

**THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN**

**ORDINANCE NO: G-15-08**

**AN ORDINANCE** concerning

Industrial pretreatment

**FOR** the purpose of ensuring compliance with state and federal regulations; adopting regulations for the control, monitoring and compliance of industrial and commercial wastewater contributors to the City's Publicly Owned Treatment Works; providing for various classes of wastewater discharge permits; clarifying language; and otherwise pertaining to pretreatment of industrial wastewater.

**BY** repealing

Appendix L, "Industrial Pretreatment"  
Frederick City Code, 1966 (as amended)

**BY** adding

Appendix L, "Industrial Pretreatment"  
Frederick City Code, 1966 (as amended)

**SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that The Code of the City of Frederick, 1966, Appendix L "Industrial Pretreatment", is hereby repealed.

**SECTION II. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that The Code of the City of Frederick, 1966, Appendix L "Industrial Pretreatment", is hereby added to read as follows:

**APPENDIX L. INDUSTRIAL PRETREATMENT**

**§ 1. General provisions.**

**§ 1.1. Citation.**

This Appendix L, "Industrial Pretreatment", may be known and cited as the "Industrial Pretreatment Ordinance" (referred to in this Appendix L as the "Ordinance").

**§ 1.2. Purpose.**

- (a) **Generally.** This Ordinance sets forth uniform requirements for users of the POTW for the City and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act and the General Pretreatment Regulations (40 CFR Part 403).

(b) **Objectives.** The objectives of this Ordinance are:

- (1) to prevent the introduction of pollutants into the POTW that will interfere with its operation;
- (2) to prevent the contamination of the resulting biosolids, such that the biosolids could not be used for land application in accordance with the EPA Standards for Use and Disposal of Sewage Sludge (40 CFR Part 503, Subpart B);
- (3) to prevent the introduction into the POTW of pollutants that would pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW;
- (4) to promote reuse and recycling of industrial wastewater and biosolids from the POTW;
- (5) to protect the public and POTW personnel who may be affected by wastewater and biosolids in the course of their employment;
- (6) to provide for fees for the equitable distribution of the cost of operating and maintaining the POTW; and
- (7) to enable the City to comply with its NPDES permit, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

**§ 1.3 Applicability.** This Ordinance applies to all users of the POTW, whether or not discharge was initiated prior to the effective date of this Ordinance.

**§ 1.4 Abbreviations.** For purposes of this Ordinance, the following abbreviations have the designated meanings;

BOD – Biochemical Oxygen Demand  
BMP – Best Management Practice  
BMR – Baseline Monitoring Report  
CFR – Code of Federal Regulations  
CIU – Categorical Industrial User  
COD – Chemical Oxygen Demand  
COMAR – Code of Maryland Regulations  
EPA – U.S. Environmental Protection Agency  
FOG – Fats, oils and grease  
FSE – Food Service Establishment  
gpd – gallons per day  
mg/L – milligram per liter  
NAICS – North America Industry Classification System  
NPDES – National Pollutant Discharge Elimination System  
POTW – Publicly Owned Treatment Works  
RCRA – Resource Conservation Recovery Act  
SIC – Standard Industrial Classification  
SIU – Significant Industrial User  
SWDA – Solid Waste Disposal Act  
TSCA – Toxic Substances Control Act

TSS – Total Suspended Solids  
U.S.C. – United States Code

**§ 1.5 Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, have the designated meanings:

- (a) **Act.** "Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- (b) **Authorized representative of the user.**
  - (1) "Authorized representative of the user" means one of the individuals described in this paragraph.
    - (A) If the user is a corporation, the authorized representative is:
      - (i) the president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
      - (ii) the manager of one or more manufacturing, production, or operation facilities, if the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance is established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements, and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - (B) If the user is a partnership or sole proprietorship; the authorized representative is a general partner or proprietor, respectively;
    - (C) If the user is a federal, state, or local governmental facility, the authorized representative is a director or the highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or a designee.
  - (2) An individual described in paragraph (1) of this subsection may designate a duly authorized representative if the designation is in writing submitted to the City and specifies an individual or position having responsibility for the overall operation of the facility from which the industrial discharge originates or having overall responsibility for environmental matters for the user.
- (c) **Best Management Practices (BMPs).** "Best Management Practices" or "BMPs" means the schedule of activities, prohibitions of practices, maintenance procedures, and other

management policies enforced to implement the prohibitions listed in § 2 of this Ordinance and 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage to prevent and reduce pollutants from entering the waters of the State.

- (d) **Biochemical Oxygen Demand (BOD<sub>5</sub>).** "Biochemical Oxygen Demand" or "BOD" means the quantity of oxygen utilized in biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).
- (e) **Bypass.** "Bypass" means the intentional diversion of wastewater from any portion of a user's facility which results in loss of pretreatment requirements.
- (f) **Categorical pretreatment standard or categorical standard.** "Categorical pretreatment Standard" or "categorical standard" means 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. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. This term includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5.
- (g) **Chemical Oxygen Demand (COD).** "Chemical Oxygen Demand" or "COD" means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (h) **Color.** "Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. Transmittance of 100% is equivalent to 0.0 optical density.
- (i) **Composite sample.** "Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- (j) **Control Authority.** "Control authority" means the POTW if the POTW's Pretreatment Program submission has been approved in accordance with the requirements of 40 CFR 403.11; or the Maryland Department of the Environment if the submission has not been approved.
- (k) **Discharge.** "Discharge" means the introduction of pollutants into the POTW from any non-residential (non-domestic) source regulated under Section 307(b), (c), or (d) of the Act. This discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- (l) **Environmental Protection Agency (EPA).** "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or duly authorized official of said agency.
- (m) **Existing source.** "Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed

categorical pretreatment standards, which will be applicable to such source if the standard is promulgated in accordance with Section 307 of the Act.

- (n) **Existing user.** "Existing user" means any non-categorical user which was discharging wastewater prior to the effective date of this Ordinance.
- (o) **Food service establishment (FSE).** "Food service establishment" means a place where food or drink is prepared for sale or service on the premises or elsewhere, including bakeries, cafeterias, churches, grocery stores, hospitals, hotels, motels, nursing homes, restaurants, and school kitchens but excluding residential kitchens, farmer's markets and bake sales.
- (p) **Garbage.** "Garbage" means solid waste resulting from the domestic and commercial preparation, cooking and dispensing of food and handling, storage and sale of produce.
- (q) **Grab sample.** "Grab sample" means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.
- (r) **Grease.** "Grease" means material, either liquid or solid, composed primarily of fat, oil, or grease from animal or vegetable sources. "Grease" includes "fats, oils, and grease", "oil and grease" and "oil and grease substances".
- (s) **Grease trap.** "Grease trap" means a device designed to separate and retain waterborne grease and other undesirable matter from the waste stream while allowing the balance of the liquid waste to discharge to the sanitary sewer system. "Grease trap" includes grease interceptors and grease recovery devices.
- (t) **Hazardous material.** "Hazardous material" means any item or agent (biological, chemical, physical) having the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors. "Hazardous material" includes any substance or chemical that is a health hazard or physical hazard, including: chemicals that are carcinogens, toxic agents, irritants, corrosives, sensitizers; agents which act on the hematopoietic system, agents which damage the lungs, skin, eyes, or mucous membranes; chemicals which are combustible, explosive, flammable, oxidizers, pyrophorics, unstable-reactive or water-reactive; and chemicals that in the course of normal handling, use, or storage may produce or release dusts, gases, fumes, vapors, mists or smoke which may have any of the previously mentioned characteristics as well as any material regulated as such under the federal hazardous materials regulations (49 CFR Parts 100-185).
- (u) **Interference.** "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its biosolids processes, use or disposal; or is a cause of violation of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations); Section 405 of the Clean Water Act; the SDWA, including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge

management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, TSCA, and the Marine Protection, Research and Sanctuaries Act.

