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DIVISION 1 GENERALLY

§ 16-101 SUPERVISION; APPOINTMENT OF SUPERVISOR.

(A) The wastewater system of the cityCity shall be under the general control and supervision of the City Council and shall be regulated and operated as it shall from time to time direct.

(B) The City Manager shall appoint a qualified person to supervise the operation of the system, and such person appointed may assign the duties of supervising the system to an employee of the cityCity in addition to his other duties.

('89 Code, § 16-101)

§ 16-102 CONNECTIONS REQUIRED.

(A) Every person owning a dwelling, building or other structure which is used for human habitation or occupancy within the cityCity situated on a lot or parcel of land which abuts or adjoins a street or other public way along which is located a sanitary sewer, shall connect such dwelling, building or structure to the wastewater system at the owner's expense within 180 days after date of receiving notice to do so; provided, however, that a connection shall not be required to the system unless the lot or parcel of land on which the dwelling, building or other structure is situated is accessible within 200 feet. No person shall be required to cross private property of any other person to make such connection. Where connections are required, all toilets, sinks, and other plumbing fixtures shall be installed, arranged or rearranged to drain into the sanitary sewer.

(B) When public sewer mains become available to property as described in subsection (A), the property owner shall be made aware that connection to the public sewer is required and that such connection shall be made within 180 calendar days from the date of such notification. Nonuse of the public sewer mains shall only be as approved by the City Council on a case-by-case basis.

(C) Privies, cesspools and septic tanks are prohibited within the corporate limits of the cityCity except where public sewer service is not available as described in subsection (A). Privies, cesspools and septic tanks shall be installed as provided for by ordinance and as required by the County Board of Health.

(D) In those circumstances where public sewer service is not available and septic tanks are used, as permitted and described in division (A) above, then the cityCity will refund to the property owner reasonable fees for pumping such tanks on an annual basis. This will only continue until such time as the public sewer is available.

('89 Code, § 16-102) (Ord. passed 10-15-85; Am. Ord. passed 1-21-03) Penalty, see § 1-16 *et seq.*

§ 16-103 SAME - PERMIT REQUIRED.

No person shall make any connections to the wastewater system unless and until a permit has been issued by the cityCity. Permits shall be issued for connections only after the Chief Codes Inspector or other authorized official has determined the type of connection required, the type of waste to be placed in

the system and has approved the plumbing system to be installed within the dwelling, building or structure. All sewer connections must comply with the North Carolina State Building Code, Volume II, Plumbing.

('89 Code, § 16-103) (Ord. passed 10-15-85) Penalty, see § 1-16 *et seq.*

§ 16-104 SAME - MADE BY LICENSED PLUMBERS.

All connections to the wastewater system shall be made by authorized employees of the cityCity. All connections shall be made by plumbers licensed to perform plumbing work in the stateState and by the cityCity. Any sewer connections made by a licensed plumber shall be inspected by the cityCity after such work has been completed and prior to the time such connection is covered.

('89 Code, § 16-104)

§ 16-105 SAME - SEPARATE FOR EACH DWELLING OR BUILDING.

Each separate dwelling, structure or other building shall have a separate connection to the wastewater system, provided that apartments or other multiuse or occupancy buildings may have one combined connection.

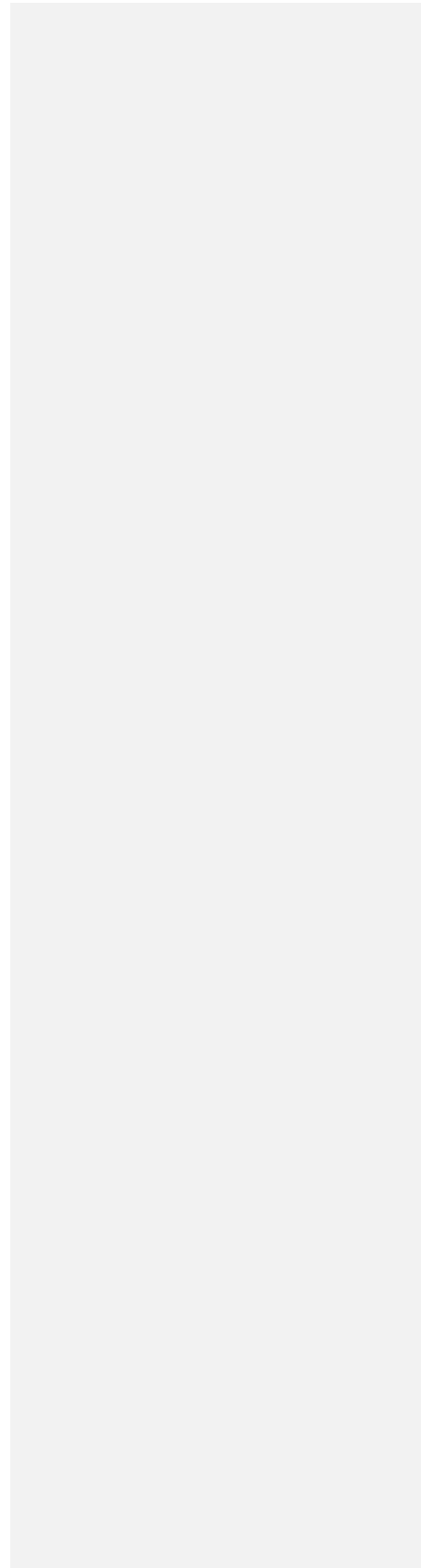
('89 Code, § 16-105) Penalty, see § 1-16 *et seq.*

§ 16-106 SAME - MAINTENANCE, REPAIR, CLEANING.

