

SEWER USE ORDINANCE
For The
CITY OF KINSTON

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ARTICLE II. SANITARY AND STORM SEWERS

DIVISION 1. GENERAL

Sec. 19-36 Purpose And Policy

This Ordinance sets forth uniform requirements for contributors into the wastewater collection and treatment system for the City of Kinston, hereafter referred to as the City, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this Ordinance are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system that will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment and the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Nondischarge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This Ordinance provides for the regulation of 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 and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Ordinance shall apply to all users of the municipal wastewater system. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other City personnel.

By discharging wastewater into the City’s wastewater system, industrial users located outside the City limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

Sec. 19-37 Definitions And Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:
 - (1) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*
 - (2) Approval Authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
 - (3) Authorized Representative of the Industrial User.
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - (A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - (B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been

- assigned or delegated to the manager in accordance with corporate procedures.
- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs (i)-(iii) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
 - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to [POTW Director] prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20_ centigrade, usually expressed as a concentration (e.g., mg/L).
 - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
 - (6) Bypass. The intentional diversion of waste streams from any portion of an industrial user's treatment facility.
 - (7) Categorical Standards. Federal Categorical Pretreatment Standards or Pretreatment Standard.
 - (8) Color. The true color due to the substances in solution expressed in milligrams per liter (mg/L) or such units as the POTW Director specifies.
 - (9) Composite Sample. A sample collected over a period of time that is representative of the user's discharge.
 - (10) Control Authority. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.
 - (11) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
 - (12) Grab Sample. A sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
 - (13) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
 - (14) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
 - (15) Industrial User. Any person that is a source of indirect discharge.
 - (16) Inflow. Water other than sewage that enters a sanitary sewer system including water entering through a building sewer from sources such as roof leaders, collar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewer and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage.
 - (17) Interference. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, that causes or contributes to a violation of any requirement of the POTW's NPDES or Nondischarge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage

sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(18) Federal Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) that applies to a specific category of industrial users, and that appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

(19) National Federal Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in **Sec. 19-38** of this Ordinance and are developed under the authority of 307(b) of the Act and 40 CFR Part 403.5.

(20) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(21) National Pollution Discharge Elimination System (or NPDES) Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.

(22) New Source. As defined in 40 CFR 403.3(m), including any subsequent amendments and additions.

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

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

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

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

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

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

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

(1) Any placement, assembly, or installation of facilities or equipment; or

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

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in its operation within a reasonable time. Options to purchase or contracts that 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.

- (23) Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (24) National Pollution Discharge Elimination System, or NPDES permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (25) Nondischarge Permit. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
- (26) Nondomestic Discharge. Any substances other than human excrement and household gray water (shower, dishwashing operations, etc.) discharged into the POTW. Common characteristics of nondomestic pollutants in wastewater discharges include, but are not limited to, pH, temperature, total suspended residue (solids), turbidity, BOD, COD, toxicity, odor, and color.
- (27) Pass Through. A discharge that exits the POTW into waters of the State in quantities or concentrations that, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's NPDES, collection system, or Non-discharge Permit.
- (28) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (29) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (30) Pollutant. Any "waste" as defined in N.C.G.S. 143-213 (18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).
- (31) POTW Director. The City of Kinston Director of Public Services
- (32) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (33) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (34) Pretreatment Program. The program for the control of pollutants introduced into the POTW from nondomestic sources developed by the City in compliance with 40 CFR Part 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR Part 403.11.
- (35) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (36) Pretreatment Standards. Any prohibited discharge standards, categorical standards, or local limits which applies to an industrial user.
- (37) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by Section 212 of the Act, (33 U.S.C. §1292) owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this Ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement

with the City, or in any other way, users of the POTW.

- (38) Sanitary Sewer. A sewer intended to receive domestic sewage and industrial waste, without the admixture of surface water and storm water.
- (39) Severe Property Damage. Substantial physical damage to property, damage to the industrial user's treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (40) Significant Industrial User. An industrial user that discharges wastewater into a publicly owned treatment works and that:
 - (i) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling water and boiler blowdown wastewaters); or
 - (ii) Contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or
 - (iii) is required to meet a Federal Categorical Pretreatment Standard, or
 - (iv) is found by the City, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
 - (v) Subject to Divison approval under Rule .0907(b) of this Secton, the Control Authority may determine that an Industrial User meeting the criteria in paragraph (iii) above meets the requirements of 40 CFR Part 403.3(v)(2) and this is a Non-Significant Categorical User.

