

**ORDINANCE TO AMEND CHAPTER 17 OF  
THE GALLATIN MUNICIPAL CODE BY  
REPLACING SECTIONS 17-211 THROUGH 17-233  
AND ADDING SECTIONS 17-234 THROUGH 17-240**

**BE IT ORDAINED** by the City of Gallatin, Tennessee that Sections 17-211 through 17-233 of Chapter 17, Gallatin Municipal Code are hereby deleted in their entirety and replaced with the following:

Sec. 17-211. **Purpose and Policy.**

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Gallatin, Tennessee, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code, 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations, Part 403).

Sec. 17-212. **Objectives.**

The objectives of this ordinance are to:

- (1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge (biosolids);
- (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) Protect both municipal wastewater system personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) Provide for equitable distribution of the costs of operation, maintenance, and improvement of the municipal wastewater system;
- (5) Enable the City of Gallatin to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance shall apply to all users of the Gallatin Publicly Owned Treatment Works

(POTW), including persons outside the City who are, by contract or agreement with the City, users of the municipal wastewater system. This ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Sec. 17-213. **Administration.**

Except as otherwise provided herein, the Superintendent of Public Utilities shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other City personnel.

Sec. 17-214. **Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Approval Authority** shall mean the Director in an NPDES state with an approved State Pretreatment Program and the appropriate EPA Regional Administrator in a non-NPDES state or NPDES state without an approved State pretreatment program.

**Authorized Representative of Industrial User** shall mean:

(1) If user is a corporation:

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

(b) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a Federal, State, or local governmental facility: a director or highest official

appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

- (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

**Biochemical Oxygen Demand (BOD)** shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/L)).

**Building drain** shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner surface of the building wall.

**Building sewer** shall mean the extension conveying wastewater from the building drain to the point of connection with the public sewer.

**Categorical Pretreatment Standards** shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

**Categorical Industrial User** shall mean an industrial user subject to categorical pretreatment standards.

**City** shall mean the City of Gallatin, Tennessee.

**Clean Water Act** shall mean the Federal Water Pollution Control Act (the Act), as amended, 33 U.S.C. 1251, et seq.

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

**Control Authority** shall mean the approval authority as defined above or the Superintendent of Public Utilities if the city has an approved pretreatment program in accordance with 40 CFR

403.11.

**Cooling water** shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**Daily Maximum Discharge Limit** shall mean the maximum allowable discharge of pollutants during a calendar day. Where daily maximum discharge limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the concentration derived from all measurements taken that day.

**Direct discharge** shall mean the discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

**Environmental Protection Agency or EPA** shall mean the United States Environmental Protection Agency, or where appropriate, the Regional Water Management Division Director, or other duly authorized official of such agency.

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

**Garbage** shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

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

**Holding tank waste** shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

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

**Industrial User (IU) or User** shall mean a source of nondomestic waste. Also, a source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342).

**Industrial wastes** shall mean the liquid wastes from industrial manufacturing processes, trade or

business as distinct from sanitary sewage.

**Instantaneous Maximum Allowable Discharge Limit** shall mean the maximum allowable concentration of a pollutant determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**Interference** shall mean any discharge, which alone or in conjunction with a discharge from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 and 503 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**Local Hearing Authority** shall mean the administrative board created pursuant to an approved pretreatment program which is responsible for the administration and enforcement of that program and the provisions of T.C.A. 69-3-123 through 69-3-129. In this case it shall mean the board created in Sec. 17-239.

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

**Monthly Average Discharge Limit** shall mean the maximum allowable value for the average of all observations obtained during one calendar month.

**National categorical pretreatment standard or pretreatment standard** shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

**National pollution discharge elimination system or NPDES permit** shall mean a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

**National prohibitive discharge standard or prohibitive discharge standard** shall mean any regulation developed under the authority of Section 307(b) of the Act and 40 CFR, 403.5.

**Natural outlet** shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**New source** shall mean:

- (1) Any building, structure, facility, or installation from which there is (or may be) discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (a) Begun, or caused to begin, as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment; or
    - (ii) significant site preparation work including clearing, excavation, or removal of

existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time.

Options to purchase or contracts which can be terminated or modified without significant loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

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

**Person** shall mean any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representative, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all Federal, State, and local governmental entities.

**pH** shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

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

**Pollution** shall mean the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

**POTW treatment plant** shall mean that portion of the POTW designed to provide treatment to wastewater.

**Premises** shall mean a parcel of real estate or portion thereof including any improvements

thereon which is determined by the Superintendent to be a single user for purposes of receiving, using and paying for services.

**Pretreatment or treatment** shall mean the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

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

**Pretreatment standards** shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

**Prohibited discharge standards or prohibited discharges** shall mean absolute prohibitions against the discharge of certain substances; the prohibitions appear in Section 17-216 of this ordinance.

**Properly shredded garbage** shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

**Public sewer** shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**Publicly owned treatment works (POTW)** shall mean a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, reclamation, and disposal of sewage or industrial wastes of a liquid nature and any other conveyances which convey wastewater to a treatment plant. For the purposes of this ordinance, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the City, users of the city's POTW.

**Sanitary sewer** shall mean a sewer which carries sewage and to which storm, surface and

ground waters are not intentionally admitted.

**Self monitoring** shall mean sampling and analyses performed by the industrial user to ensure compliance with the permit or other regulatory requirements.

**Septic tank waste** shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**Sewage or wastewater** shall mean human excrement and gray water (household showers, dishwashing operations, etc.) and a combination of the water carried wastes from residences, business buildings, institutions and industrial establishments.

**Sewage treatment plant** shall mean any arrangement of devices and structures used for treating sewage.

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

**Sewer** shall mean a pipe or conduit for carrying sewage.

**Shall** is mandatory; **May** is permissive.

**Significant industrial user** shall mean any user of the City's wastewater disposal system who:

- (1) Is subject to categorical pretreatment standards under 40 CFR 403.6 and Chapter I, Subchapter N; or
- (2) Is a user that:
  - (a) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement
  - (d) Has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act, or Tennessee statues and rules; or
  - (e) Is found by city, state control agency or the EPA to have significant impact, either

singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

- (3) Upon finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

**Significant noncompliance** shall mean a user whose violation(s) meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66%) percent or more of all measurements taken during a six (6) month period exceed, by any magnitude, the instantaneous maximum limit, the daily average maximum limit or the monthly average limit for the same pollutant parameter;
- (2) Technical Review Criteria (TRC) defined here as those in which thirty-three (33%) percent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the instantaneous maximum limit, the daily average maximum limit, or the monthly average limit multiplied by the applicable TRC. TRC = 1.4 for conventional pollutants (BOD, TSS, Oil & Grease) , and TRC = 1.2 for all other pollutants except pH;
- (3) Any other violation of a pretreatment effluent limit (instantaneous maximum, daily average maximum, or monthly average) that the Control Authority 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;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting

construction, completing construction, or attaining final compliance;

(6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

**Slug load** shall mean any discharge of pollutants at a concentration greater than five (5) times the daily maximum limit or of flow greater than five (5) times the average flow from the user for a period of duration longer than fifteen (15) minutes.