- (v) **Local limit.** "Local limit" means a specific discharge limit developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- (w) **Manhole.** "Manhole" means a shaft or chamber leading from the surface of the ground to a sanitary sewer, large enough to enable a person to gain access to the latter.
- (x) **Medical waste.** "Medical waste" means 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.
- (y) **National pretreatment standard, pretreatment standard, or standard.** "National pretreatment standard", "pretreatment standard" or "standard" means prohibited discharge standards, categorical pretreatment standards, or local limits.
- (z) **Natural outlet.** "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (aa) **New source.** "New source" means:
  - (1) any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act that will be applicable to the source if the standards are 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;
    - (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 paragraphs (1)(A) or (B) of this subsection 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 one of the following has occurred:
- (A) The owner or operator has entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subparagraph.
  - (B) The owner or operator has begun, or caused to begin as part of a continuous on site 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.
- (bb) **New user.** "New user" means a user that is not regulated under federal categorical pretreatment standards but that applies to the City for new building permit or occupies an existing building and plans to commence discharge of wastewater to the City's collection system after the effective date of this Ordinance. Any person that buys an existing facility that is discharge non-residential wastewater will be considered an "existing user" if no significant changes are made to the manufacturing operation.
- (cc) **Noncontact cooling water.** "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (dd) **Pass through.** "Pass through" means a discharge which exits the POTW into waters of the State in quantities or concentration which, alone or in conjunction with a discharge or discharges from other sources, is a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (ee) **Permittee.** "Permittee" means a person or user issued a wastewater discharge permit.
- (ff) **Person.** "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns. This definition includes all Federal, State, or local governmental entities.
- (gg) **pH.** "pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.
- (hh) **Pollutant.** "Pollutant" means spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock,

sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

- (ii) **Pretreatment.** "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (jj) **Pretreatment requirements.** "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (kk) **Pretreatment standards or standards.** "Pretreatment standards" or "standards" means the prohibited discharge standards, categorical pretreatment standards, and local limits and/or BMPs established by the POTW.
- (ll) **Public Owned Treatment Works (POTW).** "Publicly Owned Treatment Works" or POTW means the "treatment works", as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the City. The POTW includes the City's wastewater treatment plant and any devices or systems used by the City in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to the treatment plant.
- (mm) **Severe property damage.** "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not include economic loss caused by delays in production.
- (nn) **Sewage.** "Sewage" means human excrement and gray water (from household showers, dishwashing operations, etc.).
- (oo) **Significant industrial user (SIU).** "Significant industrial user" means any industrial user that:
  - (1) discharges an average of 25,000 gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling water);
  - (2) is subject to national categorical standards;
  - (3) contributes a process waste stream that makes up 5% or more of the hydraulic or organic capacity of the POTW; or
  - (4) is found by the City, the State, or the EPA to have a reasonable potential to adversely impact either singly or in combination with other contributing industries to the POTW, the quality of the sludge, the POTW's effluent quality, the NPDES permit or air emissions generated by the system.

- (pp) **Slug load or slug.** "Slug load or slug" means a discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.
- (qq) **Superintendent.** "Superintendent" means the individual designated by the City to manage the operation of the POTW, who is charged with certain duties and responsibilities by this Ordinance. "Superintendent" includes a duly authorized representative of the Superintendent.
- (rr) **Suspended solids (TSS).** "Suspended solids" or "total suspended solids" means the suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- (ss) **Total Kjeldahl Nitrogen (TKN).** "Total Kjeldahl Nitrogen" means the total concentration of organic nitrogen and ammonia.
- (tt) **Total Phosphorous (TP).** "Total Phosphorus" means the sum of orthophosphate, pyrophosphate, tripolyphosphate and organic phosphate.
- (uu) **Treatment plant effluent.** "Treatment plant effluent" means the discharge from the POTW into waters of the United States.
- (vv) **User or industrial user.** "User or industrial user" means a source of indirect discharge from industrial or commercial users, but excluding residential users.
- (ww) **Wastewater.** "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (xx) **Wastewater discharge permit.** "Wastewater discharge permit" means a permit issued by the Superintendent to a user authorizing the user to discharge wastewater into the POTW in accordance with the terms and conditions of this Ordinance and the permit.

## § 1.6. Administration.

Except as otherwise provided in this Ordinance, the Superintendent shall administer and enforce the provisions of this Ordinance.

## § 2. General requirements.

### § 2.1. Public sanitation.

- (a) A user may not discharge to any natural outlet any domestic sewage, industrial wastes or other polluted water or material, except where suitable treatment has been provided in accordance with this Ordinance.
- (b) A user may not uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

- (c) A user may not make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building drain which in turn is connected directly or indirectly to a sanitary sewer.

**§ 2.2. General discharge prohibitions.**

A user may not discharge or cause to be discharged directly or indirectly, into the POTW any pollutant or wastewater which causes pass through or interference with the operation or performance of the POTW.

**§ 2.3. Specific prohibitions.**

- (a) A user may not establish a connection to the POTW that would result in the discharge of infiltration or inflow into the POTW.
- (b) A person may not discharge or cause to be discharged into the POTW any of the following:
  - (1) any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, condensate or unpolluted industrial process waters to the POTW except with the prior written permission of the Superintendent;
  - (2) the effluent from any sump pump or any other type of pump that discharges any storm water, surface water, groundwater, roof runoff, subsurface drainage, basement drainage, uncontaminated cooling water, condensate or unpolluted industrial process waters;
  - (3) wastewater causing two readings on an explosion meter at the point of discharge into the sanitary sewer, or at any point in the sanitary sewer system, of more than 20 percent of the lower explosive limit of the meter;
  - (4) wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater which causes the temperature at the introduction of the wastewater treatment plant to exceed 104 degrees F (40 degrees C);
  - (5) wastewater that may create a fire or explosion hazard in the POTW, including wastestreams with a closed cup flashpoint of less than 140 degrees F or 60 degrees C using the test method specified in 40 CFR Part 261.21;
  - (6) wastewater containing any noxious or malodorous gas or substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance, or hazard to life or preventing entry into sewers for their maintenance and repair;
  - (7) wastewater containing garbage that has not been ground to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particles under any circumstance, greater than 1/2 inch in any dimension;

- (8) wastewater containing any solid or viscous substance in quantities or of size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities;
- (9) wastewater with a pH lower than 5.0 or higher than 12.0;
- (10) wastewater having any corrosive or scale forming property capable of causing damage or hazards to structures, equipment, bacterial action, or POTW personnel;
- (11) wastewater containing a toxic or poisonous substance in sufficient quantity to injure or cause interference with any sewage treatment process, to constitute a hazard to humans or animals or to create any hazard in the Monocacy River;
- (12) trucked or hauled pollutants, except at discharge points designated by the Superintendent;
- (13) pollutants that 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;
- (14) any substance that may cause the WWTP effluent or any other product such as residues, sludges, biosolids or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process;
- (15) any substance that may cause the WWTP to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the SWDA, the Clean Air Act, the TSCA, or State criteria applicable to the sludge management method being used;
- (16) any substance that may, singly or by interaction with other pollutants or substances, cause the POTW to violate its NPDES permit or the applicable receiving water quality standards;
- (17) any substance containing any radioactive wastes or isotopes except in compliance with applicable State or federal regulations;
- (18) any substance that is comprised of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- (19) fats, oils, and greases of animal or vegetable origin in concentrations greater than 100 mg/L;
- (20) hazardous wastes as defined in rules published by the State of Maryland or in 40 CFR Part 261.
- (21) persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);

- (22) 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 or any natural outlet; or
- (23) 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 effluent, thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of compensation point for photosynthetic activity by more than 10% from the seasonably established norm for aquatic life.