- (41) Significant Noncompliance of SNC is the status of noncompliance of a Significant Industrial User with one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (b)(41), Parts (c), (D), or (H) shall also be SNC.
 - (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow)during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);.
 - (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH).
 - (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 430.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(l)(vi)(B) and **Section [19-77(e)]** of this SUO to halt or prevent such a discharge;
 - (E) Violations of compliance schedule milestones, contained in a pretreatment

permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

- (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 45 days from the due date.
 - (G) Failure to accurately report noncompliance.
 - (H) Any other violation or group of violations that the Control Authority considers to be significant.
- (42) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section **19-38** of this ordinance.
- (43) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (44) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (45) Superintendent. 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 Ordinance, or his duly authorized representative.
- (46) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and that is removable by laboratory filtering.
- (47) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset

does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (48) User. Any person who contributes, causes, or has responsible charge over the contribution of wastewater into the POTW including persons who discharge wastewater from mobile sources.
- (49) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, that are contributed into or permitted to enter the POTW.
- (50) Wastewater Permit. As set forth in **Sec. 19-57** of this Ordinance.
- (51) Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the State or any portion thereof.
- (b) This Ordinance is gender neutral with respect to masculine and feminine gender. References using either the masculine or feminine gender shall apply to both genders.
 - (c) Shall is mandatory; may is permissive or discretionary.
 - (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of their use.
 - (e) The following abbreviations when used in this Ordinance, shall have the designated meanings:
 - (1) BOD - Biochemical Oxygen Demand
 - (2) CFR - Code of Federal Regulations
 - (3) COD - Chemical Oxygen Demand
 - (4) EPA - Environmental Protection Agency
 - (5) gpd - Gallons per Day
 - (6) L - Liter
 - (7) mg - Milligrams
 - (8) mg/L - Milligrams per Liter
 - (9) N.C.A.C. - North Carolina Administrative Code
 - (10) N.C.G.S. - North Carolina General Statutes

- (11) NPDES - National Pollution Discharge Elimination System
- (12) O & M - Operation and Maintenance
- (13) POTW - Publicly Owned Treatment Works
- (14) RCRA - Resource Conservation and Recovery Act
- (15) SIC - Standard Industrial Classification
- (16) SWDA - Solid Waste Disposal Act
- (17) TSS - Total Suspended Solids
- (18) TKN - Total Kjeldahl Nitrogen
- (19) U.S.C. - United States Code.

DIVISION 2. USE OF SEWERS

Sec. 19-38 Prohibited Discharge Standards

- (a) General Prohibitions. No person shall contribute or cause to be contributed into the POTW, either directly or indirectly, any pollutant or wastewater that causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any Federal, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - (1) Any liquids, solids or gases, with a closed cup flash point of less than 140_F (60_C) using the test methods specified in 40 CFR Part 261.21, including gasoline, kerosene, benzene and naphtha, or that by their nature or quantity are of sufficient concentration, either alone or with interaction with other substances, to cause fire or explosion in the POTW, or be injurious in any way to the POTW or its personnel, or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter taken of a wastewater either at the point of discharge into the system or causing at any point in the system be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.
 - (2) Solid or viscous substances, including ground paper products, wood glass, ashes, cinders, hair, rags, mud, straw, metal, and whole blood, in amounts that will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half (1/2) inch in any dimension.

- (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (4) Any wastewater having a pH of less than 6.0 or more than 9.0 standard units except by permit authorization, although at no time will the City issue a permit with a pH limit of less than 5 or allow wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
- (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, either by flow or concentration, either singly or by interaction with other pollutants, to cause interference with the POTW.
- (6) Any wastewater having a temperature greater than 150 degrees F (66 degrees C), or that will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104_F (40_C).
- (7) Any pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with **Sec. 19-46** of this Ordinance.
- (9) Any noxious or malodorous liquids, gases, or solids or other wastewaters that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (10) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- (11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, inflow, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater unless specifically authorized by the POTW Director.
- (13) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L unless authorized by the POTW Director.
- (14) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (15) Any medical wastes except as specifically authorized by the POTW Director in a wastewater discharge permit.
- (16) Any material containing ammonia, ammonia salts, or other chelating agents that will produce metallic complexes that interfere with the municipal wastewater system.
- (17) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
- (18) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A N.C.A.C. 2B .0200.
- (19) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (20) Recognizable portions of the human or animal anatomy.
- (21) Any wastes containing detergents, surface active agents, or other substances that may cause excessive foaming in the POTW.
- (22) Any wastewater that imparts objectionable color which cannot be removed by the POTW's treatment process.
- (23) Pollutants, substances, wastewater, or other wastes prohibited by this Section shall not be processed or

stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

- (24) When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts that may cause or contribute to interference of POTW operation or pass through, the POTW Director shall: (i) advise the user(s) of the potential impact of the contribution on the POTW in accordance with **Sec. 19-77** and (ii) take appropriate actions in accordance with **DIVISION 4** for such user to protect the POTW from interference or pass through.

Sec. 19-39 National Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

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

Sec. 19-40 Local Limits

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

300	mg/L BOD5	0.049	mg/L Lead
300	mg/L TSS	0.0003	mg/L Mercury
30	mg/L TKN	0.021	mg/L Nickel
20	mg/L Ammonia	0.005	mg/L Silver
8	mg/L Phosphorous	0.041	mg/L Cyanide
0.003	mg/L Arsenic	0.175	mg/L Zinc
0.003	mg/L Cadmium		
0.05	mg/L Total Chromium		

* *Copper shall not be discharged above typical domestic wastewater.*

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

Sec. 19-41 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 Ordinance.

Sec. 19-42 Right Of Revision

The City reserves the right to establish limitations and requirements that are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in **Sec. 19-36** of this Ordinance or the general and specific prohibitions in **Sec. 19-38** of this Ordinance, as is allowed by 40 CFR Part 403.4.

Sec. 19-43 Dilution

No industrial 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, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

Sec. 19-44 Pretreatment Of Wastewater

(a) Pretreatment Facilities. Industrial users shall provide wastewater treatment as necessary to comply with this Ordinance and wastewater permits issued under **Sec. 19-57** of this Ordinance, and shall achieve compliance with all Federal categorical pretreatment standards, local limits

and the prohibitions set out in **Sec. 19-38** of this Ordinance within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent.

- (1) Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.
- (2) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted for review to the City and/or the State, as ordered by the POTW Director. The authorization to construct the pretreatment facilities shall be issued by the City and/or the State, also as ordered by the POTW Director.
- (3) The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Ordinance.
- (4) Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures.

- (1) Whenever deemed necessary, the POTW Director may require certain users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance.
- (2) The POTW Director may require any industrial user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of fat, oil, grease, or sand except that such interceptors shall not be required for residential users. All interception units

shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. The POTW Director shall establish a set of standards for maintenance of interceptors. The POTW Director may authorize variances to design and maintenance standards on a case by case basis. Such variances will only be given where the POTW Director determines that adhering to the established standards would be extraordinarily costly and that granting the variances would not foreseeably cause a sanitary sewer blockage or overflow. The POTW Director shall also establish a schedule of fees and charges to recover the costs of administering this section. Such schedules shall not be effective until adoption by the City Council. This schedule of fees may include additional ongoing charges for facilities granted a variance to interceptor sizing and/or maintenance requirements.

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

Sec. 19-45 Accidental Discharge/Slug Control Plans

- (a) At least once every two (2) years, the POTW Director or his duly authorized representative shall evaluate whether each significant industrial user needs a plan to control and prevent slug discharges and accidental discharges as defined in Section 19-37(a)(42). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 19-63 and 19-64.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (a) Description of discharge practices, including nonroutine batch discharges;
 - (b) Description of stored chemicals;

- (c) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by **Sec. 19-64** of this Ordinance; and

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

Sec. 19-46 Hauled Wastewater

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate **DIVISION 2** of this Ordinance or any other requirements established by the City. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of septic tank waste.
- (b) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.
- (c) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 19-47 Protection From Damages

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any element or appurtenances of the POTW including equipment belonging to the City used for the purposes of making tests or examinations and left upon the premises of a person discharging wastes into the sewers.