**Standard industrial classification (SIC)** shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

**State** shall mean the State of Tennessee.

**Storm drain (storm sewer)** shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than nonpolluted cooling water.

**Storm water** shall mean any flow occurring during or following any form of natural precipitation and resulting therefrom.

**Superintendent** shall mean the Superintendent of Public Utilities of the City of Gallatin or his authorized deputy, agent or representative.

**Suspended Solids** shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removal by laboratory filtering.

**Time proportional composite sample** shall mean a sampling method which combines discrete sample aliquots of constant volume collected at constant time intervals.

**Total Toxic Organics (TTO)** shall mean the sum of the masses or concentrations of the specific toxic organic compounds regulated by specific categorical pretreatment regulations (or individual pretreatment permits) which is found in the discharge at specific quantifiable concentrations.

**Toxic pollutant** shall mean any pollutant or combination of pollutants listed as toxic in

regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of the Clean Water Act Section 307(a) or other acts.

**Upset** shall mean any disruption of any biological, chemical or physical process at the POTW such that normal treatment efficiency is impaired.

**User** shall mean any person, firm, corporation or government entity that discharges, causes or permits the discharge of wastewater into the public sewer.

**Wastewater** shall mean the liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**Wastewater contribution permit (industrial user wastewater discharge permit)** shall be as set forth in Section 17-225 through 17-226 of this ordinance.

**Watercourse** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

**Waters of the State** shall mean all streams, lakes, ponds, marshes, aquifers, irrigation systems, drainage systems 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 of Tennessee or any portion thereof.

Sec. 17-215. **Abbreviations.**

The following abbreviations in this ordinance shall have the designated meanings:

- A.O. - Administrative Order.
- BOD - Biochemical Oxygen Demand.
- C.A. - Control Authority.
- CFR - Code of Federal Regulations.
- COD - Chemical Oxygen Demand.
- EPA - Environmental Protection Agency.
- I.U. - Industrial User.
- mg/L - Milligrams per Liter.
- NOV - Notice of Violation.
- NPDES - National Pollutant Discharge Elimination System.

POTW	- Publicly Owned Treatment Works.
RCRA	- Resource Conservation and Recovery Act
SIC	- Standard Industrial Classification.
SIU	- Significant Industrial User.
SWDA	- Solid Waste Disposal Act.
TSS	- Total Suspended Solids.
TTO	- Total Toxic Organics.
USC	- United States Code.

Sec. 17-216. **Prohibited Discharge Standards.**

**A. General Prohibitions.**

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all such users of the POTW whether or not the user is subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

**B. Specific Prohibitions.**

No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140<sup>o</sup>F (60<sup>o</sup>C). At no time shall two (2) successive readings on an explosion hazard meter be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter, at the point of discharge into the system (or at any point in the system). Prohibited materials include, but are not limited to the following: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and any other substances which the City, the State or EPA has notified the user is a fire hazard or a hazard to the system.
- (2) Solid or viscous substances which may cause obstruction to the flow in the POTW or

otherwise result in interference, but in no case solids greater than 0.5 inches (0.5") in any dimension.

- (3) Any wastewater having a pH less than 5.0 or greater than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (4) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or the interaction with other pollutants, will cause interference with the POTW;
- (5) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty ( $40^{\circ}$  C) degrees Celsius (one hundred four ( $104^{\circ}$  F) degrees Fahrenheit).
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause pass through or interference;
- (7) Pollutants which result in, or may 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) Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Section 17-224 of this ordinance;
- (9) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
- (11) 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 a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, or subsurface drainage, unless specifically authorized by the Superintendent;
- (13) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;

- (14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (15) Sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

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

When the Superintendent determines that a user is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall:

- (1) Advise the user of the impact of the contribution on the POTW; and
- (2) Develop effluent limitations for such user to correct the interference with the POTW.

Sec. 17-217. **National Categorical Pretreatment Standards.**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(c).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Sec. 17-218. **State Pretreatment Standards.**

State pretreatment standards located at (State Statute) are hereby incorporated. State

requirements and limitations shall apply in any case where they are more stringent than federal requirements or limitations or those in this ordinance.

Sec. 17-219. **Local Limits.**

(1) Specific pollutant limitations shall consist of instantaneous maximum, daily maximum and monthly average limits. Local limits shall be determined using the uniform concentration method based on allowable POTW influent loading. The local limits shall be as follows:

<b><u>Parameter</u></b>	<b><u>Instantaneous Maximum</u></b>	<b><u>Daily Average</u></b>	<b><u>Monthly Average</u></b>
<b>Aluminum</b>	<b>230 mg/L</b>	<b>69.0 mg/L</b>	<b>46.0 mg/L</b>
<b>Arsenic</b>	<b>0.152 mg/L</b>	<b>0.046 mg/L</b>	<b>0.030 mg/L</b>
<b>Boron</b>	<b>39.5 mg/L</b>	<b>11.8 mg/L</b>	<b>7.90 mg/L</b>
<b>Cadmium</b>	<b>0.058 mg/L</b>	<b>0.017 mg/L</b>	<b>0.012 mg/L</b>
<b>Chromium</b>	<b>3.80 mg/L</b>	<b>1.14 mg/L</b>	<b>0.761 mg/L</b>
<b>Copper</b>	<b>3.04 mg/L</b>	<b>0.91 mg/L</b>	<b>0.609 mg/L</b>
<b>Iron</b>	<b>235 mg/L</b>	<b>70.4 mg/L</b>	<b>46.9 mg/L</b>
<b>Lead</b>	<b>0.19 mg/L</b>	<b>0.06 mg/L</b>	<b>0.038 mg/L</b>
<b>Mercury</b>	<b>0.022 mg/L</b>	<b>0.007 mg/L</b>	<b>0.004 mg/L</b>
<b>Molybdenum</b>	<b>0.10 mg/L</b>	<b>0.029 mg/L</b>	<b>0.019 mg/L</b>
<b>Nickel</b>	<b>2.36 mg/L</b>	<b>0.71 mg/L</b>	<b>0.472 mg/L</b>
<b>Selenium</b>	<b>0.32 mg/L</b>	<b>0.095 mg/L</b>	<b>0.063 mg/L</b>
<b>Silver</b>	<b>0.27 mg/L</b>	<b>0.080 mg/L</b>	<b>0.053 mg/L</b>
<b>Zinc</b>	<b>9.20 mg/L</b>	<b>2.76 mg/L</b>	<b>1.84 mg/L</b>
<b>Cyanide</b>	<b>17.6 mg/L</b>	<b>5.28 mg/L</b>	<b>3.52 mg/L</b>
<b>Total Phenol</b>	<b>5.43 mg/L</b>	<b>1.63 mg/L</b>	<b>1.09 mg/L</b>
<b>Toluene</b>	<b>9.42 mg/L</b>	<b>2.83 mg/L</b>	<b>1.88 mg/L</b>
<b>Benzene</b>	<b>0.659 mg/L</b>	<b>0.198 mg/L</b>	<b>0.132 mg/L</b>
<b>1,1,1 Trichloroethylene</b>	<b>8.83 mg/L</b>	<b>2.65 mg/L</b>	<b>1.77 mg/L</b>
<b>Ethylbenzene</b>	<b>1.295 mg/L</b>	<b>0.389 mg/L</b>	<b>0.259 mg/L</b>
<b>Carbon Tetrachloride</b>	<b>1.261 mg/L</b>	<b>0.378 mg/L</b>	<b>0.252 mg/L</b>

<b>Chloroform</b>	<b>11.05 mg/L</b>	<b>3.31 mg/L</b>	<b>2.21 mg/L</b>
<b>Tetrachloroethylene</b>	<b>5.33 mg/L</b>	<b>1.600 mg/L</b>	<b>1.067 mg/L</b>
<b>Trichloroethylene</b>	<b>3.48 mg/L</b>	<b>1.045 mg/L</b>	<b>0.697 mg/L</b>
<b>1,2-trans-dichloroethylene</b>	<b>0.225 mg/L</b>	<b>0.067 mg/L</b>	<b>0.045 mg/L</b>
<b>Methylene Chloride</b>	<b>4.78 mg/L</b>	<b>1.435 mg/L</b>	<b>0.956 mg/L</b>
<b>Naphthalene</b>	<b>0.201 mg/L</b>	<b>0.060 mg/L</b>	<b>0.040 mg/L</b>
<b>Total Phthalates</b>	<b>7.12 mg/L</b>	<b>2.14 mg/L</b>	<b>1.42 mg/L</b>
<b>Xylene</b>	<b>0.659 mg/L</b>	<b>0.198 mg/L</b>	<b>0.132 mg/L</b>
<b>Temperature</b>	<b>65° C</b>		
<b>pH</b>	<b>5.0 min/9.0 max.</b>		
<b>Fats, Oils &amp; Greases</b>	<b>100.0 mg/L</b>	<b>100.0 mg/L</b>	<b>100.0 mg/L</b>
<b>Surfactants (MBAS)</b>	<b>5.0 mg/L</b>	<b>5.0 mg/L</b>	<b>5.0 mg/L</b>

(2) Reallocation Program:

This section establishes the guidelines and policies of a program for the reallocation of industrial wastewater loadings and permit limits among permitted industrial users. This program shall be administered in accordance with the following:

(a) Industries requesting reallocation shall submit such request, on an approved form signed by both participants, to the Superintendent. To be considered the request shall contain the following information:

1. The transferor and transferee;
2. The parameter(s) to be reallocated;
3. The amount to be reallocated (in pounds per day and as a percentage), not to exceed **75%** of the original allocation (see **Appendix A**, attached);
4. Reallocation fee in the amount of **\$1,500.00** per parameter per request, reallocation fee shall apply to the original reallocation request and shall not be reassessed at the time of permit renewal unless there are modifications to the reallocation;
5. Any additional information requested by the Superintendent.

(b) Within fifteen (15) days of the receipt of a reallocation request, the Superintendent shall review such request for merit and shall make a determination on that request.

1. Where a reallocation request is supported by sufficient documentation and is approved by the Superintendent, then that request shall then be submitted for any additional approvals as necessary, e.g. Approval Authority, EPA, etc..
    - A. Where a reallocation request receives all necessary approvals, then the Superintendent shall issue revised wastewater discharge permits, incorporating the revised effluent limitations, to the participating industrial users within fifteen (15) days of receiving such approval.
    - B. Where a reallocation request fails to receive all necessary approvals, then the Superintendent shall deem the request to be denied and shall notify each participating industry in writing.
  2. No reallocation request shall be approved that would result in permit limits that violate a federal categorical pretreatment standard or would otherwise violate a federal or State law or regulation. A reallocation request shall not be approved that would violate or threaten to violate the City's NPDES permit; threaten to upset, interfere or pass through the City's treatment system; or would contaminate the sludge produced by the City's treatment system.
  3. Where a reallocation request is denied, the Superintendent shall notify each participating industry in writing the reasons for denial. The existing wastewater permit limits of participating industrial users shall remain unchanged.
- (c) At any time an approved reallocation is determined to have an adverse impact on the City's wastewater treatment and/or collection system, then the Superintendent shall notify the participating industries, in writing, that the reallocation is being rescinded. The Superintendent shall then, within fifteen (15) days of this notification, reissue permits with each participating industry's previous permit limits.
- (d) The City reserves the right to reject any reallocation request and all approved reallocations are subject to review and revision at the discretion of the City.
- (e) A decision by the Superintendent to deny a reallocation request, to issue a reallocation on terms different than those requested, or to revoke, modify, or fail to renew an existing reallocation may be appealed by any affected industrial user, to by filing a written

petition for hearing no later than thirty (30) days after the receipt of such decision. Any decision with respect to an existing reallocation shall be stayed pending appeal. Each appeal shall be heard by the Local Hearing Authority within sixty (60) days after receipt of the appeal.

Sec. 17-220. **City's Right of Revision.**

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 17-211.

The ability of the wastewater treatment facility to function effectively and meet effluent limitations is contingent upon the incoming wastewater flow being within certain parameters known as the plant protection criteria. Additional substances may be added to the plant protection criteria whenever there is reason to suspect the presence of such substances in quantities as to interfere with the proper functioning of the treatment system or its ability to meet effluent standards.

