

## ARTICLE III. - INDUSTRIAL WASTE PRETREATMENT

## Sec. 106-59. - Purpose and policy.

- (a) *Purpose.* This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act 33 USC 1251 et seq., and the general pretreatment regulations (40 CFR 403).
- (b) *Objectives.* The objectives of this article are as follows:
- (1) To prevent the introduction of pollutants into the publicly owned treatment works (POTW) which will interfere with the operation of the POTW;
  - (2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW;
  - (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
  - (4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
  - (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
  - (6) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and
  - (7) To enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.
- (c) *Regulation of contributors.* This article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.
- (d) *Administration.* Except as otherwise provided in this article, the director of public works shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the director of public works may be delegated by the director of public works to other city personnel.
- (e)

*Jurisdiction.* This article shall apply to the city and to persons and entities outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided in this article, the director of public works of the city shall administer, implement and enforce the provisions of this article. The requirements of this article shall apply to all areas within the extraterritorial limits of the city, as established by state statute and as they shall be amended, and shall apply to all users of the water and sewer system of the city regardless of location.

(Code 1991, § 24-51; Code 2003, § 106-71)

Sec. 106-60. - Definitions.

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

*Act* and *the Act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Administrative officers* means any office referred to in this article by title, i.e., city manager, city attorney, city secretary, city engineer, director of public works, industrial waste officer, etc., shall be the person retained in this position by the city, or duly authorized representative.

*Approval authority* means the administrator of the EPA or his designated representative.

*Authorized representative of industrial user* means:

- (1) If the industrial user is a corporation, authorized representative means:
  - a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
  - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
- (3) If the industrial user is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge

originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)).

*Building drain* means that part of the lowest horizontal pipeline of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys to the building sewer beginning three feet outside the inner face of the building wall.

*Building sewer* means a sewer conveying wastewater from the premises of a user to the POTW.

*Categorical standards* means national categorical pretreatment standards or pretreatment standard as set forth in any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act (33 USC 1347) which applies to a specific category of industrial users and which appear in 40 CFR chapter I, subchapter N, parts 405—471.

*City* means the city, as represented by the official acts of the city council and council-designated representative public officials.

*City council* means the duly elected governing body of the city.

*Color* means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

*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.

*Control authority* means the director of public works (or other official designated by the city manager) of the city or his duly authorized deputy, agent or representative.

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

*Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the state.

*Director of public works* means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

*Domestic wastewater* means any waterborne wastes normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from stormwater and surface water and industrial waste.

*Engineer* means the city engineer, the city's consulting engineer, or his duly authorized representatives.

*Environmental Protection Agency (EPA)* means the United States Environmental Protection Agency, or, where appropriate, the term may also be used as designation for the regional water management division director or other duly authorized official of such agency.

*Existing source* means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Clean Water Act.

*Garbage* means any solid wastes and residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.

*Grab sample* means a sample which is taken for a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

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

*Indirect discharge* means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Clean Water Act, (33 USC 1317), into the POTW, including holding tank waste discharge into the system.

*Industrial user* means a source of indirect discharge.

*Industrial wastes* means all waterborne solids, liquids or gaseous wastes resulting from any industrial, manufacturing or food processing operation or process, or from the development of any natural resources, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

*Industrial wastewater discharge permit* means as set forth in sections 106-64 and 106-65.

*Instantaneous maximum allowable discharge limit* means the maximum concentration or loading of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and duration of the sampling event.

*Interference* means a discharge which alone or in conjunction with a discharge from other sources:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations):
  - a. Section 405 of the Clean Water Act;
  - b.

The Solid Waste Disposal Act (SWDA), including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);

- c. Any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act (SWDA), 42 USC 6901 et seq.;
- d. The Clean Air Act;
- e. The Toxic Substances Control Act; and
- f. The Marine Protection, Research and Sanctuaries Act.

*Medical waste* means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiological agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

*National categorical pretreatment standard* and *pretreatment standard* mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applied to a specific category of industrial users.

*National pollution discharge elimination system* (NPDES) and *NPDES permit* means a permit issued pursuant to section 402 of the Act (33 USC 1342).

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

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*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 which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - a. The building, structure, facility or installation is constructed at a site at which no other source is located;
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to

which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or (1)c of this definition, but otherwise alters, replaces or adds to existing process or production equipment.
- (3) Construction of a new source, as defined under this definition, has commenced if the owner or operator has begun, or caused to begin as part of a continuous on-site construction program:
  - a. Any placement, assembly, or installation of facilities or equipment; or
  - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - c. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

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

*Normal domestic wastewater* means normal wastewater for the city in which concentration of suspended solids and five-day 20 degrees Celsius BOD is established at 240 parts per million each, by weight, on the basis of the normal daily contribution of 0.20 pounds per capita, per 100 gallons.

