	0.0005
Nickel	2.7
Oil & Grease, Hydrocarbons	25.0
Pesticides	0.001
Phosphorus (Total)	10.0
Selenium	0.045
Silver	0.24
TPH	Report

TTO (Total Toxic Organics)	2.13
Zinc	2.46

Based on 24-hour flow proportional composite samples  
Based on design capacity of plant BDL (Below Detectable Limit)

- a. Additional constituents shall be added as needed to protect the treatment works.
- b. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered a violation of the industrial permit and this ordinance.
- c. "Slugs", as defined in Article I shall be avoided.
- d. Wastewater discharges which substantially differ in nature or constituents from the users average discharge shall be prohibited unless prior approval is obtained, in writing, from the Superintendent.
- e. In the event that the influent at the POTW reaches or exceeds acceptable levels, the Superintendent shall initiate technical studies to determine the cause of the influent violation and shall recommend to the City the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The Superintendent shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.
- f. In addition "Wastes Excluded from Discharge into Franklin's Sewerage System" as detailed in Article V (1) and (2) of the Franklin Sewer Use Ordinance shall be part of the local effluent limits.
- g. The limits for "Compatible Pollutants" may be exceeded if it is addressed in the Industrial Discharge Permit and the applicable Surcharge (Article VIII (5)) is paid by the industry.
- h. "National Pretreatment Standard: Categorical Standards" shall govern if more stringent than the local limits established above.

(3) Limitation on Bypass

(a) Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of an Industrial User's Treatment Facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not violating applicable pre-treatment standards or requirements. An Industrial User may allow any bypass to occur which does not cause Pre-treatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of these section.

(c) Notice.

(1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority (Legal Authority), if possible, at least ten (10) days before the date of the bypass.

(2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds Applicable Pre-treatment Standards to the Control Authority (Legal Authority) within twenty-four (24) hours from the time Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority (Legal Authority) may waive the written report on a case by case basis if the oral report has been received within twenty four (24) hours.

(d) Prohibition of Bypass

(1) Bypass is prohibited, and the Control Authority (Legal Authority) may take enforcement action against an Industrial User for a bypass, unless;

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment down time or preventive maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(2) The Control Authority (Legal Authority) may approve an anticipated bypass, after considering its adverse effects, if the Control Authority (Legal Authority) determines that it will meet the three (3) conditions listed in paragraph (d) (1) of this section.

(4) Concentration Limits for Categorical Industries Subject to Production-Based Standards

(1) When limits in a categorical Pre-treatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority (Legal Authority) may convert the limits to equivalent limitations expressed either as massed of pollutant discharged per day of effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

(2) The Control Authority (Legal Authority) calculating equivalent mass-per-day limitations under paragraph (1) above shall calculate such limitations by multiplying the limits in the standard by the Industrial User's average rate of production. This average rate of production shall be based not upon the designed production capacity, but rather upon a reasonable measure of the Industrial User's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

(3) The Control Authority (Legal Authority) calculating equivalent concentration limitations under paragraph (1) of this section shall calculate such limitations by dividing the mass limitations derived under paragraph (2) of this section by the average daily flow rate of the Industrial User's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the Industrial User's actual long-term average flow rate, such as the average daily flow rate during the representative year.

(4) Equivalent limitations calculated in accordance with paragraphs (2) and (3) of this section shall be deemed pre-treatment standards for the purposes of this Ordinance. Industrial Users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(5) Combined Waste Stream Formula

Where processed effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Control Authority (Legal Authority), or by the Industrial User with the written concurrence of the Control Authority (Legal Authority). These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the Control Authority (Legal Authority) or Industrial User shall calculate both an alternative daily maximum value using the daily maximum value specified in the appropriate categorical pre-treatment standard and an alternative consecutive sampling day average

value using the monthly average value specified in the appropriate categorical pre-treatment standard. The Industrial User shall comply with the alternative daily maximum and monthly average limits fixed by the Control Authority (Legal Authority) until the Control Authority (Legal Authority) modifies the limits or approves an Industrial User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutants. An Industrial User must immediately report any such material or significant change to the Control Authority (Legal Authority). Where appropriate new alternative categorical limits shall be calculated within thirty (30) days.