Policies for the control of regulated discharges in order to achieve and maintain plant protection criteria shall be proposed by the Superintendent. In the event that effluent limitations for the discharge of wastewater treatment plant effluent are changed or there is evidence that the plant efficiency is impaired because of the presence of any substance within the limits of the plant protection criteria, the limits may be modified upon the recommendation by the Superintendent, approval by the State and adoption by the Council.

Sec. 17-221. **Dilution.**

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

Sec. 17-222. **Pretreatment Facilities.**

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall

achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 17-216 of this ordinance within the time limitations specified by EPA, the State, or the Superintendent, which ever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance. The Superintendent may require the following additional measures:

- (1) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, 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 Superintendent 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.
- (2) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Sec. 17-223. **Accidental Discharge/Slug Control Plans.**

At least once every two (2) years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by Section 17-227(F) of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such

procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Sec. 17-224. **Hauled Wastewater.**

Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate Section 17-216 through 17-221 of this ordinance or any other requirements established by the City. Septic tank wastes shall originate only from residential uses, at no time shall commercial or industrial septic waste (or other industrial wastes) be hauled and discharged into the POTW. The waste hauler shall file an application with the Superintendent and shall purchase a hauled wastewater permit prior to the discharge of hauled wastewater. The waste hauler shall also provide, prior to discharge, a certified waste manifest, documenting the nature and origin of the wastes. This manifest shall contain the following information:

- (1) Name and address of each customer
- (2) Type of waste collected
- (3) Approximate volume collected
- (4) Pollutant analysis (if applicable)
- (5) Certification statement, as outlined in Section 17-225(F)

The Superintendent may require the hauler to provide a waste analysis of any load prior to discharge or may collect samples of any waste load to ensure compliance with pretreatment standards or requirements. The Superintendent may require septic tank waste haulers to obtain wastewater discharge permits as outlined in Section 17-225 through 17-227 of this ordinance. Any violation of the conditions outlined in this section are subject to the enforcement actions detailed in Section 17-231 through 17-238 of this ordinance. The Superintendent reserves the right to refuse any hauled waste load.

Sec. 17-225. **Wastewater Discharge Permit Application.**

**A. Wastewater Analysis.**

When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater discharge within forty-five (45) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

### **B. Wastewater Discharge Permit Requirement.**

- (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to Section 17-225(C) of this ordinance may continue to discharge for the time period specified therein.
- (2) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 17-231 through 17-238 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

### **C. Wastewater Discharge Permitting: Existing Connections.**

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within one hundred twenty (120) days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with Section 17-225(E) of this ordinance, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Superintendent.

### **D. Wastewater Discharge Permitting: New Connections.**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for wastewater discharge permit, in accordance

with Section 17-225(E) of this ordinance must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

#### **E. Wastewater Discharge Permit Application.**

All users required to obtain a wastewater discharge permit must submit a permit application, accompanied by an application fee of two hundred fifty dollars (**\$250.00**). The Superintendent may require all users to submit as a part of an application the following information:

- (1) All information required by Section 17-227(A)(2) of this ordinance;
- (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could be accidentally or intentionally be, discharged to the POTW;
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes, and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (7) Time and duration of discharges; and
- (8) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

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

#### **F. Application Signatories and Certification.**

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

*belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

### **G. Wastewater Discharge Permit Decisions.**

The Superintendent will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a completed wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit, for good cause.

### **Sec. 17-226. Wastewater Discharge Permit Issuance Process.**

#### **A. Wastewater Discharge Permit Duration.**

A wastewater discharge permit shall be issued for a specific time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Superintendent. Each wastewater discharge permit shall indicate a specific date upon which it will expire.

#### **B. Wastewater Discharge Permit Contents.**

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

(1) Wastewater discharge permits must contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (b) A statement that the wastewater discharge is nontransferable without prior notification to the City in accordance with Section 17-226(E) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (c) Effluent limits based on applicable pretreatment standards;
- (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements.

These requirements shall include an identification of pollutants to be monitored, sampling location, sample frequency, and sample type based on Federal, State, and local law; and

(e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

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

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

(b) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

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

(g) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(h) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

### **C. Wastewater Discharge Permit Modification.**

The Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, process, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

#### **D. Wastewater Discharge Permit Transfer.**

Wastewater discharge permits are issued to a specific user for a specific operation at a specific location. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation without the prior approval of the Superintendent. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advanced notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge

permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of the facility transfer.

#### **E. Wastewater Discharge Permit Revocation.**

The Superintendent may revoke a wastewater discharge permit for good cause, including when appropriate, but not limited to, the following reasons:

- (1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 17-227(E) of this ordinance;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Superintendent timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines or administrative penalties;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater discharge survey or the wastewater discharge permit application;
- (12) Failure to provide advanced notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

#### **F. Wastewater Discharge Permit Reissuance.**

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 17-225(E) of this ordinance, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing wastewater discharge permit.

#### **G. Wastewater Discharge Permit Appeals**

The Superintendent may provide public notice of the issuance/reissuance of a wastewater discharge permit.

- (1) A decision by the Superintendent to issue or not issue a wastewater discharge permit, to renew or not renew a wastewater discharge permit, to modify or not modify a wastewater discharge permit, or to revoke a wastewater discharge permit may be appealed by the industrial user by filing a written petition for hearing no later than thirty (30) days after the receipt of such decision. Any such decision shall be stayed pending appeal. Each appeal shall be heard by the Local Hearing Authority within sixty (60) days after receipt of the appeal. Decisions of the Local Hearing Authority on such appeals shall be considered final administrative actions for the purposes of judicial review.
- (2) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the chancery court for Sumner County within sixty (60) days from the date such order or determination is made.

#### **H. Regulation of Waste Received from Other Jurisdictions.**

- (1) If another municipality, utility district or user located within another municipality or utility district, contributes wastewater to the POTW, the Superintendent shall enter into an intermunicipal agreement with the contributing municipality or utility district.
- (2) Prior to entering into an agreement required by paragraph 1, above, the Superintendent shall request the following information from the contributing municipality or utility district:
  - (a) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality or utility district;
  - (b) An inventory of all users located within the contributing municipality or utility district that are discharging to the POTW; and
  - (c) Such other information as the Superintendent may deem necessary.