**§ 2.4. Local limits.**

- (a) **Establishment.** The following pollutant limits are established to protect against pass through, interference and sludge contamination. A user may not discharge wastewater containing pollutants in excess of the following discharge limits:

Pollutant	Daily Maximum (mg/L)
Arsenic	3.94
Cadmium (Total)	0.31
Chromium (Total)	0.41
Copper (Total)	0.30
Cyanide (Total)	0.34
Lead (Total)	0.82
Nickel (Total)	3.98
Silver (Total)	0.09
Zinc (Total)	2.89
Total Toxic Organics	2.13
Mercury	0.0036
Molybdenum	2.61
Selenium	1.80

- (b) **Measurement.** The limits established by this section apply at the point of where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.
- (c) **Mass limitations.** The Superintendent may impose mass limitations in addition to the concentration-based limitations above.
- (d) **BMPs.** The Superintendent may develop BMPs in individual wastewater discharge permits to implement local limits and the requirements of §2.11 of this Ordinance.

**§ 2.5. Special agreements.**

No provision contained in this Ordinance may be deemed to prevent any special agreement or arrangement between the City and any person whereby wastewater of unusual strength or characteristic may be accepted by the City for treatment if the wastewater will not result in violation of Federal or State pretreatment requirements or discharge and will not be harmful to

the POTW. Under no circumstances may the City waive Federal categorical pretreatment standards or Federal or State pretreatment requirements.

#### **§ 2.6. Federal Categorical Pretreatment Standards.**

- (a) **Incorporation.** The National Categorical Pretreatment Standards contained in 40 CFR Chapter I, Subchapter N are hereby incorporated herein.
- (b) **Equivalent limits.** Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR Part 403.6(c).
- (c) **Alternate limits.** When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City shall impose an alternate limit using the combined wastestream formula in 40 CFR Part 403.6(e).
- (d) **Variations.** A user may obtain a variance from the categorical pretreatment standards if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR Part 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

#### **§ 2.7. State requirements.**

The Maryland pretreatment requirements and standards contained in COMAR 26.08.08 are hereby incorporated into this Ordinance.

#### **§ 2.8. Bypass regulations.**

- (a) **Prohibition.** Except as otherwise provided in this section, a user may not cause or permit a bypass. The Superintendent may take enforcement action against a user for a bypass that is not permitted by this section.
- (b) **Bypass permitted.** A user may allow a bypass to occur if the user provides notification under subsection (c) of this section and:
  - (1) the bypass is necessary to prevent loss of life, personal injury, or severe property damage; and
  - (2) there are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.
- (c) **Notice.**
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City if possible at least 10 days before the date of the bypass.

- (2) A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the City immediately after the user becomes aware of the bypass. A written submission shall be made within 24 hours from the time the user becomes aware of the bypass and will contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass.

#### **§ 2.9. Pretreatment standards and requirements.**

All users shall comply with federal general pretreatment regulations in 40 CFR Part 403, the applicable national categorical pretreatment standards set out in 40 CFR Chapter I, Subchapter N, Parts 401 through 471, and all other applicable federal, State, or local requirements or standards.

#### **§ 2.10. City's right of revision.**

If necessary to ensure compliance with the City's NPDES permit or to ensure consistency with this Ordinance, more stringent limitations or requirements on discharges to the wastewater disposal system may be established by ordinance or in an individual permit.

#### **§ 2.11. Dilution prohibited as substitute for treatment.**

Except where expressly authorized to do so by an applicable pretreatment standard or requirement, a user may not increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Superintendent may impose mass limitations on industrial users using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.

#### **§ 2.12. Acceptable methods of containment.**

- (a) **Storage of hazardous materials.** Liquid or gaseous hazardous materials, including petroleum products, must be stored in accordance with this subsection.
- (b) **Without secondary containment.** Hazardous materials may be stored indoors on a liquid-tight concrete floor without secondary containment if the storage area is able to contain 100% of the largest container in the event of a spill and prevent the material from flowing or leaking out of the building. Spilled or leaked materials must be prevented from entering floor drains that are not part of a liquid-tight containment system designed to capture and hold hazardous materials.
- (c) **Secondary containment.** Hazardous materials may be stored in an indoor covered secondary containment that can hold 110% of the volume of the largest storage container or 10% of the total volume stored, whichever is greatest, plus the displacement volume of any materials inside the containment.
- (d) If the hazardous materials are stored in UL certified double wall storage tanks, an additional containment system is still necessary.

**§ 2.13. Accidental spill prevention and slug control plans.**

- (a) **Prevention.** Each user shall provide and maintain, at the user's own expense, facilities to prevent accidental discharge or slug discharges of pollutants.
- (b) **Submission.** Every existing user shall develop an accidental spill prevention and slug control plan for approval by the Superintendent within 90 days after the effective date of this Ordinance, unless a plan is already on file with the Superintendent. A user who begins to contribute to the POTW after the effective date of this Ordinance shall develop an accidental spill prevention and slug control plan for approval by the Superintendent prior to introducing any pollutants into the POTW. Review and approval of such plans and operating procedures will not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Ordinance.
- (c) **Content.** An accidental spill prevention and slug control plan shall address, at a minimum, the following:
  - (1) description of discharge practices, including non-routine batch discharges;
  - (2) description of stored chemicals;
  - (3) procedures for immediately notifying the City of any slug discharge; and
  - (4) procedures to prevent adverse impact from any slug discharge. Such procedures include 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, or measures and equipment for emergency response.
- (d) **Notice.** Users shall notify the POTW immediately after discovering the occurrence of a slug or accidental discharge of substances regulated by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions.
- (e) **Report.** Within 5 days following an accidental discharge/slug loading, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. This notification does not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW (including fish kills), nor shall such notification relieve the user of any fines, civil penalties, or other liability that may be imposed by this Ordinance or other applicable law.
- (f) **Notice to employees.** A notice must be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification.