(6) Protection from Accidental and Slug Discharges

Each significant industrial user shall provide protection from accidental and/or slug discharges of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental and slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Once every two (2) years the Superintendent will determine whether each significant industrial user needs to develop a plan to control slug discharges. If the Superintendent decides that a slug control plan is needed, the plan shall contain the following:

- (a) description of discharge practices
- (b) description of stored chemicals
- (c) procedures for notifying the POTW
- (d) prevention procedures for spills

In the case of all possible or actual accidental and/or slug discharges, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include the location of discharge, type of waste, concentration and volume and corrective actions taken.

**VI. USER COMPLIANCE WITH WASTE DISCHARGE STANDARDS**

(1) Regulatory Actions

Disposal into the sewer system by and person is unlawful except in compliance with Federal Standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972 (FWPCAA), and any more stringent State and local standards. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, and contain the substances or possess the characteristics enumerated in Article V or the criteria established by the Federal Government on discharge of toxic and hazard materials or violates the treatment facilities protection criteria and which in the judgment of the Superintendent and/or the Division of Water, Kentucky Department for Environmental Protection, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- a. Require a "Major Industrial Discharge Permit" as described in Article VII of this ordinance.
- b. Prohibit the discharge of such wastewater; this includes the right to disconnect the users connection with sewer system, ref. Article IX (4).

- c. Require a discharge to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this Ordinance.
- d. Require pretreatment, including storage facilities or flow equalization necessary to reduce or eliminate objectionable characteristics or substances so that the discharge will not violate these rules and regulations.
- e. Require grease, oil, and sand interceptors (separation facilities) when in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.
- f. Require the person making, causing or allowing the discharge to pay an additional cost or expense incurred by the City for handling and treating excess loads imposed on the treatment system.
- g. Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this Ordinance.

(2) Right of Entry.

Whenever it shall be necessary for the purposes of these rules and regulations, the Superintendent, or his authorized representative, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of (1) copying any records required to be kept under provisions of this Ordinance and in accordance with 40 CFR 403.12(o), (2) inspecting any monitoring equipment or method, (3) sampling any discharge of wastewater to the treatment works, and (4) in addition, representatives of the POTW shall be authorized to inspect any and all areas of the Industrial User's premises and determine independently of information supplied by Industrial User their compliance or noncompliance with applicable pretreatment standards and requirements in accordance with 40 CFR, Part 403.8(f)(B)(6)(v). The Superintendent, or his authorized representative, may enter upon the property at any hour under emergency circumstances. EPA and/or State Department for Environmental Protection representatives may also enter upon properties or premises in accordance with applicable State and Federal laws.

(3) Personal Injury.

While performing the necessary work on private properties referred to in this Ordinance, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by community employees and against liability claims and demands for personal injury or

property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(4) Protection from Accidental Discharge

Each user shall prove protection from accidental discharge of prohibited materials or other wastes regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review, and shall be approved by him before construction of the facility, except as provided in the "Major Industrial Discharge Permit". Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify his facility as necessary to meet the requirements of this Ordinance.

(5) Reporting of Accidental Discharge

If for any reason a facility does not comply with or will be unable to comply with any prohibition or limitations in this Ordinance or the users permit, the facility responsible for such discharge shall immediately notify the Superintendent so that corrective action may be taken to protect the treatment system. In addition, a written report addressed to the Superintendent detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges shall be filed by the responsible facility within five (5) days of the occurrence of the noncomplying discharge.

**VII. MAJOR INDUSTRIAL DISCHARGE PERMIT SYSTEM**

(1) Wastewater Discharge Permits Required

All significant industrial users proposing to connect to or contribute to the POTW shall obtain an Industrial User Discharge Permit before connection to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall apply for an Industrial User Discharge Permit within thirty (30) days of the effective date of this Ordinance.