*Parts per million (ppm)* means a weight-to-weight ratio; the parts per million value multiplied by a factor 8.345 shall be equivalent to pounds per million gallons of water.

*Pass through* means a discharge which exits the POTW into waters of the United States in quantities or concentrations, which along or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

*Permittee* means that person applying for a permit to construct a sanitary sewer main or to connect to an existing sanitary sewer and will include industrial users who will have a discharge permit from the city.

*Person* means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

*pH* means a measure of the acidity or alkalinity of a substance, expressed in standard units that is the logarithm (base 10) of the reciprocal of the hydrogen ion activity.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

*Pollution* means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of the water.

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR 403.6(d).

*Pretreatment requirements* means any locally adopted substantive or procedural requirement related to industrial wastewater pretreatment that may supplement national pretreatment standard requirements imposed on an industrial user.

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

*Prohibited discharges* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in [section 106-62\(a\)](#).

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

*Public nuisance* means any violation of this article, wastewater discharge permit or order issued under this article shall be declared a public nuisance and shall be corrected or abated as directed by the director of public works. Any person creating a public nuisance shall be subject to the provisions of [chapter 38](#), article II of this Code; governing such nuisances, including reimbursing the city for any costs incurred in removing, abating or remedying such nuisance.

*Publicly owned treatment works (POTW)* means "treatment works" as defined by section 212 of the Act (33 USC 1292) which is, in this instance, owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of wastewater or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term "publicly owned treatment works (POTW)" also means the municipal entity, in this instance, the city, having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

*POTW treatment plant* means that portion of the POTW designed to provide treatment to wastewater. Also known as wastewater treatment plant or treatment plant.

*Sanitary sewer* means a sewer which carries wastewater and to which stormwater, surface water and groundwater are not intentionally admitted.

*Sewer* means a pipe or conduit for carrying wastewater or runoff water.

*Sewer service charge* means the charge made on all users of the POTW whose wastes do not exceed in strength the concentration values established and representative of normal domestic wastewater.

*Shall* is mandatory; *may* is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

*Significant industrial user* means and shall apply to:

- (1) Industrial user subject to categorical pretreatment standards; and
- (2) Any other industrial user that:
  - a. Discharges an average of 25,000 or more gallons per day of process wastewater;
  - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
  - c. Is designated as significant by the director of public works on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

*Significant noncompliance* means an industrial user permit violation or violations defined as:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria:
  - a. TRC = 1.4 (40 percent exceedance) for BOD, TSS, fats, oil and grease;
  - b. TRC = 1.2 (20 percent exceedance) for all other pollutants except pH;
- (3) Any other discharge violation that the city believes 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 pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation which the city determines will adversely affect the operation or implementation of the local pretreatment program.

*Slug load* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge section 106-62(a) or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

*Standard industrial classification (SIC)* means a classification pursuant to the standard industrial classification manual issued by the U.S. office of management and budget.

*Storm sewer* and *storm drain* mean a sewer which carries stormwater and surface water and drainage but excludes wastewater and polluted industrial wastes.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Stormwater runoff* means that portion of the rainfall that is drained into the storm sewers.

*Surcharge* means the charge in addition to the published water and sewer rates. The basis for surcharges on industrial wastes is a capital and operation cost for suspended solids and BOD exceeding normal domestic sewage.

*Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtration.

*Toxic pollutant* means one of 126 pollutants or combination of pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of section 307 (33 USC 1317) of the Act.

*Treatment plant effluent* means any discharge of pollutants from the POTW into the waters of the state.

*Unpolluted water or waste* means any water or waste containing none of the following:

- (1) Free or emulsified grease or oil, acid or alkali;
- (2)

Phenols, or other substances imparting taste and odor in receiving water; toxic, poisonous substances in suspension, colloidal state or solution; and

- (3) Noxious or odorous gases.

It shall contain not more than ten parts per million each of suspended solids and BOD. The color shall not exceed 150 Jackson turbidity units.

*User* means any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

*Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter to the POTW.

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

*Waters of the state* means:

- (1) The water of the ordinary flow, underflow and tides of every foreign river, natural stream, lake, and of every body of the Gulf of Mexico, and the stormwater, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression and watershed in the state is property of the state.
- (2) Water which is imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and the banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state is the property of the state.

(Code 1991, § 24-52; Code 2003, § 106-72)

Sec. 106-61. - Abbreviations.