**§ 2.14. Regulation of waste received from other jurisdictions.**

- (a) **Interjurisdictional agreements.** If a jurisdiction other than the City, or a user located within a jurisdiction other than the City, contributes wastewater to the POTW, the City shall enter into an interjurisdictional agreement with the contributing jurisdiction.
- (b) **Information required.** Before entering into an agreement required by subsection (a) of this section, the City shall request the following information from the contributing governmental entity:
  - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing governmental entity;
  - (2) An inventory of all users located within the contributing governmental entity that are discharging to the POTW; and
  - (3) Any other information the Superintendent deems necessary
- (c) **Conditions.** An interjurisdictional agreement as required by subsection (a) of this section must contain the following :
  - (1) a requirement that the contributing jurisdiction adopt a sewer use ordinance that is at least as stringent as this Ordinance and local limits that are at least as stringent as those that are found in this Ordinance for discharges to the City's POTW. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this Ordinance or local limits;
  - (2) a requirement that the contributing governmental entity submit a revised user inventory on at least an annual basis;
  - (3) a provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing governmental entity; which of these activities will be conducted by the City; and which of these activities will be conducted jointly by the contributing governmental entity and the City;
  - (4) a requirement that the contributing governmental entity provide the City with access to all information that the contributing governmental entity obtains as part of its pretreatment activities for users that contribute to the City's POTW;
  - (5) limits on the nature, quality, and volume of the contributing governmental entity's wastewater at the point where it discharges to the POTW, if deemed necessary;
  - (6) requirements for monitoring the contributing governmental entity's discharge, if deemed necessary;
  - (7) a provision ensuring the City access to the facilities of users located within the contributing governmental entity's jurisdictional boundaries that contribute to the City's POTW for the purpose of inspection, sampling, and any other duties deemed necessary by the City;

- (8) a provision specifying remedies available for breach of the terms of the interjurisdictional agreement; and
- (9) a provision stating that the City has the right to take legal action to enforce the terms of the contributing governmental entity's ordinance or to impose and enforce pretreatment standards and requirements directly against noncompliant discharges in the event the contributing jurisdiction is unable or unwilling to take such action.

### § 3. Pretreatment of wastewater.

#### § 3.1. Pretreatment facility or device.

Each user shall provide wastewater treatment as necessary to comply with this Ordinance and any wastewater discharge permit issued under § 4 of this Ordinance and shall achieve compliance with all categorical pretreatment standards, the specific prohibitions established in § 2.3 and the local limits established in § 2.4 of this Ordinance within the time limitations specified by the EPA, the State, or the City, whichever is more stringent. Any pretreatment facility necessary for compliance shall be provided, operated and maintained at the user's expense.

- (a) **Required.** Every SIU shall provide, at the user's expense, facilities for preliminary treatment and handling industrial wastes as may be necessary to:
  - (1) reduce BOD<sub>5</sub> to 300 mg/L;
  - (2) reduce TSS to 250 mg/L;
  - (3) reduce TKN to 30.0 mg/L;
  - (4) reduce TP to 8.0 mg/L;
  - (5) reduce objectionable characteristics or constituents to come within the maximum limits permitted in this Ordinance; or
  - (6) control the quantities and rates of discharge over a 24-hour day or a 7-day week.
- (b) **Excessive discharge.** Discharge in excess of the limitations established in this section are subject to enforcement action and may be subject to a surcharge in accordance with § 12.3 of this Ordinance.
- (c) **Grease trap required.** Unless otherwise authorized by the Superintendent, any FSE newly constructed or renovated after the effective date of this Ordinance shall install and use a grease trap. Any other user, including an FSE in operation before the effective date of this Ordinance, must install a grease trap when, in the opinion of the Superintendent, a grease trap is necessary for the proper handling of wastewater containing excessive amounts of grease.
- (d) **Grease trap requirements.** All grease traps must be of type and capacity determined by a qualified engineer in accordance with the current requirements of the National Standard Plumbing Code and the City's Plumbing Code. Grease traps must be located

to be easily accessible for cleaning and inspection. Users shall regularly inspect, clean, and repair their grease, oil, and sand interceptors at the users' own expense.

- (e) **Deficiencies.** Any FSE in operation as of the effective date of this Ordinance that is not using a grease trap sufficient to prevent floatable FOG or solids from entering the wastewater collection system will be notified, in writing, of the deficiencies and required improvements and provided a compliance deadline. The FSE shall be required to provide a schedule whereby corrections will be accomplished.
- (f) **Exemption.** If a user demonstrates to the Superintendent that the installation of a grease trap is impractical due to existing conditions or grease trap installation would conflict with other applicable laws or standards, the user shall:
  - (1) construct an appropriate sampling point at the user's expense;
  - (2) locate the sampling point in a manner that provides ready and easy accessibility for inspection and sampling; and
  - (3) maintain the sampling point in an effective operating condition.

### **§ 3.2. Pretreatment facility design and construction.**

Detailed plans and specifications describing such facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the Superintendent and any other governmental regulatory body having jurisdiction 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.

### **§ 3.3. Operation and maintenance of pretreatment facility or device.**

- (a) **Generally.** A facility for pretreatment and handling of industrial wastes provided by the owner of an improved property must be continuously maintained in satisfactory operating condition at the expense of the owner. The Superintendent shall have access to each facility at all times for purposes of inspection and testing.
- (b) **Grease traps.**
  - (1) Each user shall, at the user's own expense, inspect, clean and repair grease traps in accordance with this Ordinance and the City's FOG Control Program.
  - (2) Unless otherwise authorized by the Superintendent, all grease traps shall be pumped out completely, by a Frederick County permitted liquid waste hauler, when the total accumulation of FOG (including floating solids) and settled solids reaches 25% of the grease trap's overall liquid depth or at least once every 90 days, whichever is more stringent, and in no case less than once every six months. Exception to this minimum frequency of pumping may be made with special written approval from the Superintendent for generators of small quantities of grease wastes.

- (3) A person may not introduce or allow to be introduced into grease traps or associated plumbing any additive such as bacteria, enzymes, emulsifiers, or similar chemicals designed for the purpose of emulsifying or controlling FOG discharge.
  - (4) Owners of commercial properties are responsible for the installation and maintenance of a grease trap that serves multiple FSEs that are located on a single parcel or development.
- (c) **Reduction in discharge.** The Superintendent may require a user to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance.
- (d) **Flow equalization.** The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- (e) Users with potential for discharge of flammable substances may be required to install and maintain an approved combustible gas detection meter.

#### § 3.4. Plumbing system preventative maintenance.

- (a) **Sewer line.** The on-site sanitary sewer line system for a property containing a FSE, multi-tenant properties containing at least one FSE, and properties containing multi-family housing buildings must be professionally cleaned, at the expense of the property owner, at least once per year. The Superintendent may specify additional maintenance if once per year is shown to be inadequate. All debris accumulation in the service lines professionally cleaned must be collected for disposal. A property owner shall notify the Superintendent no later than 48 hours before scheduled maintenance.
- (b) **BMPs.** All users shall implement BMPs to prevent or reduce the quantity of FOG discharged to the pretreatment device and sanitary sewer system. BMPs include:
- (1) good housekeeping measures;
  - (2) operations management techniques to include employee training;
  - (3) spill control plans; and
  - (4) proper waste disposal methods, including "no grease" signs posted above sinks and on the front of dishwashers, written in the languages most commonly spoken by employees.

#### **§ 4. Wastewater discharge permits.**

##### **§ 4.1. Permits required.**

A user shall not discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, if a permit is required by this Ordinance. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the user to the penalties set forth in 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.

##### **§ 4.2. Wastewater characteristics.**

A user shall submit information regarding the user's business and characteristics of its wastewater discharge within 30 days of a request by the Superintendent to do so. Every user has a continuing obligation to notify the Superintendent of any change in the information submitted in accordance with this section, in writing, within 48 hours of the change. Failure to submit or update the requested information as required by this section is a violation of this Ordinance and the appropriate enforcement action will be taken.

##### **§ 4.3. New connections.**

Any new user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the City's POTW shall obtain a permit prior to the beginning or recommencing of such discharge. An application for a wastewater discharge permit must be filed at least 180 days prior to the date on which any discharge will begin.