(A) Whenever the sewer service line to any building or premises becomes clogged, broken, out of order, the cityCity shall determine if the break or obstruction is within the cityCity's right-of-way. If the break or obstruction is within the cityCity's right-of-way, the cityCity shall correct the defect or repair or replace the sewer service line to the edge of the right-of-way. In the event there is no sewer, clean out on the service line, the property owner shall immediately cause a clean out to be installed in the service line and unless the clean out is installed, the property owner shall be solely responsible for locating any future breaks or obstructions in the service line. If the problem lies outside of the cityCity's right-of-way, it shall be the owner's responsibility to correct the defect or repair or replace the sewer service line.

(B) Employees of the cityCity shall not make repairs on private property or place sewer solvent in commodes, vents, etc. If needed, sewer solvent may be put into the line at the point at which the cleanout is being installed. CityCity employees shall not give sewer solvent to any person for use inside residences or other structures.

('89 Code, § 16-106) (Am. Ord. passed 6-19-01; Am. Ord. passed 11-20-01)



§ 16-107 CONSTRUCTION OF BUILDING DRAINS AND SEWERS.

(A) The building drain and building sewer as defined in the [stateState](#) plumbing code shall be constructed only of cast-iron pipe. The grade of pipe, fittings and size shall meet all requirements of the plumbing code. The system shall be installed according to the plumbing code, and all work shall be performed by a licensed plumber.

(B) Each and every building sewer, as defined in the [stateState](#) plumbing code, installed or replaced, wholly or in part, shall have installed a cleanout facility at the end of the lateral installed by the [cityCity](#). Such cleanout shall be a part of the building sewer and shall extend to the finished grade to be readily accessible.

('89 Code, § 16-107)

§ 16-108 DAMAGING, OBSTRUCTING SYSTEM PROHIBITED.

(A) It shall be unlawful for any person, firm or corporation to damage, tamper with or in any manner obstruct the normal functions or operations of the water distribution system, the wastewater collection system, the storm drainage system, the raw water treatment plants, or the wastewater treatment plants of the [cityCity](#). As used in this section, **UTILITY** shall include all of the foregoing systems and plants and all appurtenances, appliances and facilities including, but not limited to, manholes and pump stations used in connection with the operation of said systems and plants.

(B) Furthermore, it shall be unlawful for any person, firm, or corporation to alter or significantly change the ground elevations over any [cityCity](#)-owned water, sanitary sewer or storm drain line, manholes or associated appurtenances, without prior written approval from the Engineering Department. The property owner or the duly authorized representative of the property owner, on or under whose property such utility lines, manholes, appurtenances or facilities lie, must submit a grading site plan for the proposed work or changes to the Engineering Department for its approval before any work can begin.

(C) The grading plan required by this section shall include, but is not limited to, a grading site plan showing existing and proposed grades, and engineering data tables from a reliable source (pipe manufacturers catalog data or ASTM standards, etc.) that provide information on the maximum and minimum allowable depth or height of cover above the top of pipe for the type of pipe in question, together with certified calculations under the seal of a professional engineer licensed in the [stateState](#). The certified calculations shall specify the maximum allowable cut or fill of earthen material over the existing pipe, without jeopardizing the structural integrity of the utility.

(D) If alterations or changes are proposed around manhole structures, the manhole structure shall be raised or lowered to the required elevation as determined by the Engineering Department.

(E) In no case shall the maximum depth or height of cover above the top of pipe exceed 25 feet, nor shall the minimum depth or height of cover above the top of pipe be less than three feet.

(F) All costs associated with modifying the existing underground utility shall be borne by the property owner.

(G) If the cityCity does not have a fully executed, recorded easement for the existing utility in question, the property owner shall grant an easement to the cityCity. After full execution and recording of the easement, the cityCity will raise or lower any existing manholes in question to a maximum change in elevation of eight feet, with this cost being borne by the cityCity. If the property owner desires and has approval by the cityCity to raise or lower any manholes more than eight feet, all costs associated with this work shall be borne by the property owner.

('89 Code, § 16-108) (Ord. passed 10-15-85; Am. Ord. passed 5-15-01) Penalty, see § 1-16 *et seq.*

§ 16-109 PRIVATE WASTEWATER DISPOSAL.

(A) Where a public sewer main is not available, a building sewer shall be connected to a private wastewater disposal system complying with all applicable stateState and local regulations concerning use of such systems. The cityCity, in conjunction with the County Health Department shall have the authority to approve or reject such plans and usage of private wastewater facilities presently located within or proposed for location within the corporate limits of the cityCity. The minimum lot area that shall be approved for a private wastewater disposal system shall be regulated by the stateState law and the County Health Department. The application for such permit shall be made on a form furnished by the County Health Department which the applicant shall supplement by any plans, specifications and other information as are deemed necessary. Approval for private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the County Health Department. The local sanitarian shall be allowed to inspect the work at any stage of construction. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Public Health and the Division of Environmental Management of the State.

(B) No septic tank or cesspool shall be permitted to discharge to any drain, ditch, stream, natural outlet, or well penetrating water-bearing formations. The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the local government.

(C) At such times as a public sewer becomes available to the property served by the private wastewater disposal system, a direct connection shall be made to the public sewer within 180 days. Under unusual or special circumstances the City Council may waive this requirement. Applications for such a waiver must be submitted to the City Manager. The City Manager will study the application, make appropriate comments and have it sent to the City Council for approval or disapproval.

('89 Code, § 16-109) (Ord. passed 10-15-85) Penalty, see § 1-16 *et seq.*

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DIVISION 2 USE REGULATIONS

SUBDIVISION A GENERAL PROVISIONS

§ 16-121 PURPOSE AND POLICY.

(A) This division sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the ~~city~~City of Eden, hereafter referred to as the ~~City~~City, and enables the ~~city~~City to comply with all applicable ~~state~~State and ~~federal~~Federal laws, including the Clean Water Act, ~~being~~ (33 USC §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR 403).