The following table denotes the acronyms used in this article:

BOD	Biochemical oxygen demand
C	Celsius
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency

F	Fahrenheit
gpd	Gallons per day
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and maintenance
POTW	Publicly owned treatment works
ppm	Parts per million
Uuc	Picocuries
RCRA	Resource Conservation and Recovery Act
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act, 42 USC 6901 et seq.
TSS	Total suspended solids
USC	United States Code

(Code 1991, § 24-53; Code 2003, § 106-73)

Sec. 106-62. - Use of public sewers.

- (a) *General discharge prohibitions.* No industrial user shall introduce or cause to be introduced into the POTW, any pollutant or wastewater which causes pass through or interference. These general discharge prohibitions apply to all industrial users of the POTW whether or not they are subject to

categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:

- (1) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch (1.27 centimeters) in any dimension.
- (3) Any wastewater having a pH of less than 5.5 or greater than 10.5 standard units, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.
- (4) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW, or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- (5) Any wastewater having a temperature greater than 150 degrees Fahrenheit (65 degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference; but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants are prohibited from being introduced to the city's POTW unless such pollutants are removed from an existing part of the city's POTW and redeposited with the approval of the director of public works.
- (9) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's 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 the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life.
- (10) Any discharge of fats, oils or greases of animal or vegetable origin, whether emulsified or not, in excess of 100 mg/l.

- (11) Any noxious or malodorous substance which, either singly or by interaction with other wastes, is sufficient to create a public nuisance or hazard to life or creates any other condition deleterious to structures or treatment processes; or which requires unusual provisions, alteration, or expense to handle such materials.
- (12) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the applicable state or federal regulations.
- (13) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by the director of public works in compliance with applicable state or federal regulations.
- (14) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the director of public works.
- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the director of public works in an industrial wastewater discharge permit.
- (17) Any wastewater causing the treatment plant's effluent to fail a toxicity test.
- (18) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the POTW.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility, where applicable, before connecting with the POTW.

(b) *Specific pollutant limitations.*

- (1) No person shall discharge or cause to be discharged, either directly or indirectly, any substance, materials, water or wastes that will exceed the following limits:

- a. The following table sets forth the discharge limits:

Parameter	Parts Per Million (ppm)
Barium	1.0
Boron	15.0
Cadmium	1.0

Chlorides	250.0
Cyanide (as CN)	1.0
Chromium (hexavalent)	1.0
Chromium (trivalent)	5.0
Copper	1.0
Iron	2.0
Lead	1.0
Nickel	1.0
Phenols	0.005
Silver	1.0
Tin	1.0
Zinc	1.0

- b. Any radioactivity as radium-226 and strontium-90 greater than 3.0 UUC per liter and 10.0 UUC per liter respectively. In known absence of strontium-90 and alpha emitters the known concentration shall not be greater than 1,000 UUC per liter.
- (2) Except in quantities, or concentrations, or with provisions as stipulated in this article, it shall be unlawful for any person, corporation or individual, to discharge waters or wastes to the sanitary sewer containing the following:
- a. Cyanides or cyanogen compounds capable of liberating hydrocyanic gas on acidification in excess of one-half parts per million by weight as CN in the wastes from any outlet into the public sewer.
  - b. Material which exerts or causes the following:
    1. Unusual concentration of solids or composition; as for example, in total suspended solids of inert nature such as Fuller's earth and/or in total dissolved solids such as sodium chloride or sodium sulfate.
    2. Discoloration released at a flow rate and/or concentration which would cause interference with and/or pass through at the POTW.
    3. Biochemical oxygen demand (BOD) greater than 1,000 mg/1.
    4. Hydrogen sulfide content greater than 5.0 mg/l.
    5. Unusual flow or concentration, unless such material shall be pretreated to a concentration acceptable to the city, if such wastes can:
      - (i) Cause damage to collection facilities;
      - (ii) Impair the processes;
      - (iii) Incur treatment cost exceeding those of normal sewage;
      - (iv)

Render the water unfit for stream disposal. Where discharges of such waste to the sanitary sewer are not properly pretreated or otherwise corrected, the director of public works shall reject the wastes or terminate the service of water and/or sanitary sewer.

Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At his discretion, the director of public works may impose mass limitations in addition to or in place of the concentration based limitations in subsection (b)(1) of this section.