##### **§ 4.4. Permit requirement.**

Each user shall apply for and obtain a wastewater discharge permit as described in this section.

###### **(a) Significant Industrial Users.**

(1) The Superintendent shall determine whether a user is an SIU as defined in § 1.5 of this Ordinance. The Superintendent may, on the Superintendent's own initiative or in response to a petition received in accordance with 40 CFR Part 403.8(f)(6), determine that an industrial user is not a SIU if the industrial user has no reasonable potential for affecting the operation of the POTW or for violating any pretreatment standard or requirement.

(2) An SIU shall obtain a wastewater discharge permit known as an "SIU wastewater discharge permit".

(b) **Zero discharge.** Any CIU that operates its regulated processes so that no industrial waste is discharged to the POTW shall obtain a wastewater discharge permit known as a "zero discharge CIU permit".

(c) **High strength wastewater.** Any user whose discharge has the potential to be in violation of §2.3 or § 2.4 of this Ordinance shall obtain a wastewater discharge permit known as a "high strength wastewater discharge permit". Any user that discharges wastewater with higher than normal household strength conventional pollutant

concentration such as BOD<sub>5</sub> concentration in excess of 300 mg/L, a concentration of TSS in excess of 250 mg/L, a concentration of TKN in excess of 30 mg/L and a concentration of TP in excess of 8 mg/L shall obtain a high strength wastewater discharge permit.

- (d) **FOG control.** Any FSE or other user whose wastewater discharge contains FOG shall obtain a wastewater discharge permit known as a "FOG control wastewater discharge permit".

#### **§ 4.5. Permit application.**

- (a) **Generally.** Application must be made on wastewater discharge permit application forms provided by the Superintendent. Incomplete or inaccurate applications will not be processed and will be returned to the applicant for revision.
- (b) **Information required.** The Superintendent may require some or all of the following information as part of a permit application:
- (1) all information required by § 5.1(c) of this Ordinance;
  - (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, latest edition or NAICS number according to the North America Industry Classification System Manual, latest edition;
  - (3) a brief description of the nature of the operations carried out by the user at the subject facility;
  - (4) time and duration of discharge;
  - (5) schematic diagrams which indicate points of discharge to the POTW from the regulated or manufacturing processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location, and elevation. Diagrams must be signed and sealed by a Maryland registered professional engineer.
  - (6) each product produced by type, amount, process or processes, and average rate of production;
  - (7) number and type of employees, hours of operation, and proposed or actual hours of operation;
  - (8) type and amount of raw materials and chemicals used or stored at the facility (average and maximum per day); and
  - (9) any other information as deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

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

**§ 4.7. Wastewater discharge permit decisions.**

The Superintendent will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit that would be in violation of this Ordinance or that would jeopardize the health, safety or welfare of the residents of the City.

**§ 4.8. Permit modifications.**

- (a) **Modification by Superintendent.** The Superintendent may modify a wastewater discharge permit for good cause, as further described in subsection (b) of this section.
- (b) **Grounds for modification.** Grounds for modification include the need to address any of the following:
  - (1) new or revised Federal, State, or local pretreatment standards or requirements;
  - (2) significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
  - (3) a change in the POTW requiring either a temporary or permanent reduction or elimination of the authorized discharge;
  - (4) information indicating that the permitted discharge poses a threat to personnel, the POTW, the Monocacy River or any other POTW authorized discharge point;
  - (5) violation of any terms or conditions of the wastewater discharge permit;
  - (6) misrepresentations or a failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - (7) revision of or variance to categorical pretreatment standards pursuant to 40 CFR Part 403.13;
  - (8) topographical or other errors in the wastewater discharge permit;

- (9) transfer of the facility ownership or operation to a new owner or operator; or
- (10) a change or modification to the City's NPDES permit.

**§ 4.9. Permit contents.**

- (a) **In general.** Wastewater discharge permits are subject to all provisions of this Ordinance and all applicable regulations and fees. A wastewater discharge permit must include any conditions deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the Monocacy River (which receives the treatment plant's effluent), protect worker health and safety, facilitate biosolids management and disposal, and protect against damage to the POTW.
- (b) **Contents – mandatory.** Permits shall contain the following:
  - (1) effective and expiration dates;
  - (2) a statement that the wastewater discharge permit is nontransferable without prior notification to the Superintendent in accordance with § 4.11 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - (3) effluent limitations based on applicable general pretreatment standards, categorical pretreatment standards, local limits or state and local law;
  - (4) self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
  - (5) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule (which may not extend the time for compliance beyond that required by applicable Federal, State or local law); and
  - (6) applicable pretreatment standards and requirements, including any special State requirements.
- (c) **Contents – optional.** Permits may contain the following:
  - (1) limits on the average or maximum rate of discharge, time of discharge, or requirements for flow regulation and equalization;
  - (2) 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;
  - (3) requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  - (4) development and implementation of waste minimization plans to reduce the

amount of pollutants discharged to the POTW;

- (5) the unit charge or schedule of fees for the management of the wastewater discharged to the POTW;
- (6) requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) 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
- (8) other conditions as deemed appropriate by the Superintendent to ensure compliance with Federal, State and local laws and regulations.

#### **§ 4.10. Permit duration.**

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

#### **§ 4.11. Permit transfer.**

- (a) **Notice required.** Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance written notice to the Superintendent and the Superintendent approves the transfer. The notice to the Superintendent must include a written certification by the new owner or operator that:
  - (1) states that the new owner 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.
- (b) **Failure to provide notice.** Failure to provide advance notice of transfer renders the wastewater discharge permit voidable as of the date of the facility transfer.
- (c) **Effect of transfer.** Provided that the notice required above occurred and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and will be covered by the existing limits and requirements of the previous owner's permit.

#### **§ 4.12. Permit reissuance.**

- (a) **Application deadline.** A user who is required to have a wastewater discharge permit shall apply for wastewater discharge reissuance by submitting a complete wastewater discharge permit application in accordance with § 4.5 of this Ordinance, a minimum of

90 days prior to the expiration of the user's existing discharge permit. A user whose existing discharge permit has expired and who has timely submitted its reapplication will be deemed to have an effective wastewater discharge permit with the terms and conditions of the existing wastewater permit in full effect until the Superintendent issues or denies the new wastewater discharge permit.

- (b) **Failure to reapply.** A user whose existing wastewater discharge permit has expired and who fails to timely submit its reapplication will be deemed to be discharging without a wastewater discharge permit.
- (c) **Submission requirements.** A user may be required to submit the following:
  - (1) the location of all wastes covered by the permit;
  - (2) 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 set out in 40 CRF Part 403.6(e);
  - (3) the categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes;
  - (4) the results of sampling and analysis identifying the nature and concentration or mass, where required by standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process; or
  - (5) instantaneous, daily maximum, and long term average concentrations, or mass. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this Ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Superintendent or the applicable standards to determine compliance with the standard.