Sec. 19-48 Connecting To Sewer System

- (a) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater. Every person, group of persons, firm or corporation, owning a dwelling, building or other structure that is used for human habitation or occupancy within the POTW's jurisdiction, and is situated on a lot or parcel of land that abuts or adjoins a street or other public way, and along which is located a sanitary sewer of the City, shall connect such dwelling or structure to the sewer system.
- (b) A connection shall not be required to the system unless the lot or parcel of land on which the dwelling, building, or structure is situated is accessible within 300 feet of the sewer system. In addition, no person shall be required to cross the private property of any other person to make such connection. Connection to the City system shall not be required during that period of time the lot or parcel of land on which a dwelling, structure, or building requiring wastewater service is properly served by an existing approved septic tank or if the POTW Director determines that it is not feasible to connect to the City system. In this event the property owner may be considered connected to the wastewater system for billing purposes and the owner shall be billed for and pay the appropriate monthly wastewater user charges for that class of customer as then established by the City Council or as from time to time established or amended.
- (c) Owners of properties whereupon exists a dwelling, building or other structure that is used for human habitation or occupancy that are not accessible to the sewer system for the reason they are more than 300 feet there from or would require crossing another person's private property to make connection shall install septic tanks or other facilities in accordance with the regulations of the Lenoir County Health Department. Installation of the septic tank or other facility must also receive the approval of the POTW Director prior to construction of such facilities.
- (d) Where connections are required the property owner shall, if not previously installed, install a water closet and sink,

and shall cause all toilets, sinks, and other plumbing fixtures and wastewater facilities to be installed, arranged, or rearranged to drain into the sanitary sewer.

- (e) In cases where a sanitary sewer is constructed where none before existed, or upon annexation of property accessible to the sewer system into the City, connection must be made within one hundred and eighty (180) days of written notification to the property owner by the City that connection is required. Written notice shall be deemed sufficient if given by personal service or service by registered or certified mail to the property owner at his last known address. If the address of the owner can not be determined or if service is refused, a copy of the notice shall be posted on the property. Upon expiration of ten (10) days from the date of posting or otherwise giving notice, service of notice shall be deemed complete.

Sec. 19-49 Prohibition Of Discharge Of Wastewater To Surface Courses

The discharge of treated or untreated domestic sewage or industrial wastes to any storm sewer, pond, open ditch, stream or watercourse is not allowed within the POTW's jurisdictional area, except that uncontaminated noncontact cooling water may be discharged provided that such discharge is constructed and operated within the laws of the State of North Carolina. However, where the City Council decides that it is not in the best interest of the City to accept any particular industrial waste into its sanitary sewer, such waste may be discharged within the City provided such discharge meets the requirements of the State of North Carolina and the discharge is approved by the City Council.

Sec. 19-50 Connecting Unpolluted Waters

No person shall make any connection of roof down spouts, exterior foundation drains, area drains, or other sources of inflow, groundwater, or other unpolluted waters to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer. Unpolluted waters may be discharged to City storm sewers and drainage ditches subject to approval of the POTW Director and provided that all required Federal, State, and Local permits required for such a discharge are secured by the person causing the discharge.

Sec. 19-51 Regulation Of Building Of Sewers And Connections

- (a) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no sanitary sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building

and the whole considered as one building sewer. Existing building sewer connections may be reused when the ownership or occupancy of a building changes. All new occupants of either building must notify the Director of Public Services.

(b) Any person owning or controlling premises located beyond the corporate limits of the City and desiring to install a plumbing system for the purpose of discharging domestic sewage and/or industrial waste into the sanitary sewers of the City may do so by complying with the requirements of this Ordinance and paying an additional permit fee and a yearly sewer rental charge to be fixed by City Council.

(c) All connections to the sanitary sewer system under the control of and operated by the City shall be made by authorized employees of the City in accordance with requirements of the North Carolina State Plumbing Code, City specifications, and all other applicable State and Federal Regulations. If authorized by the City Council, connections may be made by plumbers licensed to perform plumbing work in North Carolina. Any sewer connection made by an authorized licensed plumber shall be inspected by the POTW Director after such work has been completed and prior to the time the connection is covered.

Sec. 19-52 Prohibiting Discharge Of Water Into And Upon City Streets, Curbs And Gutters From Appliances, Equipment

It shall be unlawful for any person to discharge water into or upon any street, curb or gutter within the city drawn from or generated and/or used by any equipment, well, appliance, and heating and/or cooling system. Stormwater from downspouts on residences and commercial building may be discharged where such stormwater is routed into or upon any city street, curb or gutter by an under-ground pipe connected to such downspout only.