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

- (a) A requirement for the contributing municipality or utility district to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 17-219 of this ordinance. This requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;
- (b) A requirement for the contributing municipality or utility district to submit a revised user inventory on at least an annual basis;
- (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection, sampling, and enforcement, will be conducted by the contributing municipality or utility district; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing municipality or utility district and the Superintendent;
- (d) A requirement for the contributing municipality or utility district to provide the Superintendent with access to all information that the contributing agency obtains as part of its pretreatment activities;
- (e) Limits on the nature, quality, and volume of the contributing municipality's or utility district's wastewater at the point where it discharges to the POTW;
- (f) Requirements for monitoring the contributing municipality's or utility district's discharge;
- (g) A provision ensuring the Superintendent access to the facilities of users located within the contributing municipality's or utility district's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Superintendent; and
- (h) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. The Superintendent shall have the right to take legal action to enforce the terms of the contributing municipality's or utility district's ordinance or to impose and enforce pretreatment standards and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

Sec. 17-227. **Reporting Requirements.**

**A. Baseline Monitoring Reports.**

(1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical 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 Superintendent a report which contains the information listed in paragraph 2, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed in paragraph 2, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

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

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

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

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

(d) **Flow Measurement.** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula as set out in 40 CFR 403.6(e).

(e) **Measurement of Pollutants.**

1. The categorical pretreatment standards applicable to each regulated process.
2. The results of sampling and analysis identifying the nature and concentration, and/or

mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and monthly average concentrations, or mass, where required, shall be reported. The sample shall be representative of the daily operations and shall be analyzed in accordance with procedures set out in Section 17-227(I) of this ordinance.

3. Sampling must be performed in accordance with procedures set out in Section 17-227(J) of this ordinance.

(f) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 17-227(B) of this ordinance.

(h) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 17-225(F) of this ordinance.

### **B. Compliance Schedule Progress Reports.**

The following conditions shall apply to the compliance schedule required by Section 17-227(A)(2)(g) of this ordinance:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of addition pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine (9) months;

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

**C. 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 the commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in Section 17-227(A)(2)(d-f) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 17-225(F) of this ordinance.

**D. Periodic Compliance Reports.**

- (1) All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 17-225(F) of this ordinance.
- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results

are unrepresentative of its discharge.

- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section 17-227(I) and (K) of this ordinance, the results of this monitoring shall be included in the report.

#### **E. Reports of Changed Conditions.**

Each user must notify the Superintendent 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 ninety (90) days before the change.

- (1) The Superintendent 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 Section 17-225(E) of this ordinance.
- (2) The Superintendent may reissue a wastewater discharge permit under Section 17-225(G) of this ordinance or modify an existing wastewater discharge permit under Section 17-226(D) of this ordinance in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

#### **F. Reports of Potential Problems.**

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (2) Within five (5) days following such discharge, the user shall, unless waived by the Superintendent, 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 ordinance.

- (3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph 1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

#### **G. Reports from Unpermitted Users.**

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

#### **H. Notice of Violation/Repeat Sampling and Reporting.**

If sampling performed by a user indicates a violation, the user must notify the Superintendent 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 Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

#### **I. 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.

#### **J. Sample Collection.**

- (1) Except as indicated in Section 2, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a

representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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

**K. Timing.**

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

**L. Record Keeping.**

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance 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 used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Superintendent.

Sec. 17-228. **Compliance Monitoring.**

**A. Right of Entry: Inspection and Sampling.**

The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will

be permitted to enter without delay for the purposes of performing specific responsibilities.

- (2) The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The Superintendent shall require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All sampling and monitoring equipment shall be located on the user's premises and shall be constructed in accordance with the plans and specifications established by the Superintendent. All devices used to measure wastewater flow and quality shall be calibrated monthly to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.
- (5) Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this ordinance.

### **B. Search Warrants.**

If the Superintendent 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 ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the chancery court.

### **Sec. 17-229. Confidential Information.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or

methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 17-230. **Fees.**

It is the purpose of this section to provide for the recovery of costs, from users of the City's wastewater disposal system, for the implementation of the program established herein. The applicable charges or fees shall be set forth in the schedule of charges and fees in this ordinance. The City may adopt charges and fees which may include the following:

- (1) Fees for reimbursement of costs of setting up and operating the City's pretreatment program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal (by the City) of pollutants otherwise subject to Federal Pretreatment Standards;
- (7) Other fees as the City may deem necessary to carry out the requirements contained herein.

The industrial user schedule of sewer use fees are as follows:

- (1) **Annual Program Maintenance Fee .....\$3500.00**
- (2) **Permit Application .....\$ 250.00**
- (3) **Special Sampling and Analysis**

Unscheduled or demand samples shall be assessed an amount of twice the laboratory invoiced amount to recover the costs of sampling and analysis.

- (4) **Surcharges, per pound**
  - (a) Biochemical Oxygen Demand .....\$ **0.15**  
in excess of 300 mg/L
  - (b) Biochemical Oxygen Demand .....\$ **0.30**  
in excess of 1200 mg/L
  - (c) Chemical Oxygen Demand .....\$ **0.15**  
in excess of 600 mg/L
  - (d) Chemical Oxygen Demand .....\$ **0.30**  
in excess of 2400 mg/L
  - (e) Suspended Solids .....\$ **0.15**  
in excess of 300 mg/L
  - (f) Suspended Solids .....\$ **0.30**  
in excess of 1200 mg/L
  - (g) Ammonia Nitrogen .....\$ **1.50**  
in excess of 50 mg/L
  - (h) Ammonia Nitrogen .....\$ **3.00**  
in excess of 200 mg/L

(5) **Hauled Wastewater .....\$ 10.00 per 1000 gallons**

These fees relate solely to the matters covered by this ordinance and are separate from all other penalties or fees chargeable by the City. All fees collected under Section 17-230 of this ordinance shall be placed in a special fund and allocated and appropriated for the administration of the pretreatment program.

Sec. 17-231. **Establishment of Enforcement Response Guidelines.**

The Superintendent of Public Utilities shall establish a written enforcement response guide for training and use by involved utility department personnel to remedy violations of the local pretreatment program. This guide shall outline the procedures to be followed by the utility department staff to identify, document and respond to pretreatment program violations. In the event of any conflict between the enforcement response guides and the Gallatin Municipal Code, the requirements of the Gallatin Municipal Code shall control.