- (c) *Local limits development.* The city shall develop and enforce specific local limits to implement the above listed prohibitions. These limits shall be updated as necessary to effectively enforce violations that would cause interference, pass through, degradation of sludge disposal or otherwise endanger the health and safety of plant personnel or the general public. Local limits development is necessary to ensure renewed and continued compliance with the city's NPDES permit or sludge use or disposal practices.
- (d) *Federal categorical pretreatment standards.* After the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, and upon expiration of any compliance grace period, the federal standard, if more stringent than limitations imposed under this article for sources in the subcategory, shall immediately supersede the limitations imposed under this article. The director of public works shall notify all affected users of the applicable reporting requirements, starting with baseline monitoring reports (BMR), as outlined under 40 CFR 403.12.
- (e) *Modification of federal categorical pretreatment standards.* Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. The term "consistent removal" means reduction in the amount of pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedure set forth in 40 CFR 403.7(c)(2), "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR 403.7 are fulfilled and prior approval from the approval authority is obtained.
- (f) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.
- (g) *City's right of revision.* The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 106-59 and specific prohibitions

listed in this subsection (a) of this section.

- (h) *Special agreement.* The city reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.
- (i) *Prohibition of dilution.* No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state.

(Code 1991, § 24-54; Code 2003, § 106-74)

Sec. 106-63. - Pretreatment of wastewater.

- (a) *Pretreatment facilities.* Industrial users shall provide necessary wastewater treatment as required to comply with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the city prior to the user's initiation of the changes. All records relating to compliance with pretreatment standards shall be made available to officials of the city, the EPA or the state upon request and shall be retained by the user for a minimum of three years or until any ongoing litigation involving the pretreating user, and related to compliance with this article, has been resolved.

- (b) *Additional pretreatment measures.*

- (1) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

- (2)



At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than five percent, nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

- (3) Grease, oil and sand interceptors shall be provided when, in the opinion of the director of public works, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director of public works and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the owner at his expense.
  - (4) Within 60 days from the date of passage of the ordinance from which this article is derived, any person discharging or desiring to discharge an industrial waste mixture into the public sewers of the city, or any sewer connected therewith, shall provide and maintain in a suitable accessible position on the permittee's premises, or such premises occupied by him, an inspection chamber or a manhole near the outlet of each sewer, drain, pipe, channel, or connection which directly connects with the sewer or sewer works of the city. Each such manhole or inspection chamber shall be of such design and construction which will prevent infiltration by groundwater and surface water and be so maintained by the person discharging wastes so that any authorized representative or employee of the city may readily and safely measure the volume and obtain samples of the flow at all times. Size shall be 15 inches in diameter reinforced concrete if less than six feet in depth and 24 inches in diameter reinforced concrete if more than six feet deep. Plans for construction of control manholes, or inspection chambers, including such flow measuring devices as may be required, shall be included with the industrial wastewater discharge permit application.
- (c) *Accidental discharge/slug control plans.* The director of public works may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years, the director of public works shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:
- (1) Description of discharge practices, including nonroutine batch discharges.
  - (2) Description of stored chemicals.
  - (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibitive discharges in [section 106-62\(a\)](#).
  - (4)

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

- (d) *Tenant responsibility.* Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this article.
- (e) *Protection from damage.* No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the POTW. Any person violating this provision shall be subject to the sanctions set out under sections 106-70 through 106-72.

(Code 1991, § 24-55; Code 2003, § 106-75)

Sec. 106-64. - Wastewater discharge permit eligibility.

- (a) *Wastewater survey.* When requested by the director of public works, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The director of public works is authorized to prepare a form for this purpose and may periodically require the industrial user to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this article.
- (b) *Wastewater discharge permit requirements.*
  - (1) It shall be unlawful for any significant industrial user to discharge wastewater into the city's POTW without first obtaining a wastewater discharge permit from the director of public works. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in sections 106-70 through 106-72. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal, state and local law.
  - (2) The director of public works may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (c) *Wastewater discharge permitting—Existing connections.* Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of the ordinance from which this article is derived and who wished to continue such discharges in the future shall, within 30 days after such date, apply to the city for a wastewater discharge permit in accordance with

subsection (f) of this section, and shall not cause or allow discharges to the POTW to continue after 90 days from the effective date of the ordinance from which this article is derived, except in accordance with a wastewater discharge permit issued by the director of public works.

(d) *Same—New connections.* Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to beginning or recommencing such discharge. An application for this wastewater discharge permit must be filed at least 60 days prior to the date upon which any discharge will begin.

(e) *Same—Extraterritorial jurisdictional industrial users.*

(1) Any existing significant industrial user located beyond the city's extraterritorial jurisdiction (ETJ) connected to, or proposing to connect to the city's POTW for the purpose of wastewater discharge shall submit an industrial wastewater discharge permit application in accordance with subsection (f) of this section, within 90 days of the effective date of the ordinance from which this article is derived. New significant industrial users located beyond the city limits shall submit such application to the director of public works 90 days prior to the proposed discharge into the city's POTW.