(2) Permit Application

Users seeking a wastewater discharge permit shall complete and file with the Superintendent an acceptable application. In support of this application, the user shall submit the following information:

*(Note: the Superintendent may, on a case by case basis, either require additional information or delete certain requirements at his discretion).*

- a. Name, address, and SIC number of applicant;
- b. Volume of wastewater to be discharged;
- c. Wastewater constituents and characteristics including, but not limited to, those set



forth in Article V and Table 1 of this Ordinance as determined in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater";

- d. Location of discharge point(s), accompanied with appropriate sketches;
- e. Average and peak wastewater flow rates, including daily, monthly, and seasonal variations if any;
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
- g. Description of activities, facilities and plant processes on the premises including all materials and types of materials which are, or could be discharged;
- h. Each product produced by type, amount, and rate of production;
- i. Complete description of pretreatment or flow equalization facilities; and
- j. Other information that may be defined by the Superintendent for reasonable evaluation of the permit application.

The receipt by the City of a prospective customer's application for Wastewater Discharge Permit shall not obligate the City to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this ordinance of the City's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the City to the applicant of such service.

In addition, the following EPA policy concerning "confidentiality" shall apply (40 CFR 403.14): "[a] EPA authorities. In accordance with 40 CFR Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information); [b] Effluent data. Information and data provided to the Control Authority (Legal Authority) pursuant to this part which is effluent data shall be available to the public without restriction; [c] State or POTW. All other information which is submitted to the State or POTW shall be available to the public at least to the extent provided by 40 CFR 2.302."

### (3) Permit Conditions

Wastewater discharge permits shall be expressly subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the City. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this Ordinance, and applicable

State and Federal regulations. Permit conditions will include the following:

- a. The average and maximum wastewater constituents and characteristics;
- b. Limits on rate and time of discharge or requirements for flow regulations and equalizations;
- c. Requirements for installation of inspection and sampling facilities, and specifications for monitoring programs;
- d. Requirements for maintaining and submitting discharge reports and plant records relating to wastewater discharges;
- e. Daily average and daily maximum discharge rates, or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge;
- f. Compliance schedules; and
- g. Other conditions to ensure compliance with this Ordinance.

(4) Duration of Permits

Permits shall be issued for a specified time period, not to exceed two (2) years, unless of prior obligation by contractual agreement. At the end of the permit duration, the permit will be reviewed by the Superintendent and either extended for another two (2) years or revised. The terms and conditions of the permit may be subject to modification and change by the Superintendent during the life of the permit. The user shall be informed of any proposed changes in his permit at least sixty (60) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(5) Transfer of a Permit

Industrial User Discharge Permits are issued to a specific user for a specific operation. An Industrial User Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without, at a minimum, a thirty-day prior notification of the change to the Superintendent and provision of a copy of the existing permit to the new owner. The Superintendent may deny the transfer of the permit if it is deemed necessary to comply with all provisions of this ordinance.

(6) Revocation of Permit

Any user who violates the following conditions of his permit or of this Ordinance, or of applicable state and federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include but are not limited to the following:

- a. Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;
- b. Obtaining a permit by representing or failing to disclose fully all relevant facts;
- c. Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- d. Refusal of reasonable access to the user's premises for the purpose of inspection of monitoring; or
- e. Violation of terms and conditions of the permit.

(7) Public Participation

In accordance with the public participation requirements of 40 CFR Part 25 for the enforcement of the National Pretreatment standards, the City of Franklin will at least annually provide public notification in the local newspaper of Industrial users which, during the previous 12 months, were significantly violating applicable Pretreatment Standards or other Pretreatment Requirements. For the purposes of this provision, a Significant Noncompliance (SNC) is a violation which remains uncorrected 45 days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve month period; which involves a failure to accurately report noncompliance; or which resulted in the POTW exercising its emergency authority under 40 CFR 403.8 [f] [iv] [B].

(8) Permit Appeal Procedure

An industry shall have the right to appeal all items established in the Discharge Permit. The procedure shall be as follows:

A written notice signed by the person in charge of the industry seeking an appeal hearing, shall be delivered by registered mail to the Superintendent outlining the permit provisions which the user wishes to appeal. The Superintendent shall then have thirty (30) days from the time of receipt of the notice to notify the Kentucky Department for Environmental Protection and the Franklin City Commission that an appeal hearing will be held. A hearing shall then be conducted and all grievances alleged by the user shall be discussed, and appropriate decisions rendered by the Superintendent. Any decisions which in the judgment of the user are inappropriate may be appealed to the Franklin City Commission by filing a written notice with said Board within fourteen (14) days after completion of the first hearing. The City Commission shall have then forty-five (45) days in which to notify the Kentucky Department for Environmental Protection that a grievance still exists, and to convene a meeting of the Board to hear all unresolved grievances and issue appropriate decisions. The user and/or Superintendent shall have the right to appeal any and all decisions to the Kentucky Department for Environmental Protection. Exemptions or variances of the protection criteria established for the system shall not be granted during this appeal procedure.