Sec. 17-232. **Enforcement Responses.**

(1) **Enforcement Response Definitions.**

(a) **Administrative Orders.** Administrative Orders are enforcement documents directing a user to undertake or cease specific activities. The terms may or may not be negotiated with the user. Administrative Orders should be the first formal response to Significant Noncompliance, unless judicial proceedings are more appropriate, and may incorporate compliance schedules, monetary penalties and termination of service. The four (4) main types of Administrative Orders are:

1. **Cease and Desist Orders.** A cease and desist order directs the user to stop illegal or unauthorized discharges immediately or to terminate its discharge altogether. A cease and desist order may be used in situations where the discharge could cause interference or pass through, or otherwise create an emergency situation. The order may be issued immediately upon discovery of the problem or following a hearing. In an emergency, an order may be given by telephone followed by a subsequent written order served on the Industrial User, either in person or by registered mail. As necessary, the Superintendent may order immediate cessation of any discharge to its collection system, regardless of a user's compliance status.
2. **Consent Orders.** A consent order is an agreement between the Superintendent and a user usually containing three (3) elements:
  - a. Compliance Schedule;
  - b. Stipulated fines or remedial actions;
  - c. Control Authority and user's representatives signatures.

A consent order may be deemed appropriate when the user assumes responsibility for its noncompliance and is willing, in good faith, to correct its cause. The user need not admit the noncompliance in the text of the order.

3. **Show Cause Orders.** A show cause order directs the user to appear before the Superintendent, explain the noncompliance, and to show cause why more severe enforcement action should not be taken against the user. The show cause order may typically be issued after informal contacts or notices of violation have failed to

resolve the noncompliance. The show cause order/hearing can also be used to investigate violations of previous orders.

4. Compliance Orders. A compliance order directs the user to achieve or restore compliance by a date specified in the order. The compliance order is usually issued when noncompliance cannot be resolved without construction, repair or process changes. Compliance orders are also frequently used to require users to develop management practices, spill prevention programs and related pretreatment program requirements.
- (b) Administrative Penalties. An Administrative Penalty is a monetary penalty assessed by the Superintendent. Administrative Penalties may be assessed at the discretion of the Superintendent and the amount determined on an individual basis and does not require court intervention unless contested or unpaid. These penalties are punitive and not related to specific costs born by the POTW.
- (c) Civil Litigation. Civil litigation is the formal process of filing lawsuits against a user to secure court action to correct violations and to secure penalties for violations including the recovery of cost to the POTW. It shall normally be pursued when the compliance action required is costly and complex, the penalty to be assessed exceeds that which the Superintendent can assess administratively or when the user is considered to be recalcitrant and unwilling to cooperate. The term "civil litigation" also includes enforcement measures which require involvement or approval by the courts, such as injunctive relief and settlement agreements. Civil litigation is similar to criminal prosecution in that it requires an attorney and may result in court trials and assessment of penalties. Different types of civil litigation are discussed below:
  1. Consent Decree. A consent decree is an agreement between the Superintendent and the user reached after a suit has been filed. To be binding, the decree must be signed by the judge assigned to the case. Consent decrees are used when the violator is willing to acknowledge and correct the noncompliance, and the Superintendent and the violator agree on the penalty.
  2. Injunction. An injunction is a court order which directs parties to do or to refrain from

doing something. The Superintendent may seek injunctive relief if the delays involved in filing suit would result in irreparable harm.

3. Civil Penalties and Cost Recovery. Civil litigation (going to trial) may be necessary to recover costs associated with noncompliance and to impose civil penalties.

(d) Criminal Prosecution. Criminal prosecution is the formal process of charging individuals or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. Criminal offenses are traditionally defined as either felonies or misdemeanors. Under Federal law, felonies are offenses punishable by death or imprisonment for a term exceeding one (1) year. Federal law defines misdemeanors as offenses other than felonies and are generally punishable by fines of up to one thousand dollars (\$1,000.00) or imprisonment for less than one (1) year. There are two (2) elements to a crime (either misdemeanor or felony):

1. Acting in violation of the law; and
2. Criminal intent.

Criminal prosecution is not a viable enforcement option if a prosecutor cannot prove both of these elements.

(e) Notice of Violation (NOV). A notice of violation (NOV) is usually an initial response to a nonsignificant violation from the Superintendent officially communicating to the user that a violation has occurred. A NOV may be issued prior to an Administrative Order in the case of a significant violation or judicial case. It is used generally in the cases of infrequent and generally minor violations to notify an user of the violation. If a user continues noncompliance more stringent measures are then used.

(f) Supplemental Enforcement Responses. Supplemental enforcement responses are used to complement and in conjunction with more traditional responses. Specific legal authority to authorize supplemental enforcement responses may or may not be necessary depending upon the nature of the response. The following responses requiring legal authority are found in the enforcement section of the City's Sewer Use Ordinance:

1. Annual Publication of Significant Noncompliance. The Superintendent shall publish, at least annually, in the largest daily newspaper circulated in the service area, a description of those Industrial Users which are found to be in Significant Noncompliance, as defined in the enforcement section of the Ordinance, with any provisions of this Ordinance or any permit or order issued hereunder during the period since the previous publication.
  2. Water Supply Severance. Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
  3. Public Nuisances. Any violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any cost incurred in removing, abating or remedying such nuisance.
  4. Liability Insurance. The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge
- (g) Termination of Sewer Service. Termination of sewer service is the revocation of a user's privilege to discharge wastewater into the POTW. Termination may be accomplished by physical severance of the industry's connection to the system, by the issuance of an administrative order which compels the user to terminate its discharge, or by court ruling. Many legal implications must be considered before using this enforcement response.

- (h) Local Hearing Authority. The Local Hearing Authority shall be as established in Section 17-238. An industrial user may appeal an enforcement action taken against it by the Superintendent by filing a written petition for hearing no later than thirty (30) days after the receipt of such enforcement response. The written petition shall include the specific provisions of the enforcement response being appealed. Any such enforcement action shall be stayed pending appeal. Each appeal shall be heard by the Local Hearing Authority within sixty (60) days after the receipt of the appeal.

Sec 17-233. **Procedures for Implementing Enforcement Responses**. The person responsible for determining when a violation has occurred and what means of enforcement response is deemed necessary shall be listed in Section IV of the Enforcement Response Guide (ERG). All monitoring reports received by the Superintendent (whether user self-monitoring or POTW monitoring reports) shall be reviewed within thirty-six (36) hours of receipt for possible violations. When a violation has occurred an appropriate notice of violation will be issued to the user concerning the violation within five (5) working days of discovery. When the violation warrants an administrative order the appropriate administrative order will be issued to the user within ten (10) working days of discovery of the violation. If the violation warrants civil or criminal action the Superintendent will initiate such action against the user within ninety (90) days of discovery of violation. If for any reason the Superintendent does not proceed with such action within ninety (90) days the Superintendent shall retain full legal authority for future action as outlined in the statute of limitations set forth by the State. The following is a summary of time frames:

- (1) All notices of violation, whether initial or repeat, will be issued within five (5) working days of discovery.
- (2) All administrative orders, whether initial or repeat, will be issued within ten (10) working days of discovery.
- (3) All civil or criminal actions deemed necessary will be initiated against the Industrial User within, but not limited to, ninety (90) days of discovery.