(2) Alternately, the director of public works may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against such industrial user.

(f) *Industrial wastewater discharge permit application contents.* In order to be considered for an industrial wastewater discharge permit, all industrial users so required must submit the information required by the compliance schedule progress report ([section 106-66\(b\)](#)). The director of public works shall approve a form to be used as a permit application. In addition, the following information may be requested:

(1) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

(2) Number and type of employees, hours of operation and proposed or actual hours of operations involving the POTW.

(3) Each product produced by type, amount, process and rate of production.

(4) Type and amount of raw materials processed (average and maximum per day).

(5) The site plans, floor plans, mechanical and plumbing plans with details to show all sewers, floor drains and appurtenances by size, location and elevation complete with all points of discharge.

(6) Time and duration of the discharge.

(7)

Any other information as may be deemed necessary by the director of public works to evaluate the industrial wastewater discharge permit application.

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

- (g) *Application signatories and certification.* All industrial wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure 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."

- (h) *Industrial wastewater discharge permit decisions.* The director of public works will evaluate the data furnished by the industrial user and may require additional information. Within 90 days of the receipt of a complete industrial wastewater discharge permit application, the director of public works will determine whether or not to issue an industrial wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The director of public works may deny any application for an industrial wastewater discharge permit.

(Code 1991, § 24-56; Code 2003, § 106-76)

Sec. 106-65. - Wastewater discharge permit issuance process.

- (a) *Wastewater discharge permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified by [section 106-63](#) are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (b) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the director of public works to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality and protect against damage to the POTW.

- (1) Permits shall contain the following:

- a. Statement of duration, in no case more than five years.
- b. Statement of nontransferability without prior notification and city approval, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- c. User applicable effluent limits based on applicable standards in federal, state and local law.
- d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law.
- e. Statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements and any applicable compliance schedule, such schedule may not extend the time for compliance beyond that required by applicable federal, state and local law.

(2) Permits may contain the following:

- a. The unit charge or schedule of industrial user charges and fees for the management of wastewater discharged to the POTW.
- b. Limits on average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization.
- c. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- d. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties.
- e. 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.
- f. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or routine discharges.
- g. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
- h. 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.
- i.

Other conditions as deemed appropriate by the director of public works to ensure compliance with this article, and state and federal laws, rules and regulations.

(c) *Wastewater discharge permit appeals.* Any person, including the industrial user, may petition the city to reconsider the terms of a wastewater discharge permit within 90 days of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the city fails to act within 30 days, a request for consideration shall be deemed denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.

(d) *Wastewater discharge permit modification.* The director of public works may modify the wastewater discharge permit for good cause including, but not limited to, the following:

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

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(e)

*Wastewater discharge permit transfer.* Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 30 days advance notice to the director of public works and the director of public works approves the wastewater discharge permit transfer. The notice to the director of public works must include a written certification by the new owner and/or operator which:

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

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

(f) *Wastewater discharge permit revocation.* Wastewater discharge permits may be revoked for the following reasons:

- (1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to the city of changed condition pursuant to section 106-66(e).
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports.
- (5) Tampering with monitoring equipment.
- (6) Refusing to allow the city timely access to the facility premises and records.
- (7) Failure to meet effluent limitations.
- (8) Failure to pay fines.
- (9) Failure to pay sewer charges.
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Failure to provide advance notice of the transfer of a permitted facility.
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the article.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

(g)

*Wastewater discharge permit reissuance.* A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with section 106-64(f); a minimum of 30 days prior to the expiration of the industrial user's existing wastewater discharge permit.

(Code 1991, § 24-57; Code 2003, § 106-77)

Sec. 106-66. - Reporting requirements.

(a) *Baseline monitoring reports.*

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the director of public works a report which contains the information listed in subsection (a)(2) of this section. At least 90 days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the director of public works a report which contains the information listed in subsection (a)(2) of this section. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (2) The industrial user shall submit the information required by this section including:
  - a. *Identifying information.* The name and address of the facility including the name of the operator and owners.
  - b. *Wastewater discharge permits.* A list of any environmental control wastewater discharge permits held by or for the facility.
  - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
  - e. *Measurement of pollutants.*
    1. Identify the categorical pretreatment standards applicable to each regulated process.
    - 2.



Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard of by the city) of regulated pollutants, in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) of this section.