## **§ 5. Reporting requirements.**

### **§5.1. Baseline monitoring reports.**

- (a) **Requirement for existing users.** Within 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR Part 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report containing the information listed in Subsection (c) of this section.
- (b) **Requirement for new users.** At least 180 days before starting their discharge, new sources and sources that become categorical industrial users after the promulgation of an applicable categorical standard shall submit to the Superintendent a report containing the information listed in Subsection (b) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (c) **Contents of report.** The report required under subsection (a) or (b) of this section must include:
- (1) the name and address of the facility, including the name of the operator and owner;
  - (2) a list of any environmental control permits held by or for the facility;
  - (3) a brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by the user, including a schematic process diagram indicating points of discharge to the POTW from the regulated processes.
  - (4) 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 established in 40 CFR Part 403.6(e).
  - (5) measurement of pollutants as follows with sampling procedures performed in accordance with procedures set out in § 5.6 of this Ordinance and analyzed in accordance with § 5.5 of this Ordinance:
    - (A) the categorical pretreatment standards applicable to each regulated process;
    - (B) the results of sampling and analysis identifying the nature and concentration or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process; and
    - (C) instantaneous, daily maximum, and long-term average concentrations, or mass, where required;
  - (6) 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 or additional pretreatment is required to meet the pretreatment standards and requirements; and
  - (7) the schedule by which the user will provide any additional pretreatment or operation and maintenance required to meet the pretreatment standards. The completion date in this schedule must not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements of § 5.2 of this Ordinance.
- (d) **Certification.** All baseline monitoring reports must be certified in accordance with § 4.6 of this Ordinance and signed by the authorized representative of the user in accordance with § 1.5 of this Ordinance.

## **§5.2. Categorical pretreatment standard compliance reports.**

- (a) **Submission.** Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in § 5.1(c)(4), (5) and (6).
- (b) **Certification.** All compliance reports must be certified in accordance with § 4.6 of this Ordinance and signed by the authorized representative of the user in accordance with § 1.5 of this Ordinance.

## **§ 5.3. Periodic compliance reports.**

- (a) **Submission.** All permitted users of the POTW shall, at a frequency and date determined by the Superintendent, in no case less than once per year, submit a compliance report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period.
- (b) **Certification.** All periodic compliance reports must be certified in accordance with § 4.6 of this Ordinance and signed by the authorized representative of the user in accordance with § 1.5 of this Ordinance.
- (c) **Wastewater samples.** All wastewater samples must be representative of the user's discharge during the reporting period. 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 is not grounds for the user to claim that sample results are unrepresentative of its discharge.
- (d) **Monitoring results.** 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 §§ 5.4 and 5.5 of this Ordinance, the results of this monitoring must be included in the report.
- (e) **Mass limitations.** If the Superintendent imposes mass limitations in accordance with this Ordinance, the report required by this section must indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.
- (f) **Samples.** Discharges sampled shall be representative of the user's daily operations and samples shall be taken in accordance with the requirements specified in § 5.5 of this Ordinance.

## **§ 5.4. Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report must 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 the EPA.

#### **§5.5. Sampling collection.**

- (a) **Techniques.** Except as otherwise provided in subsection (b), a user shall collect wastewater samples using 24 hour flow proportional composite collection techniques. If flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four 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. Composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (b) **Procedures.** Samples shall be taken immediately downstream from pretreatment facilities, if such exist, immediately downstream from the regulated or manufacturing process if no pretreatment exists, or at a location determined by the Superintendent and specified in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable pretreatment standards. For other users, for which the City has adjusted its local limits to factor dilution flows, the user shall measure the flows and concentration necessary to evaluate compliance with the adjusted pretreatment standard(s).
- (c) **Methodologies.** All samples shall indicate time, date and place of sampling, and methods of analysis and shall certify that the wastestream sampled is representative of normal work cycles and expected pollutant discharge from the user. If a user sampled and analyzed more frequently than it was required to by its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling in accordance with procedures approved by the EPA.

#### **§ 5.6. Notification of violation and automatic resampling.**

- (a) **Notice.** Except as otherwise provided in this section, if sampling performed by a user indicates a violation, the user shall notify the Superintendent immediately after becoming aware of the violation.
- (b) **Repeat analysis.** The user shall repeat the sampling and analysis within 5 days after the violation and submit the results of the repeat analysis to the Superintendent within 30 days after the violation. An industrial user is not required to resample if:
  - (1) the Superintendent performs sampling at a frequency of at least once per month; or
  - (2) the Superintendent performs sampling between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

## §5.7. Hazardous waste.

- (a) **Notice of discharge.** The user shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. The notification must include:
- (1) the name of the hazardous waste as set forth in 40 CFR Part 261;
  - (2) the EPA hazardous waste number; and
  - (3) type of discharge (continuous, batch, or other).
- (b) **More than 100 kg discharge.** If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification must also contain the following information to the extent such information is known and readily available to the industrial user:
- (1) an identification of the hazardous constituents contained in the wastes;
  - (2) an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and
  - (3) an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.
- (c) **Deadlines.** All notifications must take place within 180 days of the effective date of this Ordinance. Industrial users who commence discharging after the effective date of this Ordinance shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR Part 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR Parts 403.12(b), (d) and (e).
- (d) **Exemption.** Dischargers are exempt from the notice requirements of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes unless the wastes are acute hazardous waste as specified in 40 CFR Parts 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (e) **New regulations.** In the case of any new regulations under § 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days after the effective date of such regulation.

- (f) **Reduction of hazardous wastes.** In submitting any notification under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

**§ 5.8. Problem notification.**

All users of the POTW shall immediately notify the POTW of all discharges that could cause problems to the POTW, including any slug loadings that would violate any of the specific prohibitions of 40 CFR Part 403.5(b) or this Ordinance.

**§ 5.9. Substantial change of pollutants.**

All users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR Part 403.12(p). The Superintendent may deny or condition any of these discharges.

**§ 5.10. Recordkeeping.**

- (a) **Monitoring records.** 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. Monitoring activities records must include the following information:
- (1) the date, exact place, method and time of sampling;
  - (2) the name of the person taking the samples;
  - (3) the dates analyses were performed;
  - (4) the name of the person performing the analyses;
  - (5) the analytical techniques or methods used; and
  - (6) the results of such analyses including documentation associated with BMPs.
- (b) **Maintenance records.** Users shall retain documentation associated with the maintenance of their pretreatment devices.
- (c) **Retention.** The records described in subsections (a) and (b) of this section must be retained and remain available for at least 3 years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Superintendent.
- (d) **Disclosure.** The disclosure of any record or other information obtained by the City in connection with this Ordinance will be in accordance with the Maryland Public Information Act and any other applicable law or regulation

## § 5.11. Upset provision and notification.

- (a) **Definition.** For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- (b) **Affirmative defense.** An upset constitutes an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the user demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) an upset occurred and the user can identify the cause or causes;
  - (2) the facility was, at the time of the upset, being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
  - (3) the user has submitted the following information to the Superintendent within 24 hours of becoming aware of the upset:
    - (A) a description of the indirect discharge and cause of noncompliance;
    - (B) the period of noncompliance, including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue; and
    - (C) a description of the steps being taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

## § 6. Compliance monitoring.

### § 6.1. Monitoring facilities.

- (a) **Required.** Each user shall provide and operate, at its own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building, sewer or internal drainage systems that discharge to the City. Except as otherwise provided in this subsection, the monitoring facility must be situated on the user's property. Where placement of a monitoring facility on the user's property would be impractical or cause undue hardship on the user, the City may approve the construction of the facility on a public street or sidewalk. Any monitoring facility must be located so as to not be obstructed by landscaping or parked vehicles.
- (b) **Maintenance.** There must be adequate space in or near a sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The user shall, at the user's own expense, maintain a monitoring facility at all times in safe and proper operating condition.

- (c) **Construction.** Whether constructed on public or private property, the sampling and monitoring facilities must be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction must be completed within 100 days after written notification by the Superintendent.