Nothing in this section shall affect a person's right to appeals provided by State Law.

(9) Reporting Requirements for Industrial Users

(a) Within 180 days after the effective date of a categorical Pre-treatment Standard, or 180 days after the final administrative decision made upon a category determination, whichever is later, existing Industrial Users subject to such categorical pre-treatment standards and currently discharging to or scheduled to discharge a POTW shall be required to submit to the Control Authority (Legal Authority) a report which contains the information listed in paragraphs (b) (1) - (7) of this section. At least ninety (90) days prior to commencement of discharge, New Sources and sources that become Industrial Users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority (Legal Authority) a report which contains the information listed in paragraphs (b) (1) - (5) of this section. New Sources shall also be required to include in this report information on the method of pre-treatment the source intends to use to meet applicable pre-treatment standards. New Sources shall give estimates of the information requested in paragraphs (b) (4) and (5) of this section.

(b) (1) The user shall submit the name and address of the facility including the name of the operator and owners.

(2) The user shall submit a list of any environmental control permits held by or for the facility.

(3) The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation carried by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated process.

(4) The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams.

(5) (i) The user shall identify the Pre-treatment Standards applicable to each regulated process.

(ii) In addition, the User shall submit the results of sampling analysis as identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration shall be reported. The sample shall be representative of daily operations;

(iii) The Control Authority (Legal Authority) shall instruct the User on exact sampling techniques and reporting requirements, which shall be

complied with by the User.

- (iv) The Control Authority (Legal Authority) may allow the submission of a base line report which utilizes only historical data so long as the data provides information sufficient to determine the need for Industrial pre-treatment measures.
- (v) The base line report shall indicate the time, date, and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(6) For purposes of this Ordinance, the term "New Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of this Ordinance.

(7) The reports required to be filed herein shall be signed as follows: (1) By a responsible corporate officer if the Industrial User submitting the reports is a corporation. A responsible corporate officer means a president, secretary, treasurer, or 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. (2) By a general partner or proprietor if the Industrial User submitting the reports required hereunder is a partnership or sole proprietorship respectively.

(10) Periodic Reports on Continued Compliance

- (1) Any Industrial User subject to a categorical pre-treatment standard, after the compliance date of such pre-treatment standard, or, in the case of a new source, after the commencement of the discharge into the POTW, shall submit to the Control Authority (Legal Authority) during the months of June and December, unless required more frequently by the Control Authority (Legal Authority) a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pre-treatment Standards.
- (2) The Control Authority (Legal Authority) shall require appropriate reporting from those Industrial Users with discharges that are not subject to categorical pre-treatment standards. Significant non-categorical Industrial Users shall submit to the Control Authority (Legal Authority) at least once every six (6) months a description of the nature, concentration and flow of the pollutants required to be reported by the Control Authority (Legal Authority). These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. Sampling and analysis may be performed by the Control Authority (Legal Authority) in lieu of the significant non-categorical Industrial User.

(3) The superintendent and other duly appointed employees or representatives of the City, shall be responsible for compiling and managing all compliance data at the POTW. All compliance data shall be reviewed when received from an industrial user, and shall be compiled in a file or notebook for each industrial user. Each industrial user's file shall be reviewed by the superintendent, or his designated representative at least every thirty (30) days to insure compliance with reporting requirements.

(11) Monitoring and Analysis to Demonstrate Continued Compliance

- (1) If sampling performed by an Industrial User indicates a violation of this Ordinance, the User shall notify the Control Authority (Legal Authority) 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 Control Authority (Legal Authority) within thirty (30) days after becoming aware of the violation.
- (2) If an Industrial User subject to the reporting requirement monitors any pollutant more frequently than required by the Control Authority (Legal Authority), using the procedures described in this Ordinance, the results of this monitoring shall be included in the periodic report.