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(B) The objectives of this division are:

___ (1) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

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___ (2) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the ~~state~~State or otherwise be incompatible with the system;

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___ (3) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

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___ (4) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

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___ (5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

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___ (6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other ~~federal~~Federal or ~~state~~State laws to which the municipal wastewater system is subject.

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(C) This division provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This division shall apply to all users of the municipal wastewater system as authorized by G.S. § 160A-312 and/or G.S. § 153A-275. The City shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Superintendent. Except as otherwise provided herein, the POTW ~~Director~~ Superintendent shall administer, implement, and enforce the provisions of this division. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other cityCity personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the cityCity limits agree to comply with the terms and conditions established in this division, as well as any permits, enforcement actions, or orders issued hereunder.

(Ord. passed 5-17-94)

§ 16-122 DEFINITIONS AND ABBREVIATIONS.

(A) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated:

1. ACT or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 USC 1251 *et seq.*

2. APPROVAL AUTHORITY. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.

3. AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(4a) If the industrial user is a corporation, authorized representative shall mean:

(ai) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(bij) The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2b) If the industrial user is a partnership or sole proprietorship, an authorized

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| _____ representative shall mean a general partner or the proprietor, respectively.

| _____ (3c) If the industrial user is a ~~federal~~Federal, ~~state~~State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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| _____ (4d) The individuals described in subsections (4a) through (3c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the ~~city~~City.

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| ~~(5c)~~ If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.

| 4. BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° C, usually expressed as a concentration (e.g. mg/l).

| 5. BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

| 6. BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

| 7. CATEGORICAL STANDARDS. National Categorical Pretreatment Standards or Pretreatment Standard.

| 8. CONTROL AUTHORITY. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.

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| 9. ENVIRONMENTAL PROTECTION AGENCY or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

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10. GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

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11. HOLDING TANK WASTE. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

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12. INDIRECT DISCHARGE or **DISCHARGE.** The discharge or the introduction from any nondomestic source regulated under § 307(b), (c), or (d) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

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13. INDUSTRIAL USER or **USER.** Any person which is a source of indirect discharge.

14. INTERFERENCE. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system, or nondischarge-Non-discharge permit-Permit or prevents sewage sludge use or disposal in compliance with specified applicable stateState and federalFederal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act, being 42 USC 6901 *et seq.*, the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent stateState criteria (including those contained in any stateState sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

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15. MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

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16. NATIONAL CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§ 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subpart N, Parts 405 through 471.

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17. NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 16-126 of this chapter and are developed under the authority of 307(b) (33 USC 1317(b)) of the Act and 40 CFR 403.5.

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18. NEW SOURCE. As defined in 40 CFR 403.3(m), including any subsequent

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amendments and additions.

~~(1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under § 307(e) of the Act (33 USC 1317(e)) which will be applicable to such source if such standards are thereafter promulgated in accordance with § 307(e), provided that:~~

~~(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or~~

~~(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or~~

~~(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.~~

~~(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.~~

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~~(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:~~

~~(a) Begun, or caused to begin, as part of a continuous on-site construction program:~~

~~1. Any placement, assembly, or installation of facilities or equipment; or~~

~~2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or~~

~~(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for~~

~~feasibility engineering, and design studies do not constitute a contractual obligation under this definition.~~

19. NONCONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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20. NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM, OR NPDES, PERMIT. A permit issued pursuant to section 402 of the Act (33 USC 1342), or pursuant to G.S. § 143-215.1 by the ~~state~~State under delegation from EPA.

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~~**21. NON-DISCHARGE PERMIT.** A disposal system permit issued by the state pursuant to G.S. § 143-215.1.~~ **21. NON-DISCHARGE PERMIT.** ~~A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.~~

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22. PASS THROUGH. A discharge which exits the POTW into waters of the ~~state~~State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the ~~POTW's Control Authority's (and/or POTW's, if different from the Control Authority) NPDES or non-discharge-Non-discharge permit~~Permit, or a downstream water quality standard even if not included in the permit.

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23. PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all ~~federal~~Federal, ~~state~~State, and local government entities.

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

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

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Eden Utilities

26. POTW DIRECTOR. ~~The Director of Public Utilities or his designee~~The chief administrative officer of the Control Authority or his/her delegate.

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27. POTW TREATMENT PLANT. That portion of the POTW designed to provide treatment to wastewater.

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28. ~~PRETREATMENT~~ or TREATMENT. 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 pollution into a POTW collection system and/or treatment plant. The reduction or alteration ~~can~~may be obtained by physical, chemical or biological processes, or process changes or other means, except ~~by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard as prohibited by 40 CFR Part 403.6(d).~~

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29. PRETREATMENT PROGRAM. The program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the ~~city~~City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. § 143-215.3(a)(14) in accordance with 40 CFR 403.11.

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30. PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

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31. PRETREATMENT STANDARDS. ~~Any~~Prohibited discharge standards, categorical standards, and/or local limits which applies to an industrial user.

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32. PUBLICLY OWNED TREATMENT WORKS (POTW) or MUNICIPAL WASTEWATER SYSTEM. A treatment works as defined by § 212 of the Act, (33 USC 1292) which is owned in this instance by the ~~city~~City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this division "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the ~~city~~City who are, by contract or agreement with the ~~city~~City, or in any other way, users of the ~~city's~~City's POTW.

33. SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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34. SIGNIFICANT INDUSTRIAL USER or SIU. Any industrial user ~~of the wastewater disposal system who~~that discharges wastewater into a publicly owned treatment works and

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that:

~~(a1) Has an average daily process wastewater flow of 25,000 gallons or more, or discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow-down wastewaters); or~~

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~~(b2) Contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or~~

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~~(c3) Is required to meet a national categorical pretreatment standard, or is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or~~

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~~(d4) Is found by the city, the Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.~~

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~~**35. SIGNIFICANT NONCOMPLIANCE** or **SNCREPORTABLE NONCOMPLIANCE**. A status of noncompliance defined as follows: The status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (B)(35), Parts (c), (d), or (h) shall also be SNC.~~

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~~(1) Violations of wastewater discharge limits.~~

~~(a) Chronic violations. Sixty six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six month period. of wastewater discharge limits, defined here as those in which sixty-six (66)~~

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percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

(b) ~~Technical Review Criteria (TRC) violations. Thirty three percent or more of the measurements are equal to or greater than the TRC times the limit (maximum or average) in a six month period. There are two groups of TRCs, defined here as those in which thirty three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oils, and grease, 1.2 for all other pollutants (except flow and pH);~~

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1. ~~For conventional pollutants BOD, TSS, fats, oil and grease TRC = 1.4.~~

2. ~~For all other pollutants TRC = 1.2.~~

(c) ~~Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass through; or endangered the health of the sewage treatment plant personnel or the public. a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);~~

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(d) ~~Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different than the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section [8.1(e)] of this SUO to halt or prevent such a discharge;~~

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(e) ~~Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.~~

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(f) ~~Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and compliance reports within 30 days from the due date.~~

(g) ~~Failure to accurately report noncompliance.~~

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(h) ~~Any other violation or group of violations that the Control Authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.~~

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(2) ~~Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final~~

~~compliance by 90 days or more after the schedule date.~~

~~(3) Failure to provide reports for compliance schedule, self monitoring data, baseline monitoring reports, 90 day compliance reports, and periodic compliance reports within 30 days from the due date.~~

~~(4) Failure to accurately report noncompliance.~~

~~(5) Any other violation or group of violations that the control authority considers to be significant.~~

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36. SLUG LOAD or DISCHARGE. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in § 16-126 of this chapter.

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

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38. STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

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39. SUPERINTENDENT. The person designated by the [cityCity](#) to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

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40. SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

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

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42. WASTEWATER. The liquid and water-carried industrial or domestic wastes from

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dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

43. WASTEWATER PERMIT. As set forth in § 16-150 of this chapter.

44. WATERS OF THE STATE. All streams, ~~lakes, ponds, marshes, watercourse,~~ waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, ~~rivers,~~ brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the ~~state~~State or any portion thereof.

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(B) This division is gender neutral, and the masculine gender shall include the feminine and vice-versa.

(C) Shall is mandatory; may is permissive or discretionary.

(D) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

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(E) The following abbreviations when used in this division, shall have the designated meanings:

(1) ADMI - American Dye Manufacturer's Institute

(2) BOD - Biochemical Oxygen Demand

(3) CFR - Code of Federal Regulations

(4) COD - Chemical Oxygen Demand

(5) EPA - Environmental Protection Agency

(6) gpd - Gallons per day

(7) l - Liter

(8) mg - Milligrams

- | (9) mg/l - Milligrams per liter
 - | (10) N.C.A.C. - North Carolina Administrative Code
 - | (11) G.S. - North Carolina General Statutes
 - | (12) NPDES - National Pollution Discharge Elimination System
 - | (13) O & M - Operation and Maintenance
 - | (14) POTW - Publicly-Owned Treatment Works
 - | (15) RCRA - Resource Conservation and Recovery Act
 - | (16) SIC - Standard Industrial Classification
 - | (17) SWDA - Solid Waste Disposal Act
 - | (18) TSS - Total Suspended Solids
 - | (19) TKN - Total Kjeldahl Nitrogen
 - | (20) USC - United States Code.
- (Ord. passed 5-17-94; Am. Ord. passed 11-19-02; Am. Ord. passed 10-20-09; Am. Ord. passed
2)

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SUBDIVISION B GENERAL SEWER USE REQUIREMENTS

§ 16-126 PROHIBITED DISCHARGE STANDARDS.

(A) General prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, stateState, or local pretreatment standards or requirements.

(B) Specific prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

- ___(1) Pollutants which create a fire or explosive hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
- ___(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than 1/2-inch in any dimension.
- ___(3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- ___(4) Any wastewater having a pH less than 5.0 or more than 12.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
- ___(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
- ___(6) Any wastewater having a temperature greater than 131°F (55°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).
- ___(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- ___(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 16-134 of this division.

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___(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

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___(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act (33 USC 1345); the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or ~~state~~State criteria applicable to the sludge management method being used.

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___(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

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___(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable ~~state~~State or ~~federal~~Federal regulations.

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___(13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

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___(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 125 mg/l unless authorized by the POTW Director.

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___(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

___(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.

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___(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

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|(18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.

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|(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.

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|(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

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|(21) Recognizable portions of the human or animal anatomy.

|(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

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|(23) At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

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

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

|(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 16-185 of this division; and

|(2) Take appropriate actions in accordance with subdivision (D) for such user to protect the POTW from interference or pass through.

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(Ord. passed 5-17-94; Am. Ord. passed ?)

§ 16-127 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR 405 through 471 and incorporated herein.

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

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(E) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

(Ord. passed 5-17-94; Am. Ord. passed ?)

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§ 16-128 INDUSTRIAL WASTE SURVEY AND LOCAL LIMITS.

(A) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following daily average discharge limits. The limit duration should be defined in § 16-122 Definitions and Abbreviations:

175	mg/l	BOD
200	mg/l	TSS
40	mg/l	TKN
0.003	mg/l	arsenic
0.005	mg/l	cadmium
0.061	mg/l	copper
0.04	mg/l	cyanide
0.05	mg/l	lead
0.0003	mg/l	mercury
0.06	mg/l	nickel
0.005	mg/l	silver
0.05	mg/l	total chromium

0.2 mg/l zinc

(B) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass limits in addition to, or in place of, concentration-based limits.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09; [Am. Ord. passed ?](#))

§ 16-129 STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than ~~federal~~[Federal](#) requirements and limitations or those in this division.