**§ 6.2. Right of entry: inspection and sampling.**

- (a) **Access.** The Superintendent may 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 under this Ordinance and whether the user is complying with all requirements thereof. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. A user who creates an unreasonable delay in allowing the Superintendent access to the user's premises in accordance with this section is in violation of this Ordinance.
- (b) **Security.** 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.
- (c) **Installation of devices.** The Superintendent may set up on the user's property, or require the user to install, any device necessary to conduct sampling or metering of the user's operations.
- (d) **Monitoring equipment.** The Superintendent may 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 devices used to measure wastewater flow and quality shall be calibrated at least once every 6 months to ensure their accuracy.
- (e) **Removal of obstructions.** At the request of the Superintendent, a user shall remove, at the user's own expense, any obstruction to safe and easy access to the equipment or facility to be inspected or sampled. Once removed, an obstruction may not be replaced.

**§ 7. Administrative Enforcement Remedies.**

**§ 7.1. In general.**

This section provides for various methods of administrative enforcement. The Superintendent shall determine the appropriate method to use in each situation, in accordance with this Ordinance and the Superintendent's regulations or standard operating procedures. The remedies provided in this section are non-exclusive, and the use of any method of enforcement does not preclude or require the use of any other method.

**§ 7.2. Notice of violation.**

- (a) **Issuance.** When the Superintendent finds that a user has violated any provision of this Ordinance, a wastewater discharge permit or order issued under this Ordinance, or any pretreatment standard or requirement, the Superintendent may issue a written notice of violation to the user. The contents and service of a notice of violation under this Ordinance need not comply with the requirements of § 2-27.5 of this Code.

- (b) **Correction plan.** A user shall submit to the Superintendent a correction plan including an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. The correction plan must be submitted to the Superintendent no later than the earlier of 15 days after the date of issuance of the notice of violation or the deadline for compliance specified in the notice of violation. Submission of an explanation in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

### § 7.3. Compliance orders.

- (a) **Issuance.** When the Superintendent finds that a user has violated any provision of this Ordinance, a wastewater discharge permit or order issued under this Ordinance, or any pretreatment standard or requirement, the Superintendent may issue an order to the user directing that the user come into compliance within a specified time.
- (b) **Contents.** Compliance orders may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer.
- (c) **Compliance schedule.** A compliance order may require the user to submit a compliance schedule including dates for the commencement and completion of events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. The user shall submit progress reports to the Superintendent as specified in the compliance order. The report must indicate whether or not the user 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.
- (d) **Failure to comply.** If the user does not come into compliance within the time provided, water or sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.
- (e) **Other action.** 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 violation, including any continuing violation.

### § 7.4. Permit revocation.

- (a) **Generally.** The Superintendent may revoke a permit issued to a user under this Ordinance.
- (b) **Grounds for suspension or revocation.** A permit may be revoked for any of the following reasons:
  - (1) the user fails to factually report the wastewater constituents and characteristics of its discharge; falsifying self-monitoring reports;
  - (2) the user misrepresents or fails to fully disclose all relevant facts in the wastewater discharge permit application;
  - (3) the user fails to report significant changes in operations or wastewater constituents and characteristics;

- (4) the user refuses to allow the Superintendent reasonable access to the user's records or premises for the purpose of inspection or monitoring;
  - (5) the user violates any permit standard or requirement;
  - (6) the user engages in any violation of this Ordinance that jeopardizes the health, safety or welfare of the residents of the City;
  - (7) the user tampers with monitoring equipment;
  - (8) the user fails to meet discharge limitations; or
  - (9) the user fails to meet compliance schedules.
- (b) **Effect of revocation.** Any person notified of a suspension of the wastewater treatment service or a wastewater discharge permit shall immediately stop or eliminate the contribution.
- (c) **Failure to comply.** In the event of a failure of the person to comply voluntarily with a revocation order, the Superintendent may take any steps necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.
- (d) **Reinstatement.** The Superintendent shall reinstate a wastewater discharge permit or wastewater treatment service upon proof of the elimination of the basis for the revocation.

#### § 7.5. Emergency suspensions

- (a) **Grounds.** The Superintendent may immediately suspend a user's 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) **Responsibility of user.** Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution.
- (c) **Failure to comply.** 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 shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in § 7.6 of this Ordinance are initiated against the user.
- (d) **Statement.** A 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 any termination hearing under this Ordinance.

- (e) **Hearing not required.** Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

#### **§ 7.6. Termination of discharge (non-emergency)**

- (a) **Grounds.** Any user that violates the following conditions is subject to discharge termination:
  - (1) violation of wastewater discharge permit conditions;
  - (2) failure to accurately report the wastewater constituents and characteristics of its discharge;
  - (3) failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
  - (4) refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
  - (5) violation of the pretreatment standards in § 2 of this Ordinance.
- (b) **Notice.** A user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause why the proposed action should not be taken.

#### **§ 7.7. Publication of violations.**

- (a) **Annual publication.** The City shall publish annually a list of users that at any time during the previous 12 months were in significant noncompliance with applicable pretreatment standards or requirements.
- (b) **Criteria.** For the purpose of this provision, a user is in significant noncompliance if any of its violations meets one or more of the following criteria:
  - (1) chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
  - (2) Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
  - (3) any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Superintendent 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 the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) to halt or prevent such discharges;
- (5) failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) failure to accurately report noncompliance; or
- (8) any other violation or group of violations which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

**§ 7.8. Service of notice.**

Wherever a provision of this Ordinance requires the Superintendent to serve notice upon any person, the notice is deemed properly served if a copy of the notice is delivered personally to the person to be served or the person's authorized agent or representative, or is sent by first class mail to the person's last known mailing address. If the letter is returned as undeliverable or there is evidence that personal service is being evaded, notice may be served by posting a copy of it in a conspicuous place in or about the structure affected by the notice.

**§ 8. Judicial enforcement remedies.**

**§ 8.1. Injunctive relief.**

When the Superintendent finds that a user has violated, or continues to violate, any provision of this Ordinance, an individual wastewater discharge permit, an order issued under this Ordinance or any other pretreatment standard or requirement, the City may seek the issuance of a temporary or permanent injunction to restrain or compel the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this Ordinance on activities of the user. The City may also seek other legal or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief is not a bar against, or a prerequisite for, taking any other action against a user.

**§ 8.2. Civil penalties.**

Any user who violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, an order issued under this Ordinance, or any other pretreatment standard or requirement, shall be guilty of a municipal infraction, punishable by a fine not to exceed \$1,000 per violation, per day, in accordance with a schedule adopted by resolution of the Board of Aldermen. In the case of a monthly or other long-term average discharge limit violation, penalties will accrue for each day during the period of the violation.

### **§ 8.3. Criminal penalties.**

- (a) **Violation of ordinance, etc.** A user who willfully or negligently violates any provision of this Ordinance, a wastewater discharge permit, an order issued under this Ordinance, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a criminal offense, punishable by a fine not to exceed \$1,000 per violation, per day or imprisonment for not more than six months, or both.
- (b) **Introduction of substances into POTW.** A user who willfully or negligently introduces any substances into the POTW that causes personal injury or property damage shall upon conviction, be guilty of a criminal offense, punishable by a fine not to exceed \$1,000 per violation, per day or imprisonment for not more than six months, or both. This penalty is in addition to any other cause of action for personal injury or property damage available under State law.
- (c) **False statements, fraud.** Any user who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by this Ordinance, a wastewater discharge permit, an order issued under this Ordinance, or any other pretreatment standard or requirement, 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 at least \$100 but not to exceed \$1,000 per violation, per day, or imprisoned for no more than 90 days, or both.