(12) Notice of Potential Problems Including Slug Loading

All categorical and non-categorical Industrial User shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings by the Industrial User.

(13) Notification of Hazardous Wastes Discharged to POTW

(1) The Industrial User 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. If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the waste, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place within 180 days of the effective date of this Ordinance. Industrial Users who commence discharging after the effective date of this Ordinance shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste.

(2) Dischargers are exempt from the requirements of paragraph 1 of this section during a calendar in which they discharge no more than 15 kilograms of hazardous waste, unless the waste are acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous waste in a calendar month, or any quantity of acute hazardous waste, requires a one time notification period.

(14) Notice of Noncompliance

The City is required by federal regulations to keep the public informed of all cases of Significant Noncompliance (SNC). To accomplish this, the City shall annually publish in a newspaper of local circulation a list of the users which were in significant noncompliance with any pretreatment requirements or standards. Significant noncompliance (SNC) is any significant noncompliance that meets one or more of the following conditions:

- (a) Results in the exercise of emergency authority by the Superintendent;
- (b) Remains uncorrected 45 days after notice of noncompliance is given;
- (c) Involves failure to report noncompliance accurately;
- (d) Wastewater Violations:
  - (i) Chronic Violations - Sixty-six (66%) percent or more of all measurements taken during a six-month period exceed, by a magnitude, the daily maximum limit or the monthly average limit for the same pollutant parameter;
  - (ii) Technical Review Criteria (TRC) Violations - Thirty-Three (33%) Percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except Ph);
  - (iii) Any violation of a pretreatment effluent limit that the Superintendent believes has caused alone or in combination with other discharges, interference or pass-through or has endangered the health of the POTW personnel or the public;
  - (iv) Any discharge causing imminent endangerment to human health or to the environment or resulting in the Superintendent's use of his emergency authority to halt or prevent such a discharge;
  - (v) Violations of compliance schedule milestones, failure to comply with schedule milestones for starting or completing construction or attaining final compliance by 90 days or more after the schedule date;

(vi) Failure to provide required reports within 30 days of the due date; and

(vii) Any violation or group of violations which the Superintendent determines will adversely effect the operation or implementation of the local pretreatment program. The public notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. All records relating to the pretreatment program of the City shall be made available to officials of the U. S. EPA or Approval Authority upon request. All records shall be maintained for a minimum of three (3) years in accordance with 40 CFR 403.12 (0) (2).

(15) Emergency Monitoring Plan

(1) Should the superintendent determine that an emergency situation exists, the superintendent and other duly promulgated employees and representatives of the City and authorized representatives of the City and authorized representatives of applicable federal and state regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to, inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this ordinance.

(2) Duly authorized employees and representatives of the City are authorized to obtain information concerning character, strength and quantity of industrial waste which have a direct bearing on the kind and source of discharge to the waste water collection system.

(3) The superintendent, or other duly promulgated employees and representatives of the City shall immediately determine to what extent, if any, the POTW has been damaged by any violation, and the superintendent shall supervise the immediate collection of samples at the POTW, and if possible, at the point from which the violation has occurred, and shall preserve said samples for use in prosecution of any violator of this ordinance.

(4) The persons responsible for carrying out these procedures shall be the superintendent, or the then acting manager of the POTW, and any other employees on duty or on call at that time.

**VIII. CHARGES AND FEES (USER CHARGE SYSTEM)**

(1) Purpose of Charges and Fees

a. Waste water revenues and expenses shall be separated from other accounts, such as the Water Department. All revenues generated by the user-charge rates shall be sufficient to cover the expenses of waste water treatment, along with sufficient funds to maintain a replacement reserve.



b. A schedule of charges and fees shall be adopted by the City of Franklin which will enable it to comply with the revenue requirements of Section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment systems. Specific charges and fees shall be adopted by a separate Ordinance; this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs, and capital improvements may be assessed by the City of Franklin. These charges and fees shall be recovered through the user classification established below.

(2) Classification of User

All users shall be classified by the Superintendent either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics.