(Ord. passed 5-17-94; [Am. Ord. passed?](#))

§ 16-130 RIGHT OF REVISION.

The ~~city~~[City](#) reserves the right to establish limitations and requirements which are more stringent than those required by either ~~state~~[State](#) or ~~federal~~[Federal](#) regulation if deemed necessary to comply with the objectives presented in § 16-121 of this division and specific prohibitions in § 16-126 of this division, as is allowed by 40 CFR 403.4.

(Ord. passed 5-17-94; [Am. Ord. passed?](#))

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§ 16-131 DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the ~~city~~[City](#) or ~~state~~[State](#).

(Ord. passed 5-17-94; [Am. Ord. passed ?](#))

§ 16-132 PRETREATMENT OF WASTEWATER.

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this division and wastewater permits issued under § 16-150 of this division and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in § 16-126 of this division within the time limitations as specified by EPA, the ~~state~~State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the ~~city~~City for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the ~~city~~City under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

___(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

___(2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

___(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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___(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Ord. passed 5-17-94)

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§ 16-133 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 16-122 of this division. All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 16-159 and 16-160 of this division.

(C) An accidental discharge/slug control plan shall address, at a minimum, the following:-

___ (1) Description of discharge practices, including non-routine batch discharges;

___ (2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 16-161 of this division; and

___ ~~(D4)~~ ___ Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09: Am. Ord. passed ?)

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§ 16-134 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate subdivision (B) of this division or any other requirements established by the cityCity. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of

this division.

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(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. passed 5-17-94)

§ 16-135 FATS, OILS AND GREASE CONTROL.

(A) *Purpose.* The purpose of this section is to aid in the prevention of sanitary sewer blockages and overflows due to the accumulations of fats, oils and greases in the sanitary sewer from commercial establishments, particularly food preparation and food serving facilities, by requiring all food service facilities to install properly sized and maintained grease traps or interceptors to prevent excess fats, oils, and greases from entering the [cityCity's](#) collection system.

(B) *Definitions.* Whenever used in this section, the following words shall be as herein defined, unless a different meaning clearly appears from the context.

1. FATS, OILS, and GREASES. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are measured using analytical test procedures established in 40 C.F.R. Part 136. Fats, oils, and greases are collectively referred to herein as “greases.”

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2. FOOD SERVICE FACILITIES . Those facilities primarily engaged in activities of preparing, serving, or making available for consumption by the public such as restaurant, commercial kitchen, grocery store, caterer, hotel, school, hospital, prison, correctional facility, and care institution. These facilities use one or more of the following preparation activities: frying, baking, grilling, sauteing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, poaching, infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot non-drinkable food product in or on a receptacle that requires washing.

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3. GREASE INTERCEPTOR MINIMUM DESIGN CAPABILITY. The design features of a grease interceptor and its ability or volume to effectively intercept and retain greases from grease laden wastewaters discharge to the sanitary sewer.

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4. GREASE TRAP or INTERCEPTOR. A device for separating and retaining greases and like compounds prior to entry into the sanitary sewer collection and treatment system. These devices also serve to remove and collect settleable solids from food service facilities prior to entry into the sanitary sewer. Grease traps and interceptors are collectively referred to herein as **GREASE INTERCEPTORS**.

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5. NON-COOKING FACILITIES. Those facilities primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving facilities.

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6. NORTH CAROLINA PLUMBING CODE. Written guidelines, regulations and ordinances governing the plumbing criteria for type and use of plumbing systems in the state and its political subdivisions.

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7. PUBLICLY OWNED TREATMENT WORKS or POTW. The collective wastewater treatment system owned and/or operated by the city, including all devices, systems and appurtenances thereto used in the collection, storage, treatment, recycling, distribution and reclamation of municipal sewage, industrial wastes of liquid nature, or other wastewater.

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8. SANITARY SEWER. A pipe or conduit intended to carry wastewater or waterborne wastes from homes, businesses, and industries to the POTW. A sewer collection system.

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9. USER. Any person, including those located outside the jurisdictional limits of the city, who contributes, or causes or permit the contribution of, wastewater into the POTW.

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(C) *Grease interceptors.*

____(1) All food service facilities shall install a minimum 1,000 gallon in ground grease interceptor, unless an alternative pretreatment method is approved by the city in accordance with division (D)(9). All grease interceptors shall be provided and maintained in continuously efficient operation at all times by and at the expense of the user.

____(2) Existing food service facilities without a grease interceptor may be required by the city to install, operate and maintain a new grease interceptor that complies with the requirements of this section. If an overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease from an existing facility without a grease interceptor, the city will require the facility to install a grease interceptor within 180 days of written notification. Any additional fixtures that are added to the existing facility and discharges a grease-laden wastestream shall be plumbed

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into the interceptor and/or a new interceptor may be required.

____(3) Exterior in ground grease interceptors shall be serviced and emptied of all waste content as required to maintain minimum design capability, but not less often than every 60 days. In floor and under the counter grease interceptors shall be cleaned not less often than weekly.

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____(4) In ground interceptors must have access manholes, minimum diameter of 24 inches shall be provided over influent and effluent chambers and sanitary tee. The access manholes shall extend at least to finished grade and shall be designed and maintained to prevent inflow and infiltration. The manhole also shall have readily movable covers to facilitate inspection, grease removal, and wastewater sampling activities.

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____(5) Minimum design criteria for grease interceptors shall be approved by the ~~city~~City Planning and Inspections Department in accordance with the NC Plumbing Code and provide for a minimum hydraulic retention time of 24 minutes at actual peak flow, between influent and effluent baffles with 20% of the volume of the grease interceptor being allowed for the sludge to settle and accumulate.