DIVISION 3. FEES

Sec. 19-53 User Charges

(a) Authority. Pursuant to the provisions of Public Law 92-500 Section 240 (b) and subsequent amendments to it, the City, having received EPA financial assistance for the construction of treatment works, shall adopt a system of charges to assure that each user pays a share of the annual administration, operation, and maintenance (including replacement) costs of the POTW.

(b) Intent. The intent of such user charges is to equitably distribute the cost of administration, operation, and maintenance of the POTW to each user proportional to the

amount of wastewater treatment service each user receives; and to promote self-sufficiency of the POTW with respect to administration, operation, and maintenance costs.

(c) Definition. The term "replacement" referred to in paragraph (a) of this Section is defined as those expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary during the service life of the treatment works to maintain the treatment works capacity and performance. The term "operation and maintenance" includes replacement.

(d) User Class. Each user shall be charged a share of the treatment works operation and maintenance cost based on the measured proportional contribution to the treatment works loading. Generally, the user charge will be dependent upon flow insofar as BOD, COD, TSS, and other pollutant contributions discharged by all users are approximately equal. Where such pollutants exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge will be added to the base charge. The models used in calculating the user charge are defined in Paragraph (f) below. Charges for flow to the treatment plant not directly attributable to the users shall be distributed among all users of the treatment plant based upon the volume of flow of the users.

(e) User Charge Criteria. The user charge system shall be approved by the Regional Administrator of the Environmental Protection Agency and shall be maintained by the City in accordance with the following requirements:

(1) The user charge system must result in the distribution of the cost of operation and maintenance of treatment works within the City jurisdiction to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).

(2) The user charge system must generate sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the City.

(f) Model User Charge System. The user charge system adopted by the City shall result in the equitable distribution of annual treatment works administration, operation, and maintenance costs to each user (or user

class) in approximate proportion to each user's (or user class') contribution towards the total wastewater loading of the treatment works. The following user charge models shall be used for this purpose. The symbols used in the models are as defined below:

- C_f = Total fixed operation and maintenance (O & M) costs per unit of time.
- C_t = Total variable operation and maintenance (O & M) costs per unit of time.
- C_u = A user's charge for O & M per unit of time.
- C_s = A surcharge for wastewaters of excessive strength.
- V_u = Volume contribution from a user per unit of time.
- V_t = Total volume contribution from all users per unit of time.
- B_c = O & M cost for treatment of a unit of biochemical oxygen demand (BOD).
- B = Contribution of BOD from a user above a base level.
- S_c = O & M cost for treatment of a unit of suspended solids.
- S = Contribution of SS from a user above a base level.
- N_c = O & M cost for treatment of a unit of ammonia.
- N = Concentration of ammonia from a user above a base level.
- P_c = O & M cost for treatment of a unit of any pollutant having identifiable contributions to overall treatment costs.
- P = Concentration of a pollutant from a user above a base level.

(1) Model No. 1: Whereas the treatment works is primarily flow dependent as the BOD, suspended solids, and other pollutant concentrations discharged by the majority of users are approximately equal; therefore, the user charge will be developed on a volume basis in accordance with the model below:

$$C^u = \frac{C^f}{\text{No. of Users}} + \frac{V^u \cdot C^t}{V^t}$$

(2) Model No. 2: When determined by the City that BOD, COD, TSS, ammonia and any other appropriate pollutant concentrations from a user exceeds the range of concentration of these pollutants typical found in normal domestic sewage, a surcharge calculated by means of Model No. 1, shall be levied in addition to the base sewer use charge. The surcharge shall be computed by the model below:

$$C^s = [B^c(B) + S^c(S) + N^c(N) + P^c(P)]$$

- (g) Baseline pollutant concentrations shall be BOD5-300 mg/L, TSS-300 mg/L, TKN-30 mg/L, Ammonia-20 mg/L, and Phosphorous-8 mg/L or as established by the POTW Director and held as a standard for the City.
- (h) Model No. 1 shall include all costs for operation and maintenance associated with extraneous flows not attributable to any one user or user class, thereby distributing these costs to all users.
- (h) Other Considerations. User charges may be established based on a percentage of the charge for water usage. However, the unit rate sewer charge for the largest volume users must be as great as or greater than the unit cost of operation and maintenance (excluding debt service). In any event, a surcharge shall still be levied in accordance with the provisions of Model No. 2, above. The system of user charges for the wastewater treatment system shall be based on total annual system costs, including operation and maintenance expenses.
- (i) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by the City; or
 - (2) If required by the City or at the individual discharges option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the City. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the City.
 - (3) Where any user procures all or part of his water supply from sources other than the City, the user shall install and maintain at his own expense a flow measuring device of a type approved by the City.
 - (4) If a person discharging wastes into the sanitary sewer system produces evidence to the POTW Director that more than ten (10) percent of the total annual volume of water used for all purposes does not reach the City sanitary sewer, an estimated percentage of total water consumption to be used in computing charges may be agreed upon between the

POTW Director and the persons discharging industrial wastes into such sewer. Such agreement for the computation of charges shall be approved by the City Council prior to a reduction in billing for use.

- (j) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the City. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136. The determination of the character and concentration of wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.
- (k) The POTW Director may direct that the sampling and examination of user's wastes be undertaken by the User at his own expense, utilizing methods and procedures acceptable to the POTW Director, in accordance with the provisions of this section. In such instances, the costs borne by the User will not be included in the User's surcharge; however, the surcharge may include costs associated with supervision and administration of the monitoring program.
- (l) In lieu of actual sampling and examination of a user's waste, either by the City or by the user, the POTW Director may establish by representative sampling and examination, evaluation of analysis conducted by others elsewhere, or other appropriate means, representative character and concentrations of wastewater for particular user classes. A user determined by the POTW Director to meet the criteria for an inclusion in a user class so established by the POTW Director may, subject to approval by the POTW Director, elect to have his surcharge calculated based on the representative character and concentration of wastewater for the appropriate user class rather than incur the costs associated with sampling and examination of the user's actual wastewater.
- (m) Billings: All billings made using Model No. 1 as set forth in paragraph (f) of this section shall be made in the manner of water supply billings as provided for in this chapter and all penalties and other requirements therefore shall apply. All billings made using Model No. 2 as set forth in paragraph (f) of this section shall be billed and payable periodically on a bill rendered to the proper persons by the City. Such bills will be sent through the United States mail notifying all persons of the amount and date due. Failure to receive notice is not an excuse for nonpayment of bills. Persons who do not pay their bills within twenty (20) days of the date of billing will be delinquent. Notices shall be sent then through the United States mail and if after five (5) days notice, given as above, the bills remain unpaid, the water connection serving the premises will be severed and will not be turned on again until such bill is paid. In case a person discharging wastes into the City sanitary sewer system does not procure his water supply from the City and becomes delinquent in his payment of the surcharge, his connection with the City sewer system will be severed and will only be reconnected at his expense.
- (n) Disconnection for delinquency. If any billing for user charges shall become delinquent for a period of twenty (20) days following such billing the City may disconnect such sewerage connection and discontinue such service and terminate all light and water service that may be used at such premises.
- (o) Additional penalties. These rights are in addition to such other rights as the City may have and the City may, before resuming such service, require as further penalty that the cost incurred by the City in discontinuing and reestablishing such service be paid.
- (p) Authority as to nonusers of City water. If any residence, business or occupancy is served with a City sanitary sewer and uses a water supply other than the City water for all or any of its purposes, then the City, as a requisite for continuing any of its utility services, may require the installation of a metering system, approved by the City, to determine the volume of such non City water uses so as to compute the sewer usage charge pursuant to this section, and if such user shall fail to install such metering system, then the POTW Director may estimate the volume so used and fix a monthly volume for the purpose of such computation, and the sewer user charge shall be computed on the volume so fixed.
- (q) Each user shall be notified no less often than annually of the rates for user charges. Such notification shall be done in conjunction with a regular bill, and, if a regular bill also includes charges for other services, shall clearly identify the portion of the bill attributable to wastewater user charges.
- (r) The City Council shall review annually the sewage contributions of users, the total annual costs of debt service, operation, and maintenance of the POTW and will make adjustments in the Schedule Of Charges and Fees as necessary to support the intent of this Ordinance.
- (s) The user charge system shall take precedence over any terms or conditions of any contracts or agreements that are inconsistent with Section 204(b)(1)(a) of the Clean Water Act ("the Act" as defined by this Ordinance).