(3) Types of Charges and Sewer Fees

The charges and fees as established in treatment works schedule of charges and fees, may include, but not be limited to:

- a. User Classification charges;
- b. Fees for monitoring requested by user;
- c. Fees for permit applications;
- d. Appeal fees;
- e. Charges and fees based on wastewater constituents and characteristics;
- f. Fees for use of garbage grinders; and
- g. Fees for holding tank wastes.

(4) Basis of Determination of Charges

Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD	300 milligrams per liter	
COD		600
milligrams per liter		
TKN	60 milligrams per liter	
NH3-N	20 milligrams per liter	
Suspended Solids	300 milligrams per liter	
Fats, Oil and Grease	100 milligrams per liter	
Phosphorus	10 milligrams per liter	

The charges and fees for all classification of users, other than the basic domestic premise, shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH3-N, TKN, Oil and Grease, Chlorine, and Phosphorus demand, and volume.

(5) User Charges

Each user shall be levied a charge for payment of bonded indebtedness of the treatment system and for that user's proportionate share of the operations and maintenance costs of the system. A surcharge will be levied against those users with wastewater that exceeds the strength of "Normal Wastewater."

The user charge will be computed from a base charge plus a surcharge. The base charge will be the user's proportionate share of the costs of operation and maintenance (O&M) including replacement for handling its periodic volume of "Normal Wastewater."

- a. Operation and Maintenance User Charges: Each user's share of operation and maintenance costs will be computed by the following formula:

$$C_u = C_t \times (V_u / V_t)$$

Where:  $C_u$  = User's charge for O & M per unit of time.

$C_t$  = Total O & M cost per unit of time.

$V_t$  = Total volume contribution from all users per unit of time.

$V_u$  = Volume contribution from a user per unit of time.

- b. Surcharges: The surcharge will be the user's proportionate share of the O & M costs for handling its periodic volume of wastewater which exceeds the strength of BOD5, suspended solids, and/or other elements in "Normal Wastewater" including "toxic wastes."

- c. Method of Billing Surcharges: With the exception of Phosphorus addressed in Section (5) d hereinbelow, the excessive strength surcharge shall be based on a formula (see example below) with the total applied to the monthly bill of the affected users:

Example Formula:

$$[A(G-300)+B(H-300)+C(I-600)+D(J-60)+E(K-20)+F(L-100)] \times 8.34 \times M = \text{Surcharge Payment (\$/month)}$$

Formula Code:

- A = Surcharge rate for BOD in \$/pound
- B = Surcharge rate for SS in \$/pound
- C = Surcharge rate for COD in \$/pound
- D = Surcharge rate for TKN in \$/pound
- E = Surcharge rate for NH<sub>3</sub>-N in \$/pound
- F = Surcharge rate for oil/grease in \$/pound
- G = User's average BOD concentration in mg/L
- H = User's average SS concentration in mg/L
- I = User's average COD concentration in mg/L
- J = User's average TKN concentration in mg/L
- K = User's average NH<sub>3</sub>-N concentration in mg/L
- L = User's average oil/grease in mg/L
- M = User's monthly flow (water usage) to wastewater works in Million Gallons

- d. Phosphorus: Due to the fact that phosphorus is treated differently by the Kentucky Division of Water and through the KPDES permit, the City must treat phosphorus separately as set forth in this section. The phosphorus limit for wastewater placed in the system by a user is 10.0 mg/L. This is also set forth in the tables attached to this ordinance. Any user submitting wastewater with a phosphorus limit over 10.0 mg/L shall be charged a phosphorus surcharge rate (PSR) of \$3.47 per pound for each pound of phosphorus entering the system over the 10.0 mg/L limit. This surcharge is calculated based on the actual costs for removing one (1) pound of phosphorus, which is currently \$2.57 per pound, plus
  - a thirty-five percent (35%) administrative and treatment costs factor, which equates to the \$3.47 per pound phosphorus surcharge rate. In addition, any user that submits wastewater into the system with a phosphorus amount of 60 mg/L or greater will be surcharged at the aforementioned rate, plus the user will receive a Notice of Violation which can include, but not be limited to any and all fines or additional charges as set forth in the Sewer Use Ordinance (SUO) and the "Pretreatment Enforcement Manual."