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____(6) Grease interceptors shall be kept free of inorganic materials such as rocks, grit, gravel, sand, eating utensils, cigarettes, shells, towels, rags, and the like, which could settle and reduce the effective volume of the grease interceptor.

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____(7) There shall be no reintroduction of wastewater back into the grease interceptor.

____(8) The use of biological additives as a grease degradation agent is not permissible.

____(9) A user may request to the Planning and Inspection department, an alternative to an in-ground interceptor because of documented space constraints. The request shall contain the following information:

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____(a) Location of the ~~city~~City's sewer main and easement in relation to available exterior space outside of the building.

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____(b) Existing plumbing at or in an establishment that uses common plumbing for all services.

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____(c) Detailed list of all potential sources of grease at the subject premises.

(10)The POTW Director reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site, and building plan review, and to require repairs to, or modification or replacement of such grease interceptors.

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(11)Users are required to ensure that all material removed from grease interceptors is disposed of in a manner that complies with all ~~federal~~Federal, ~~state~~State and local statutes, rules, regulations, policies, and ordinances.

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(12)The use of hot water flushing to clear the interceptor is prohibited.

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(D) *Grease interceptor inspections.*

____(1) The ~~city~~City will inspect an establishment's grease interceptor and maintenance records at the ~~city~~City's discretion. If problems are found during any such inspection, the user must take immediate corrective action as directed by the POTW Director.

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____(2) At inspection, grease cap and solids measurements will be performed. Grease accumulation shall not be greater than six inches at any point within the grease interceptor. Solids accumulation shall not be greater than 20% of the total water depth from the grease interceptor's interior floor to the static working water level, at any point within the grease interceptor.

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(E) *Record keeping.* User shall maintain a written record of all grease interceptor maintenance activities for a period of no less than three years. These records shall consist of clean out dates, the name of the owner or manager of the facility, and the name of the firm that performed the clean out. These records must be located on the premises and available for inspection during all business hours.

(F) *Compliance monitoring.* Any user that is subject to sampling by ~~city~~City staff will be accessed the cost for any analytical testing fees.

(Ord. passed 4-19-05; Am. Ord. passed ?)

SUBDIVISION C FEES

§ 16-140 PURPOSE.

It is the purpose of this chapter to provide for the recovery of costs from users of the ~~city~~City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the ~~city~~City's schedule of charges and fees. (Ord. passed 5-17-94)

§ 16-141 USER CHARGES.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(A) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(B) Each user shall pay its proportionate cost based on volume of flow.

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(C) The City Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users. (Ord. passed 5-17-94)

§ 16-142 SURCHARGES.

(A) All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

- 300 mg/l BOD
- 300 units ADMI Color Units

(B) The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees.

____ (1) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

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____ (a) Metered water consumption as shown in the records of meter readings maintained by the cityCity; or

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____ (b) If required by the cityCity, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the cityCity. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the cityCity.

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____ (c) Where any user procures all or part of his or her water supply from sources other than the cityCity, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the cityCity.

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____ (2) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the cityCity. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.

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

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(Ord. passed 5-17-94; Am. Ord. passed ?)

§ 16-143 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

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

- (A) Reimbursement of costs of setting up and operating the pretreatment program;
- (B) Monitoring, inspections and surveillance procedures;
- (C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (D) Permitting;
- (E) Other fees as the cityCity may deem necessary to carry out the requirements of the pretreatment program.
(Ord. passed 5-17-94)

SUBDIVISION D WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 16-149 WASTEWATER DISCHARGERS.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the cityCity. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 90 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.
(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

§ 16-150 WASTEWATER PERMITS.

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

(A) *Significant industrial user determination.* All persons proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(B) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the ~~city~~City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in § 16-150(A) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

___(1) Name, address, and location, (if different from the address);

___(2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;

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___(3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Subdivision B of this division, any of the priority pollutants (§ 307(a) of the Act (33 USC 1317(a)) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act (33 USC 1314(g)) and contained in 40 CFR 136, as amended and as required in section 16-165 and 16-166 of this division.

___(4) Time and duration of the indirect discharge;

___(5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

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___(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;

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___(7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;

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___(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any ~~city~~City, ~~state~~State, or ~~federal~~Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

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| ___(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

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| ___(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

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

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| ___(10) Each product produced by type, amount, process or processes and rate of production;

| ___(11) Type and amount of raw materials processed (average and maximum per day);

| ___(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

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| ___(13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in § 16-156 of this division.

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| ___(14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

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(C) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control Authority and/or Municipality as defined in section 16-122(1)(a)(b) and 16-122(2)(3)(4) of this division and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(D) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

___ (1) The POTW Director is authorized to accept applications for the cityCity and shall refer all applications to the POTW staff for review and evaluation.

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___ (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

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(E) *Tentative determination and draft permit.*

___ (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

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___ (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:

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___ (a) Proposed discharge limitations for those pollutants proposed to be limited;

___ (b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

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___ (c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

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___ (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the cityCity's general permit conditions into a significant industrial user permit.

(F) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

(1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

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(2) The basis, or rationale, for the pretreatment limitations, including the following:

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(a) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

(b) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

~~*Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:~~

~~(1) A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.~~

~~(2) A quantitative description of the discharge described in the application which includes at least the following:~~

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~~(a) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;~~

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~~(b) The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,~~

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~~(c) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.~~

(G) Final action on significant industrial user permit applications.