### **§ 8.4. Remedies nonexclusive.**

The remedies provided for in this Ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan or FOG Control Enforcement Guideline. These enforcement guidelines may be periodically evaluated and revised by the Superintendent. The City may take other action against any user when the circumstances warrant. The City may take more than one enforcement action against any noncompliant user.

### **§ 8.5. Recouping cost.**

In addition to the enforcement actions established in this Ordinance, any user who violates any provision of this Ordinance or any permit, compliance schedule or order issued under this Ordinance or who causes damage to or otherwise inhibits the City's POTW is liable to the City for any expense, loss, or damage caused by such violation or discharge. The City shall bill the user for costs incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge, including sampling and monitoring expenses, the cost of the actual damages incurred by the City, and any fines assessed against the City by the EPA or Maryland Department of the Environment. Refusal to pay the assessed costs shall constitute a separate violation of this Ordinance. In addition, the City may recover reasonable attorney's fees, court costs, court recorder fees, and other expenses associated with enforcement activities.

### **§ 8.6. Judicial review.**

Any person aggrieved by a final action of the Superintendent or other individual charged with the administration and interpretation of this Ordinance as the result of the disapproval of a properly filed application for a permit or issuance of a written notice of violation may appeal the

action within 30 days to the Circuit Court for Frederick County in accordance with the Maryland Rules governing judicial review of administrative agency actions. An appeal does not stay enforcement of this article by the City.

**§ 8.7. Meter reading.**

The Superintendent may perform the reading of water or sewage meters installed in industrial establishments or may require a user to perform the meter reading. Each meter must be installed at a location approved by the Superintendent. All meters shall be accessible to the City at all times.

**§ 9. Fees and charges.**

**§ 9.1. Fees.**

- (a) **Adoption.** The Board of Aldermen may, by ordinance, adopt reasonable fees for the reimbursement of costs incurred in setting up and operating the City's industrial pretreatment program .
- (b) **Types of fees.** Fees adopted under this section may include the following:
  - (1) fees for monitoring, inspection, and surveillance procedures;
  - (2) fees for reviewing and responding to accidental discharge procedures and construction;
  - (3) fees for permit application review and processing;
  - (4) fees for the treatment of excessive discharges of TKN, TP, BOD<sub>5</sub> and TSS; and
  - (5) other fees as the City deems necessary to carry out the requirements of this Ordinance. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the City.

**§ 9.2. Characterization of industrial wastes for surcharge purposes.**

- (a) **Volume.** The volume of industrial wastewater for surcharge purposes from users obtaining water from the City will be determined by a method which identifies and quantifies:
  - (1) domestic usage, QD
  - (2) unpolluted cooling water discharged to a separate storm sewer or other outlet, QC
  - (3) makeup water used to replace evaporative loss in closed-cycle cooling system, QM
  - (4) water used as part of a manufactured product, QP
  - (5) total water used, QT
  - (6) the determined industrial wastewater flow, QI

- (b) **Flow.** The determination for industrial wastewater flow for surcharge purposes, QI, shall be as follows:  $QI = QT - (QD + QM + QP + QC)$
- (c) **Values.** The values for the various terms in the formula above will be determined by direct metering or by calculation in a manner agreed upon by the Superintendent and the user, more specifically:
- (1) The total water used, QT shall be metered by the City.
  - (2) The water flow for domestic usage, QD, may be determined by metering the flow if the piping at the job site allows for separation of domestic water from process related water usage, or, the value of QD may be calculated by multiplying the average number of full time employees at the job site per day by 10 gallons per day. Another usage factor may be used if the industrial user can establish validity.
  - (3) The value of QC, the unpolluted cooling water discharge flow, shall be determined by metering the discharge with meters installed, maintained and calibrated at the expense of the user and to the satisfaction of the Superintendent.
  - (4) The value of QM, the makeup water for closed circuit cooling systems, shall be determined by metering the water supply to the system with meters installed, maintained and calibrated at the expense of the user and to the satisfaction of the Superintendent.
  - (5) The volume of water used as part of a manufactured product, QP, will be calculated by a means appropriate to the manufacturing method or product procedure and shall be approved by the Superintendent.
  - (6) Should the industrial user wish not to account for water used but not discharged to the POTW - i.e., QC, QM, -or QP - these terms will be metered to assure the value is zero when calculating the industrial wastewater volume.
- (d) **Short term discharge.** Whenever a person using a private water supply discharges non-domestic wastes to the City's POTW during a one-time discharge event or short-term discharge event of less than six months, the charges for such discharge shall be defined either in the contractual agreement with the City and the user or in a discharge permit. A user shall install at the user's expense a suitable meter or meters, as may be required by the City to measure the total volume of water used in the user's property; or shall install, at the user's expense, a meter on the sewer line leaving the user's property so as to measure the entire flow of waste discharged into the sewer system.
- (e) **Meters.** A person may not install a meter for the measurement of water or sewage until a plan for installation is submitted to and approved by the Superintendent. All meters or other measuring devices installed or required to be used under the provisions of this Ordinance shall be tested, inspected, or repaired as required by the Superintendent. The owner of the property upon which a meter or other measuring device is installed is responsible for its maintenance and safekeeping. Any repairs to a meter or other measuring device must be made by the property owner at the property owner's expense.

**§9.3. Industrial waste surcharge.**

There shall be additional charges for industrial wastes having concentrations of BOD<sub>5</sub> in excess of 300 mg/L, TSS in excess of 250 mg/L, TKN in excess of 30 mg/L and TP in excess of 8 mg/L. These charges shall be determined using the following formula:

$$S = (0.00834 * (QI (BODI - 300)(TA) + (SSI - 250)(TB)) + (0.0834 * (Q1(TKNI - 30)(TC) + (TPI - 8)(TD)))$$

S is the semi-annual surcharge to be added to the normal sewer rent.

0.0834 is a constant to convert waste concentrations expressed in mg/L to hundreds of pounds of waste.

QI is the semiannual industrial wastewater flow expressed in million gallons and determined as per methods set out in this section.

BODI, SSI, TKNI and TPI are the average concentrations of BOD<sub>5</sub>, suspended solids, total kjeldahl nitrogen and total phosphorus in the user's wastestream expressed in mg/L for the billing period.

TA is the treatment cost per 1,000 pounds of BOD<sub>5</sub>.

TB is the treatment cost per 1,000 pounds of suspended solids.

TC is the treatment cost per 100 pounds of total kjeldahl nitrogen.

TD is the treatment cost per 100 pounds of total phosphorus.

**SECTION III. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that in the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this Ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION IV. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK** that this Ordinance shall take effect on the date it is approved by the Mayor, and all other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED:**

**DATE:**

  
\_\_\_\_\_  
**Randy McClement, President,  
Board of Aldermen**

**May 7, 2015**

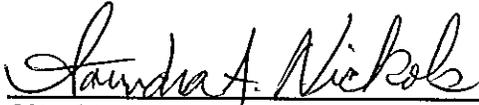
APPROVED:

DATE:

  
\_\_\_\_\_  
Randy McClement, Mayor

May 7, 2015

Approved for Legal Sufficiency:

  
\_\_\_\_\_  
City Attorney