No reduction in wastewater service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the wastewater works contain less than mg/L of BOD, mg/L of SS, or mg/L of other pollutants, as listed.

The values of parameters used to determine user charges may vary from time to time. Therefore, the Superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than annually.

#### (6) Financial Records

The City of Franklin shall maintain financial records to accurately account for revenues generated by the treatment system and expenditures for operation and maintenance of the system, including normal replacement costs.

(7) Annual Review of Operation and Maintenance Charges

The City of Franklin shall review not less often than annually the wastewater contribution of users, the total cost of operations, maintenance, and replacement (OM&R) of the wastewater works, debt service obligations, and user charge rates. Based on such review, the City of Franklin shall revise, when necessary, the schedule of user charge rates to accomplish the following:

- a. Maintain an equitable distribution of OM&R costs among users of the treatment system;
- b. Generate sufficient revenues to offset costs associated with the proper operation and maintenance of the wastewater system and to meet debt service requirements;
- c. Excessive strength and toxicity surcharges shall be reviewed at the time of and in conjunction with the review of user charges. Surcharge rates shall be revised where necessary to reflect current treatment and monitoring costs; and
- d. Each user shall be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the total charge which is attributable to OM&R of the wastewater system.

(8) Appeal Procedure

A user shall have the right to appeal any and all charges and fees assessed against the. The procedure shall be as follows:

A written notice, signed by the user seeking an appeal hearing, shall be delivered by registered mail to the Superintendent outlining the fees and charges which the user wishes to appeal. The Superintendent shall then have thirty (30) days from the time of receipt of the notice to notify the Kentucky Department for Environmental Protection and the Franklin City Commission that an appeal hearing will be held. A hearing shall then be conducted and all grievances alleged by the user shall be discussed and appropriate decisions rendered by the Superintendent. Any decisions which in the judgment of the user are inappropriate may be appealed to the Franklin City Commission by filing a written notice with said Commission within fourteen (14) days after completion of the first hearing. The Franklin City Commission shall then have forty-five (45) days in which to notify the Kentucky Department for Environmental Protection that a grievance still exists, and to convene a meeting of the Commission to hear all unresolved grievances and issued appropriate to decisions. The user and/or the Superintendent shall have the right to appeal any and all decisions to the United States Environmental Protection Agency.

Nothing in this section shall affect a person's right to appeals provided by State Law.

(9) Wastewater Characteristics

The wastewater characteristics of each industrial user shall be determined by monitoring or where monitoring is not feasible, wastewater characteristics may be estimated using historical records,

data from similar industrial users, etc. After initiation of the charges and fee system, Significant Industrial Users shall be monitored on a regular basis, not less often than annually. Monitoring of minor industries may be done intermittently. The City of Franklin has developed a definition of major and minor industry and a monitoring program for each which reflects its relative impact on the cost of construction of the treatment works (such information is available at the Superintendent's office). Monitoring shall be conducted during periods of normal discharge.

## **IX. ENFORCEMENT PROCEDURES AND PENALTIES**

### **(1) Notification of Violation**

Whenever the Superintendent finds that any industrial user, or user has violated or is violating this Ordinance, or a wastewater permit or order issued hereunder, the Superintendent or his agent may serve upon said user, written notice of the violation. Within ten (10) days from the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

### **(2) Consent Orders**

The Superintendent is hereby empowered to enter into a Consent Order, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders.

### **(3) Show Cause Hearing**

a. The Superintendent may order any industrial user, or user which causes or contributes to violation of this ordinance or order or wastewater permit issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt request) at least ten (10) days prior to the hearing. Such notice may be served on any person, principal executive, general partner or corporate officer. In the event a duly notified user does not appear as noticed, immediate enforcement action may be pursued.

b. At any hearing held pursuant to this Ordinance, testimony taken must be under oath and either audio recorded or stenographically. The transcript, so recorded, will be made available to any party of the hearing, and any member of the public upon payment of the usual charges thereof.