~~(1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.~~

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~~(2) The POTW Director is authorized to:~~

~~(a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this division and N.C.G.S. § 143-215.1~~

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~~(b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;~~

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~~(c) Modify any permit upon not less than 60 days notice and pursuant to § 16-150(I) of this division;~~

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- | _____(d) Revoke any permit pursuant to § 16-185 of this division;
- | _____(e) Suspend a permit pursuant to § 16-185 of this division;
- | _____(f) Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

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~~(H) Hearings.~~

~~(1) Initial adjudicatory hearing. An applicant whose permit is denied, granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under § 16-186, or one issued an administrative order under § 16-185 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial permit, notice of permit denial, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.~~

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~~(a) New permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~

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~~(b) Renewed permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~

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~~(2) Final appeal hearing. Any decision of a hearing officer made as a result of an adjudicatory hearing held under § 16-150(H)(1) above may be appealed, to the City Council upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with local hearing procedure. Failure to make written demand within the time specified herein shall bar further appeal. The City Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.~~

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~~(3) Official record. When a final decision is issued under § 16-150(H)(2) above, the City Council shall prepare an official record of the case that includes:~~

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~~(a) All notices, motions, and other like pleadings;~~

~~(b) A copy of all documentary evidence introduced;~~

~~(c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.~~

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~~(d) A copy of the final decision of City Council.~~

~~(4) *Judicial review.* Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under § 16-150(H)(2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Rockingham along with a copy to the city. Within 30 days after receipt of the copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.~~

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~~(H) Permit modification.~~

~~___ (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance~~

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~~___ (a) Changes in the ownership of the discharge when no other change in the permit is indicated,~~

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~~___ (b) A single modification of any compliance schedule not in excess of four months,~~

~~___ (c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.~~

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~~___ (2) Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by § 16-150(B), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.~~

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~~___ (3) A request for a modification by the permittee shall constitute a waiver of the 60-day~~

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notice required by G.S. § 143-215.1(b) for modifications.

(H) *Permit conditions.*

(1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this division and N.C.G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

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(a) A statement of duration (in no case more than five years);

(b) A statement of non-transferability;

(c) Applicable effluent limits based on categorical standards or local limits or both;

(d) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on ~~federal~~Federal, ~~state~~State and local law;

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(e) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 16-122 of this division.

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(f) Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 16-122 of this division, if determined by the POTW Director to be necessary for the User and,

(g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 16-122 Also see Sections 16-160 and 16-161 of this division

(h) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

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(2) In addition, permits may contain, but are not limited to, the following:

(a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

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(b) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

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(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

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_____ (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

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_____ (e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

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_____ (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

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_____ (g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

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_____ (h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.

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_____ (i) Compliance schedules for meeting pretreatment standards and requirements.

_____ (j) Requirements for submission of periodic self-monitoring or special notification reports.

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_____ (k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 16-168 and affording the POTW Director, or his representatives, access thereto.

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_____ (l) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

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_____ (m) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.

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_____ (n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable ~~federal~~Federal and ~~state~~State pretreatment standards, including those which become effective during the terms of the permit.

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_____ (o) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this division, and ~~state~~State and ~~federal~~Federal laws, rules, and regulations.

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

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(LK) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

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(ML) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with § 16-150 a minimum of 180 days prior to the expiration of the existing permit.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

SUBDIVISION E REPORTING REQUIREMENTS

§ 16-156 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

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

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

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(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

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(4) *Flow measurement.* Information showing the measured average daily and maximum

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daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

| ____ (5) *Measurement of pollutants.*

| ____ (a) The categorical pretreatment standards applicable to each regulated process.

| ____ (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director/Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 16-165 of this division.

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| ____ (c) Sampling must be performed in accordance with procedures set out in § 16-166 of this division and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

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| ____ (6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in section 16-122(l) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

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| ____ (7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 16-157 of this division.

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| ____ (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 16-150(C) of this division.

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(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-157 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 16-156(B)(7) of this division:

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events

include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

| (B) No increment referred to above shall exceed nine (9) months;

| (C) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

| (D) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

| (Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

§ 16-158 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

| Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 16-156(B)(4) through (6) of this division. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 16-150(C) of this division.

| (Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

§ 16-159 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 16-165 and 16-166 of this division. All periodic compliance reports must be signed and certified in accordance with § 16-150(C) of this division.

(B) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in § 16-165 and 16-166 of this division, the results of this monitoring shall be included in the report.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-160 REPORTS OF CHANGED CONDITIONS.

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See section 16-161(D) for other reporting requirements.

(A) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 16-150 of this division.

(B) The POTW Director may issue a wastewater discharge permit under § 16-150 of this division or modify an existing wastewater discharge permit under § 16-150 of this division in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 10% or greater, and the discharge of any previously unreported pollutants.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-161 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in section 16-122, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who ~~may~~ to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 16-122.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-162 REPORTS FROM UNPERMITTED USERS.

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

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

§ 16-163 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

(A) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

 (1) If the POTW Director monitors at the user's facility at least once a month or

 (2) If the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

~~(Ord. passed 5-17-94) Penalty, see § 16-185 et seq.~~

(B) If the POTW Director ~~does not require the user to perform any self-monitoring~~ has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the [POTW Director] shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

(1) The POTW Director monitors at the user's facility at least once a month; or

(2) The POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

(3) The POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-164 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

The City of Eden prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State Hazardous Waste Authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after-before the discharge commences. The user shall not begin the discharge until receiving written approval from the City of Eden. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 16-160 of this division. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 16-156, 16-158, and 16-159 of this division.

(B) Dischargers are exempt from the requirements of paragraph (A), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State Hazardous Waste Authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a

program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable ~~federal~~Federal or ~~state~~State law.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

§ 16-165 ANALYTICAL REQUIREMENTS.

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

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

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~~Wastewater System~~ ————— 58

§ 16-166 GRAB AND COMPOSITE SAMPLE COLLECTION.

(A) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(B) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

(C) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-

proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-167 TIMING.

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

(Ord. passed 5-17-94)

§ 16-168 RECORD KEEPING.

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the cityCity, or where the user has been specifically notified of a longer retention period by the POTW Director.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

~~2010-S16~~

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SUBDIVISION F COMPLIANCE MONITORING

§ 16-174 MONITORING FACILITIES.