**Method of Tracking Enforcement Situations**. The Superintendent method of tracking enforcement related situations shall be by a computerized database management system or EPA's

PCME system.

Sec. 17-234. **Administrative Enforcement Remedies and Penalties.**

- (1) **Notification of Violation.** Whenever the Superintendent finds any user has violated, or continues to violate, any provision of this ordinance, a wastewater permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user written Notice of Violation. Within ten (10) days of the receipt of this notice, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
- (2) **Consent Orders.** The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to Section 17-234 (4) and (5), of this ordinance.
- (3) **Show Cause Hearing.** The Superintendent may order any user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not duly notified user appears as notified, immediate enforcement action

may be pursued. A show cause hearing shall not be a bar against, or prerequisite for, any other action against the user.

(4) Compliance Order. Whenever the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time period, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenance have been installed and are properly operated. Compliance orders may also contain such other requirements as might be needed to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any additional violation, including any continuous violation.

(5) Cease and Desist Orders. Whenever the Superintendent finds that any user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

(6) Administrative Penalties. Notwithstanding any other provision of this ordinance, when the Superintendent finds that a user has violated or continues to violate, any provision of

this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may penalize such user in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Such penalties shall be assessed on a per violation, per day basis, where each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. In the case of monthly or other long term average limits, penalties shall be assessed for each violation. Unpaid charges, fines, and penalties shall constitute a lien against the user's property. User desiring to dispute such penalties must file a written request for the Local Hearing Authority to reconsider the penalties within thirty (30) days of being notified of the penalties. The Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(7) Penalty Schedule for Violations.

(a) **Unauthorized Discharge:**

1. **Minimum** five hundred dollars **(\$500.00)** per day, per violation.
2. Repeat violation amounts may increase by increments of five hundred dollars **(\$500.00).**

(b) **Discharge Limit Violations:**

1. Monthly Average Limit:

<u>Parameter</u>	<u>Penalty Amount per violation (minimum)</u>
<b>Aluminium</b>	<b>\$ 150.00</b>
<b>Arsenic</b>	<b>\$ 200.00</b>
<b>Boron</b>	<b>\$ 150.00</b>
<b>Cadmium</b>	<b>\$ 200.00</b>
<b>Chromium</b>	<b>\$ 200.00</b>
<b>Copper</b>	<b>\$ 200.00</b>
<b>Iron</b>	<b>\$ 150.00</b>
<b>Lead</b>	<b>\$ 200.00</b>
<b>Mercury</b>	<b>\$ 200.00</b>

<b>Molybdenum</b>	<b>\$ 200.00</b>
<b>Nickel</b>	<b>\$ 200.00</b>
<b>Selenium</b>	<b>\$ 200.00</b>
<b>Silver</b>	<b>\$ 200.00</b>
<b>Zinc</b>	<b>\$ 200.00</b>
<b>Cyanide</b>	<b>\$ 200.00</b>
<b>Total Phenol</b>	<b>\$ 200.00</b>
<b>Toluene</b>	<b>\$ 300.00</b>
<b>Benzene</b>	<b>\$ 300.00</b>
<b>1,1,1 Trichloroethylene</b>	<b>\$ 300.00</b>
<b>Ethylbenzene</b>	<b>\$ 300.00</b>
<b>Carbon Tetrachloride</b>	<b>\$ 300.00</b>
<b>Chloroform</b>	<b>\$ 300.00</b>
<b>Tetrachloroethylene</b>	<b>\$ 300.00</b>
<b>Trichloroethylene</b>	<b>\$ 300.00</b>
<b>1,2-trans-dichloroethylene</b>	<b>\$ 300.00</b>
<b>Methylene Chloride</b>	<b>\$ 300.00</b>
<b>Naphthalene</b>	<b>\$ 300.00</b>
<b>Total Phthalates</b>	<b>\$ 300.00</b>
<b>Xylene</b>	<b>\$ 300.00</b>
<b>Temperature</b>	<b>\$ 100.00</b>
<b>pH</b>	<b>\$ 100.00</b>
<b>Fats, Oils &amp; Greases</b>	<b>\$ 100.00</b>
<b>Surfactants (MBAS)</b>	<b>\$ 100.00</b>

**(c) Daily Average Maximum Limit:**

1. Any user violating the daily average maximum limit, such that no interference, upset or pass-through incident resulting in violation of the NPDES limits occurs at the POTW, shall be assessed a penalty of up to **five hundred dollars** **(\$500.00)** for each

**multiple or fraction** thereof by which the daily average maximum limit is exceeded for each pollutant.

**For example, a daily average maximum limit violation of five (5) times the daily average maximum limit for a single pollutant would incur up to a two thousand dollar (\$2,000.00) penalty, assuming that no upset, interference or pass-through occurred at the POTW.**

2. Any user violating the daily average maximum limit, such that an interference, upset or pass-through incident does occur at the POTW to the extent that the NPDES limits are exceeded shall be assessed up to a **ten thousand dollar (\$10,000.00)** penalty or the amount of civil penalties and/or fines assessed against the City by State and/or Federal regulatory agencies plus any costs incurred by the City in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses and court reporter fees, against such charges arising from the NPDES violation, whichever is greater.

**(d) Instantaneous Maximum Limit Violations:**

1. Any user violating the instantaneous maximum limit, such that no interference, upset, or pass-through incident resulting in violation of the NPDES permit limits occurs at the POTW, shall be assessed a penalty of up to **one thousand dollars (\$1000.00)** for each multiple or fraction thereof by which the instantaneous maximum limit is exceeded for each pollutant.
2. Any user violating the instantaneous maximum limit, such that an interference, upset, or pass-through incident does occur at the POTW to the extent that the NPDES permit limits or conditions are exceeded, shall be assessed up to a **ten thousand dollar (\$10,000.00)** penalty, or the amount of civil penalties and/or fines assessed against the City by the State and/or Federal regulatory agencies plus any costs incurred by the City in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses and court reporter fees, against such charges arising from the NPDES violation, whichever is greater.