### **(4) Compliance Order**

When the Superintendent finds that an user has violated or continues to violate the Ordinance or a permit or order issued thereunder, he may issue an order to the user responsible for the discharge direction that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(5) Cease and Desist Orders

When the Superintendent finds that a user has violated or continues to violate this Ordinance or those contained in any permit issued hereunder, the Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- a. Comply forthwith;
- b. Comply in accordance with a compliance time schedule set forth in the order; and
- c. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(6) Administrative Penalties

Any user who is found to have violated any provision of this Ordinance, or the order and permits issued hereunder, shall be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer charge and the Superintendent shall have such other collection remedies as he has to collect other service charges.

(7) Emergency Suspensions

- a. The Superintendent may suspend the wastewater treatment service and/or wastewater permit whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing any of the following conditions:
  - (i) An imminent or substantial endangerment to the health or welfare of persons, or the environment.
  - (ii) An interference or pass through.
  - (iii) A violation of any condition of the POTW's NPDES permit.
- b. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its 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 user's waste discharge permit terminated. In the event of a failure of the person to comply voluntarily with the suspension order, the Superintendent 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 Superintendent shall reinstate the wastewater permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

c. A user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in paragraph b above.

(8) Termination of Permit

Any user who violates the following conditions of this Ordinance of a wastewater discharge permit or order, or any applicable state and federal law, is subject to permit termination:

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

(9) Judicial Remedies

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provision of this Ordinance or any order or permit issued hereunder, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the Circuit or District Court of Simpson County.

(10) Injunctive Relief

Whenever an industrial user or user has violated or continues to violate the provisions of this Ordinance or an order or permit issued hereunder, the Superintendent, through the City Attorney, may petition the Court for the issuance of a preliminary or permanent injunction, or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user or user. In the event the Superintendent chooses to correct the violation himself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation.

The Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges.

(11) Civil Penalties

a. Any industrial user, or user who has violated or continues to violate this Ordinance or any order or permit issued hereunder, shall be liable to the Superintendent for a civil penalty of not more than (maximum allowable under state law, e.g., Five Thousand Dollars (\$5,000.00)) plus actual damages incurred by the POTW per violation per day for as long as the violation(s) continues. In addition to the above described penalty and damages, the Superintendent may recover reasonable attorney's fees, court costs, and other expenses of his enforcement activities, including special sampling and monitoring expenses.

b. The Superintendent shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained by the user, the compliance history of the user, and other factors as justice requires.

(12) Criminal Violations

a. Any industrial user, or user who willfully or negligently violates this Ordinance, or any orders or permits issued hereunder, shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

b. In the event of a second conviction, the user shall be punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years, or both.

c. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the POTW. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct. It shall be noted that the Clean Water Act does not require proof of specific intent to obtain conviction.

(13) Falsifying Information

a. Any industrial user, or user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon



conviction, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

b. In the event of a second conviction, the user shall be punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years, or both.

(14) Annual Publication of Significant Noncompliances (SNC)

The Superintendent shall publish, at least annually in the largest daily newspaper circulation in the service area, a description of those industrial users which are found to be in Significant Noncompliance (SNC), as defined by Article I of this Ordinance, with any provisions of this Ordinance or any order or permit issued hereunder during the period since the previous publication.

(15) Performance Bonds

The Superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Ordinance or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

(16) Liability Insurance

The Superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Ordinance or any order or previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(17) Water Supply Severance

Whenever an industrial user, or user has violated or continues to violate the provisions of this Ordinance or an order or permit issued hereunder, water service to the industrial user, or user may be severed and service will only recommence at the user's expense after it has satisfactorily demonstrated consistent compliance.

Affirmative Defenses:

(1) Operating Upsets

a. Any industrial user, or user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the Superintendent thereof immediately upon first

awareness of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:

(i) A description of the upset, its cause(s) and impact on the discharger's compliance status;

(ii) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored; and,

(iii) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

b. An industrial user, or user which timely complies with the notification provisions of this Section shall have an affirmative defense to any enforcement action brought by the Superintendent for any noncompliance with this Ordinance, or an order or permit issued hereunder by the user, which arises out of violations alleged to have occurred during the period of the documents and verified upset.

## **X. SAVINGS CLAUSE**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

## **XI. CITY COMMISSION ADOPTION**

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

### DISTRIBUTION LIST:

- City Manager
- City Clerk
- Wastewater Superintendent

LAST REVISION DATE: April 2010