(A) The cityCity requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the cityCity may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near such sampling manhole or facility to allow accurate

sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the cityCity's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the cityCity.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

§ 16-175 INSPECTION AND SAMPLING.

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

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09) Penalty, see § 16-185 *et seq.*

§ 16-176 SEARCH WARRANTS.

If the ~~POTW Director~~City, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the cityCity designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the ~~POTW Director~~City, approval authority, or EPA may seek issuance of a search warrant from the District Court of the county.

(Ord. passed 5-17-94)

SUBDIVISION G CONFIDENTIAL INFORMATION

§ 16-181 CONFIDENTIAL INFORMATION.

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the [stateState](#) or any [stateState](#) agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. passed 5-17-94) Penalty, see § 16-185 *et seq.*

SUBDIVISION H ENFORCEMENT

§ 16-185 ADMINISTRATIVE REMEDIES.

(A) *Notification of violation.* Whenever the POTW Director finds that any industrial user has violated or is violating this division, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the [cityCity](#) by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with

the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to § 16-185(D), below.

(C) *Show cause hearing.*

___ (1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this division or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, 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 requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

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___ (2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

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___ (3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 16-186 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 16-150(H).

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

___ (1) Immediately comply with all requirements;

___ (2) Comply in accordance with a compliance time schedule set forth in the order;

___ (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

___ (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(E) *Emergency suspensions.*

___ (1) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

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____(2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 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 to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

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(F) *Termination of permit or permission to discharge.* The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

____(1) Failure to accurately report the wastewater constituents and characteristics of his discharge;

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____(2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

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____(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

____(4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

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(G) *Notification.* Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under § 16-185 of this division why the proposed action should not be taken.

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

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~~Eden Utilities~~

§ 16-186 CIVIL PENALTIES.

(A) Any user who is found to have failed to comply with any provision of this division, or the orders, rules, regulations and permits issued hereunder, may be ~~fin~~ed-assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.

(1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

(a) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or

(b) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

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(B) In determining the amount of civil penalties for a particular violation, the POTW Director shall consider the following ~~factors~~:

___(1) The degree and extent of the harm to natural resources, to public health, or to public or private property resulting from the violation;

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___(2) The duration and gravity of the violation;

___(3) The effect on ground or surface water quantity or quality, or on air quality;

___(4) The cost of rectifying the damage;

___(5) The amount of money saved by non-compliance;

___(6) Whether the violation was committed willfully or intentionally;

___(7) The prior record of the violator in complying or failing to comply;

___(8) The costs of enforcement to the POTWCity.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 16-150(H).

(Ord. passed 5-17-94; Am. Ord. passed 3-20-01; Am. Ord. passed 10-20-09)

§ 16-187 OTHER AVAILABLE REMEDIES.

Remedies, in addition to those previously mentioned in this division, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional

available remedies include, but are not limited to:

(A) *Criminal violations.* The District Attorney for the Judicial District 17A may, at the request of the [cityCity](#), prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. § 143-215.6B(i)).]

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

(C) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this division or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the users expense, after it has satisfactorily demonstrated ability to comply.

(D) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this division or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of City Code, Chapter 6 Article II, Nuisances governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(E) *Sewage charges.* If it is determined that water from a special use water meter is being returned to the [cityCity](#)'s wastewater collection system, the Director of Finance and Personnel may assess sewage charges on all water billed through the meter from the date of service. Charges beyond current available billing records shall be based on using the billing and consumption information from current available billing records.

(Ord. passed 5-17-94; Am. Ord. passed 3-18-03)

§ 16-188 REMEDIES NONEXCLUSIVE.

The remedies provided for in this division are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the [cityCity](#)'s enforcement response

plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. passed 5-17-94)

SUBDIVISION I ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

§ 16-193 ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

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

(Ord. passed 5-17-94; Am. Ord. passed 10-20-09)

SUBDIVISION J ADJUDICATORY HEARINGS

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§ 16-194 ADJUDICATORY HEARINGS

(H) Hearings.

(1) *Initial adjudicatory hearing.* An applicant whose permit is denied, granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under § 16-186, or one issued an administrative order under § 16-185 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial permit, notice of permit denial, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the

parties reach a mutual resolution.

(2) Final appeal hearing. Any decision of a hearing officer made as a result of an adjudicatory hearing held under § 16-150(H)(1) above may be appealed, to the City Council upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with local hearing procedure. Failure to make written demand within the time specified herein shall bar further appeal. The City Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(3) Official record. When a final decision is issued under § 16-150(H)(2) above, the City Council shall prepare an official record of the case that includes:

(a) All notices, motions, and other like pleadings;

(b) A copy of all documentary evidence introduced;

(c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.

(d) A copy of the final decision of City Council.

(4) Judicial review. Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under § 16-150(H)(2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Rockingham along with a copy to the City. Within 30 days after receipt of the copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.

SUBDIVISION ~~J~~-K AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 16-197 UPSET.

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

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

| ____ (1) An upset occurred and the user can identify the cause(s) of the upset;

| ____ (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

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| ____ (3) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five days:

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| ____ (a) A description of the indirect discharge and cause of noncompliance;

| ____ (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

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| ____ (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

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

(Ord. passed 5-17-94)

§ 16-198 PROHIBITED DISCHARGE STANDARDS DEFENSE.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 16-126(A) of this division or the specific prohibitions in §§ 16-126(B)(9) through (23) of this division if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

| (B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the cityCity was regularly in compliance with its NPDES

permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
(Ord. passed 5-17-94)

§ 16-199 BYPASS.

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

(B)

____ (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten days before the date of the bypass, if possible.

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____ (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

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(C)

____ (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:

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

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

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____ (c) The user submitted notices as required under division (B) of this section.

____ (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) of this section.

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(Ord. passed 5-17-94)

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