**(e) Monitoring and Reporting Violations:**

1. Minimum penalty of **five hundred dollars** (\$500.00) per violation.
2. Repeat violation amounts may increase by increments of **one hundred dollars** (\$100.00).

(f) **Other Permit Violations:**

1. Minimum penalty of **five hundred dollars** (\$500.00) per day, per violation.
2. Repeat violation amounts may increase by increments of **one hundred dollars** (\$100.00).

(g) **Violations Detected During Site Visits:**

1. Minimum penalty of **two hundred dollars** (\$200.00) per day, per violation unless violation is already covered by above.
2. Repeat violation amounts may increase by increments of **one hundred dollars** (\$100.00).

(8) Disposition of Damage Payments, Penalties and Fees. All damages, penalties and/or fees assessed and collected under the provisions of this ordinance shall be placed in a special fund by the pretreatment agency and allocated and appropriated to the pretreatment agency for the administration of its pretreatment program.

(9) Emergency Suspensions.

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

(b) Any user notified of a suspension of its wastewater discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Superintendent may allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Section 17-234(10), Termination of Permit, are initiated against the user.

- (c) Any user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in Section 17-234 (3) or Section 17-234 (10) of this ordinance.

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

(10) Termination of Permit. In addition to the provisions of Section 17-226(F) of this ordinance, any user who violates the following conditions of this ordinance is subject to permit termination:

- (a) Violation of wastewater discharge permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents or characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (e) Violation of the pretreatment standards in Section 17-216 of this ordinance.

Such users will be notified of the proposed termination of their wastewater discharge permit and be offered an opportunity to show cause under Section 17-234 (3), why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or prerequisite for, taking other action against the user.

(11) Appeals. A decision by the Superintendent to take enforcement action, to issue an administrative order, to issue an administrative penalty, to suspend a user's wastewater discharge, or to terminate a user's wastewater discharge permit may be appealed by the industrial user by filing a written petition for hearing no later than thirty (30) days after

the receipt of such decision. Any such decision shall be stayed pending appeal except for emergency orders or suspensions. Each appeal shall be heard by the Local Hearing Authority within sixty (60) days after receipt of the appeal, except in the case of an emergency order or suspension, which shall be held as soon as possible, but in no case later than three (3) days of the receipt of the appeal.

Sec. 17-235. **Judicial Remedies.** If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this ordinance or any permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the chancery court.

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

(2) **Civil Penalties.**

(a) Any user who has violated, or continues to violate this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, shall be liable to the City for a civil penalty of not more than ten thousand dollars (\$10,000.00) plus actual damages incurred by the POTW per violation, per day for as long as the violation continues. In the case of daily average discharge limits, penalties shall accrue for each day during the period of violation.

(b) The Superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring

expenses, and the costs of any actual damages incurred by the City.

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

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

(3) Criminal Prosecution.

(a) Any user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation, per day or imprisonment for not more than one (1) year or both.

(b) Any user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and shall be subject to a penalty of at least one thousand dollars (\$1000.00), or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(c) Any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day or imprisonment for not more than one (1) year or both.

(d) In the event of a second conviction, a user shall be punished by a fine not to exceed three thousand dollars (\$3,000.00) per violation, per day or imprisonment for not more than

three years or both.

Sec. 17-236. **Supplemental Enforcement Remedies.**

- (1) **Annual Publication of Significant Noncompliance.** The Superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those users which are found to be in Significant Noncompliance, as defined in Section 17-114, with any provisions of this ordinance, or a wastewater discharge permit, or order issued hereunder, or other pretreatment standard or requirement during the period since the previous publication.
- (2) **Liability Insurance.** The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damages caused by its discharge.
- (3) **Water Supply Severance.** Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- (4) **Public Nuisances.** A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of Section 10-56 et. seq. governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying such nuisance.

Sec. 17-236. **Remedies Nonexclusive.** The remedies provided for in this ordinance are not exclusive. The Superintendent may take any, all, or any combination of these enforcement actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Superintendent may take other action against any user when the circumstances warrant. Further, the Superintendent is

empowered to take more than one enforcement action against any noncompliant user.

Sec. 17-237. **Affirmative Defenses.**

(1) **Upsets.**

- (a) For the purposes of this section, "**upset**" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or local limits 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 preventative maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards or local limits if the requirements of paragraph (c), below, are met.
- (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred and the user can identify the cause(s) of the upset;
  2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  3. The user has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset, if information is provided orally, a written submission must be provided within five (5) days:
    - A. A description of the incident discharge a cause of noncompliance;
    - B. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - C. Steps taken and/or planned to reduce, eliminate, and prevent recurrence of noncompliance.

(2) **Bypass.**

- (a) For the purposes of this section,
1. "**Bypass**" means the intentional diversion of wastestreams from any portion of a

user's treatment facility.

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

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

(c) Conditions:

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (**10**) days before the date of the bypass, if possible.
2. A user shall submit oral or notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within twenty-four (**24**) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (**5**) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; 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 Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass is prohibited, and the Superintendent may take enforcement action against a user for a bypass, unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment, retention of the untreated wastewater, 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 preventative maintenance; and

3. The user submitted notices as required under paragraph (c) of this section.

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

Sec. 17-238. **Establishment of Local Hearing Authority.**

A local hearing authority is created, with the powers and jurisdiction as granted and set out herein and in T.C.A. 69-3-123 -- 69-3-129 as now exists and as may hereafter be amended.

(1) The local hearing authority shall consist of five (5) members, all to be residents of Sumner County, Tennessee. The members shall be appointed by the Mayor and confirmed by a majority vote of the City Council. Each member shall be appointed for a two (2) year term, and shall serve until their successor is appointed. Each member shall serve without compensation. Four (4) members shall be required for a quorum to conduct business but a lesser number of members may adjourn the meeting from day to day in the absence of a quorum. All decisions shall be by a majority vote of those present. Meetings shall be held at the call of the chair person or Mayor, by written notice, as required by law. The members shall elect from the members a chair person annually.

(2) The five (5) members shall consist of the following:

- (a) One member to be from a major industry;
- (b) One member to be experienced in utilities;
- (c) One member to be experienced in finance;
- (d) Two members to be private citizens.

(3) In the event of a conflict of interest involving any member, the Mayor shall appoint a temporary replacement for the matter.

Sec. 17-239. **Severability.**

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court

of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its final passage, as provided by law, the public welfare requiring it.