3. Sampling must be performed in accordance with procedures set out in subsection (k) of this section.
  - f. *Certification.* A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis—and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to the section must meet the requirements set out in section 106-64(f).
  - h. All baseline monitoring reports must be signed and certified in accordance with section 106-64(g).
- (b) *Compliance schedule progress report.* The conditions set forth in this subsection shall apply to the schedule required by subsection (a)(2)g of this section. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to in this section shall exceed nine months. The industrial user shall submit a progress report to the director of public works no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the director of public works.
- (c) *Report on compliance with categorical pretreatment standard deadline.* 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 such pretreatment standards and requirements shall submit to the city

a report containing the information described in subsections (a)(2)d through (a)(2)f of this section. For industrial user subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 106-64(g).

(d) *Periodic compliance reports.*

- (1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the director of public works but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 106-64(g).
- (2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
- (3) If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in subsection (j) of this section, the results of this monitoring shall be included in the report.

(e) *Report of changed conditions.* Each industrial user is required to notify the director of public works of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

- (1) The director of public works may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 106-64(f).
- (2) The director of public works may issue a wastewater discharge permit under section 106-64(h); or modify an existing wastewater discharge permit application under section 106-65(d).
- (3) No industrial user shall implement the planned changed conditions until and unless the director of public works has responded to the industrial user's notice.
- (4) For purposes of this requirement, flow increases of ten percent or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

(f) *Reports of potential problems.*

- (1) In the case of any discharge including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems for the POTW, including a violation of the prohibited discharge standards in section 106-62, it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
  - (2) Within five days following such discharge, the industrial user shall, unless waived by the director of public works, submit a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article.
  - (3) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this article.
  - (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (f)(1) of this section. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.
- (g) *Reports from nonsignificant industrial users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the director of public works may require.
- (h) *Notice of violation/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the industrial user must notify the director of public works within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director of public works within 30 days after becoming aware of the violation. The industrial user is not required to resample if the POTW performs monitoring at the industrial user's at least once a month, or if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.
- (i) *Notification of the discharge of hazardous waste.*
- (1) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of,

would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the industrial user discharges more than ten kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user:

- a. An identification of the hazardous constituents contained in the wastes;
- b. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
- c. An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under subsection (e) of this section. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of subsections (a), (c) and (d) of this section.

- (2) Dischargers are exempt from the requirements of subsection (a) 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 wastes as specified in 40 CFR 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
  - (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste of listing any additional substance as a hazardous waste, the industrial 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 of the effective date of such regulations.
  - (4) In the case of any notification made under this section, the industrial 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.
- (j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable

categorical pretreatment standard. If 40 CFR 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.

(k) *Sample collection.*

(1) Except as indicated in subsection (k)(2) of this section, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director of public works may authorize the use of time proportional sampling or through 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.

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

(l) *Determination of noncompliance.* The director of public works may use a grab sample to determine noncompliance with pretreatment standards.

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

(n) *Recordkeeping.* Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this article. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with this article, or where the industrial user has been specifically notified of a longer retention period by the director of public works.

(Code 1991, § 24-58; Code 2003, § 106-78)

Sec. 106-67. - Compliance monitoring.

(a) *Inspection and sampling.* The city shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this article, and any permit or order issued under this article, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the director of public works or his representatives 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.

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

personnel from the city, state and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

- (2) The city, state and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
  - (3) The city may require the industrial 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 industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
  - (4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the director of public works and shall not be replaced. The costs of clearing such access shall be born by the industrial user.
  - (5) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this article.
- (b) *Search warrants.* If the director of public works has been refused access to a building, structure or property or any part thereof, and if the director of public works has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the city attorney, the municipal court judge of the city shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, in anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the director of public works in the company of a uniformed police officer of the city. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(Code 1991, § 24-59; Code 2003, § 106-79)

#### Sec. 106-68. - Confidential information.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction, unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made

available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data," as defined by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction.

(Code 1991, § 24-60; Code 2003, § 106-80)

Sec. 106-69. - Publication of industrial users in significant noncompliance.

The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" is defined in section 106-60.

(Code 1991, § 24-61; Code 2003, § 106-81)

Sec. 106-70. - Administrative enforcement remedies.

- (a) *Notification of violation.* Whenever the director of public works finds that any user has violated or is violating this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the director of public works or his agent may serve upon such user a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director of public works. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (b) *Consent orders.* The director of public works is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.
- (c) *Show cause hearing.* The director of public works may order any user which causes or contributes to violations of this article, wastewater discharge permits or order issued under this article, or any other pretreatment standard or requirement, to appear before the director of public works and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement

action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least 30 days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

(d) *Compliance orders.* When the director of public works finds that a user has violated or continues to violate this article, wastewater discharge permits or order issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within three days. If the user does not come into compliance within three days, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also 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. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(e) *Cease and desist orders.* When the director of public works finds that a user is violating this article, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director of public works may issue an order to the user directing it to cease and desist all such violation and directing the user to:

- (1) Immediately comply with all requirements.
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(f) *Administrative fines.*

- (1) Notwithstanding any other section of this article, any user that is found to have violated any provision of this article, its wastewater discharge permit, and orders issued under this article, or any other pretreatment standard or requirement shall be fined in an amount not to exceed \$2,000.00 per day. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.



- (2) Assessments may be added to the user's next scheduled sewer service charge and the director of public works shall have such other collection remedies as may be available for other service charges and fees.
  - (3) Unpaid charges, fines and penalties shall, after ten days, be assessed an additional penalty of 20 percent of the unpaid balance and interest shall accrue thereafter at a rate of 15 percent per month. A lien against the individual user's property will be sought for unpaid charges, fines and penalties.
  - (4) Users desiring to dispute such fines must file a written request for the director of public works to reconsider the fine along with full payment of the fine amount within ten days of being notified of the fine. Where a request has merit, the director of public works shall convene a hearing on the matter within three days of receiving the request from the industrial user. If the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The city may add the costs of preparing administrative enforcement actions such as notices and orders to the fine.
  - (5) Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.
- (g) *Emergency suspensions.* The director of public works may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary in order 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 director of public works 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.
- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director of public works 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 director of public works shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in subsection (h) of this section are initiated against the user.
  - (2)

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 director of public works, prior to the date of any show cause or termination hearing under subsections (c) and (h) of this section.

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

- (h) *Termination of discharge.* In addition to those provisions in section 106-65(f), any user that violates the following conditions of this article, wastewater discharge permits or orders issued under this article, 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.
  - (5) Violation of the pretreatment standards in section 106-62.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) of this section why the proposed action should not be taken.

(Code 1991, § 24-62; Code 2003, § 106-82)

Sec. 106-71. - Judicial enforcement remedies.

- (a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this article, wastewater discharge permits or orders issued under this article, or any other pretreatment requirement, the director of public works may petition the civil courts of the county through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.
- (b) *Civil penalties.*
- (1) If it appears that a violation or threat of violation of any provision of this chapter or any rule, permit, license, or other order of the city has occurred or is occurring in the city or its extraterritorial jurisdiction, or is causing or will cause injury to or an adverse effect on the

health, welfare, or physical property of the city or its inhabitants, the city may institute a civil suit in a district court by the city attorney for injunctive relief or civil penalty, or both, against the person who committed, is committing, or is threatening to commit the violation.

(2) Any person who violates any provision of this chapter or any rule, permit, license, or order of the city is subject to a civil penalty of not less than \$100.00 or more than \$25,000.00 for each act of violation and for each day of violation, as the court may deem proper.

(3) Filing a suit for civil penalties shall not be a prerequisite for taking other action against a user.

(c) *Criminal prosecution.*

(1) Any user that willfully or negligently violates any provision of this article, any order or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,000.00.

(2) Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$2,000.00.

(3) Any user that knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than \$2,000.00.

(4) A separate offense for violation of any of the provisions above shall be deemed committed on each day during on or which a violation occurs or continues.

(d) *Remedies nonexclusive.* The provisions of this section and sections 106-69, 106-70 and 106-72 are not exclusive remedies. The city reserves the right to 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. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

(Code 1991, § 24-63; Code 2003, § 106-83)

Sec. 106-72. - Supplemental enforcement action.

(a) *Performance bonds.* The director of public works may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any orders, or a previous wastewater discharge permit issued under this article, unless such user first files a

satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director of public works to be necessary to achieve consistent compliance.

- (b) *Liability insurance.* The director of public works may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any order, or a previous wastewater discharge permit issued under this article, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- (c) *Water supply severance.* Whenever a user has violated or continues to violate the provisions of this article, orders or wastewater discharge permits issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- (d) *Public nuisances.* Any violation of this article, wastewater discharge permits or orders issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director of public works or his designee. Any person creating a public nuisance shall be subject to the provisions of chapter 38, article II of this Code, governing such nuisances, including reimbursing the city for any costs incurred in removing, abating or remedying such nuisance.

(Code 1991, § 24-64; Code 2003, § 106-84)

Sec. 106-73. - Affirmative defenses to discharge violations.

- (a) *Upset.*
  - (1) For the purposes of this section, the term "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 industrial user. The term "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.
  - (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(3) of this section are met.
  - (3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
    - a. An upset occurred and the industrial user can identify the cause of the upset;
    - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance;
    - c.

The industrial user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the indirect discharge and cause of noncompliance;
  2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
  3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (6) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (b) *General/specific prohibitions.* An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 106-62 if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:
- (1) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference; or
  - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Bypass.*
- (1) Specific definitions.
    - a. The term "bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
    - b.

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

- (2) Bypass does not cause violation of standards. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (c)(3) and (4) of this section.
- (3) Notification.
  - a. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass if possible.
  - b. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (4) Enforcement exemptions.
  - a. The bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless:
    1. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
    2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment 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 which occurred during normal periods of equipment downtime or preventive maintenance; and
    3. The industrial user submitted notices as required under subsection (c)(3) of this section.
  - b. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in subsection (c)(4)a of this section.

(Code 1991, § 24-65; Code 2003, § 106-85)

Sec. 106-74. - Surcharge costs.

(a) *Industrial waste surcharge.*

- (1) Persons discharging industrial wastes which exhibit none of the characteristics of waste prohibited previously, other than excessive BOD or suspended solids, but having a concentration for a duration of 15 minutes greater than four times that of normal sewage as measured by suspended solids and BOD and/or an average concentration during a normal working day of the permittee's industry of suspended solids or BOD content in excess of normal sewage as defined in section 106-60 as normal domestic sewage shall be required to pretreat the industrial wastes to meet the requirements of normal sewage; however, such waste may be accepted for treatment if the following requirements are met:
  - a. The waste will not cause damage to the collection and treatment facilities.
  - b. The waste will not impair the treatment process.
  - c. The person who discharges such waste enters into an industrial wastewater discharge application and agrees to pay the sewer service charge and industrial waste surcharge.
- (2) The person who discharges such wastes shall enter into an industrial wastewater discharge application with the city providing for a surcharge over and above published water and sewer rates. The basis for surcharge on industrial wastes is a capital and operating cost of \$0.12 per parts per million, per million gallons for the BOD (biochemical oxygen demand) and a capital and operating cost of \$0.36 per parts per million, per million gallons for the suspended solids exceeding normal sewage. The cost of chlorination is based on the city's cost of chlorine per pound per million gallons for each part exceeding the five parts of normal sewage. These rates shall continue until changes by action of the city council following changes in the price of chlorine paid by the city. The surcharge shall be calculated for billing purposes with the following formula:

$SC = V[\$0.12(BOD - 240) + \$0.36(SS-240) + 8.345 P_c(C-5)]$			
Where:			
	SC	=	Surcharge in dollars for time related to volume
	V	=	Volume in million gallons based on metered water
	BOD	=	Five days at 20 degrees Celsius of industrial waste (ppm)

SS	=	Suspended solids of industrial waste (ppm)
Pc	=	City's price of chlorine per pound
C	=	Chlorine demand of the industrial waste (ppm)

(3) Any person who refuses to comply with or who resists or willfully discharges wastes prohibited from discharge into public sewers, or who refuses to comply with the provisions of this section, shall be served by the director of public works with a written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. Any person who shall continue any violation beyond the time limit shall be guilty of violation of his industrial wastewater discharge permit and shall be summarily disconnected from the sanitary and/or water service, such disconnection and reconnection to be of total expense to the customer. Where acids or chemicals damaging to sewer lines or treatment process are released to the sewer and cause rapid deterioration of these structures or interfere with the proper treatment of sewage, the director of public works is authorized to immediately terminate service by such measures as are necessary to protect the facilities.

(b) *Billing.* Industrial surcharge provided for in this article shall be included as a separate item on the regular bill for water and sewer charges and shall be paid monthly in accordance with the existing practices. Surcharges shall be paid at the same time that the water, sewer and sanitation charges of the permittee become due. Payment for water and sanitation services shall not be accepted without payment also of the sewer service charges and industrial waste surcharges.

(Code 1991, § 24-66; Code 2003, § 106-86)

Sec. 106-75. - Pretreatment charges and fees.

The city may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications.
- (2) Fees for monitoring, inspection and surveillance procedures including the cost of collection and analyzing an industrial user's discharge and reviewing monitoring reports submitted by industrial users.
- (3) Fees for reviewing and responding to accidental discharge procedures and construction.
- (4) Fees for filing appeals.
- (5)



Other fees as the city may deem necessary to carry out the requirements contained in this article. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the city.

(Code 1991, § 24-67; Code 2003, § 106-87)

Secs. 106-76—106-93. - Reserved.