Sec. 19-54 Pretreatment Program Administration Charges

The POTW Director has reserved the authority to establish a Schedule of Charges and Fees for the reimbursement of costs incurred in operating and administering the required local Pretreatment Program in conjunction with the requirements of 40 CFR Part 403. Such charges shall become effective upon presentation to and adoption by the City Council. Costs to be provided for by the said schedule may include:

- (a) Reimbursement of the costs of the initial set up and the operation of the Pretreatment Program;
- (b) Monitoring, inspection, and surveillance procedures;
- (c) Reviewing accidental discharge procedures, and construction plans and specifications;
- (d) Permitting;
- (e) Labor and material used for enforcement actions;
- (f) Any other costs required of the City necessary to meet the requirements of the local pretreatment program and 40 CFR Part 403.

Sec. 19-55 Other Charges

- (a) The City Council may from time to time establish and amend a Schedule of Charges and Fees for the reimbursement of costs incurred in constructing wastewater taps and connections and wastewater collection and treatment facilities. Such Charges and Fees may include, but are not limited to, tap fees, frontage charges, availability fees, and acreage charges.
- (b) Schedules of Charges and Fees established by the City Council under paragraph (a) of this section may included discounts for payments made within a specified time period of the date when the user subject to the Charges and Fees is first notified of a requirement to connect to the City Sewer System.
- (c) The owner of any property to be connected may elect to enter into a written agreement with the City granting it a lien against said property and finance all wastewater tapping, connection, and availability fees due the City over a period of five (5) years at the maximum rate of interest permitted during the finance period by the North Carolina General Statutes for special assessments for public improvements.

- (d) Persons electing the method of payment provided for in paragraph (c) of this section shall make application to the Finance Department and shall be billed in annual installments equal to one-fifth (1/5) of the total amount financed plus interest as calculated in advance by the Finance Department through the City's assessment billing system. Persons may elect to make monthly payments at the time of application or at any time thereafter.
- (e) Past due or delinquent accounts shall be collected in accordance with the City's standard procedures and as may be allowed by law, including costs of collection, court costs, attorney's fees, termination of owner's utility service and imposing and perfecting a lien against owner's property.

DIVISION 4. PERMITS

Sec. 19-56 Wastewater Dischargers

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 90 days of receipt of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

Sec. 19-57 Wastewater Permits

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

- (a) Significant Industrial User Determination. All industrial users proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.
- (b) Significant Industrial User Permit Application. Users required to obtain a significant industrial user permit shall

complete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in **Sec 19-57(a)** above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from the address);
- (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in **DIVISION 2** of this Ordinance, any of the priority pollutants (Section 307(a) of the Act) that the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended and as required in Section 19-68 and 19-69;
- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all locations of discharge points, sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials that are or could be accidentally or intentionally discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O &

M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

- (9) If additional pretreatment and/or O & M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 - (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
 - (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR Part 403.12(b) and 15A N.C.A.C. 2H .0908(a), as outlined in **Sec. 19-59** of this Ordinance.
- (14) Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
- (15) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(c) Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 19-37 (a)(3) and contain the following certification statement:

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

(d) Application Review And Evaluation. The POTW Director will evaluate the data furnished by the user and may require additional information.

- (1) The POTW Director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) Tentative Determination and Draft Permit.

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - (i) proposed discharge limitations for those pollutants proposed to be limited;
 - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

(iii) a brief description of any other proposed special conditions that will have significant impact upon the discharge described in the application.

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

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

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

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

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

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

(g) Final Action On Significant Industrial User Permit Applications.

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

(2) The POTW Director is authorized to:

(i) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this Ordinance and N.C.G.S. 143-215.1;

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

- (iii) modify any permit upon not less than 60 days notice and pursuant to **Sec. 19-57** (i) of this Ordinance;
 - (iv) revoke any permit pursuant to **Sec. 19-77** of this Ordinance;
 - (v) suspend a permit pursuant to **Sec. 19-77** of this Ordinance;
 - (vi) deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of N.C.G.S. 143-215.1.
- (i) Permit Modification.
- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - (i) changes in the ownership of the discharge when no other change in the permit is indicated,
 - (ii) a single modification of any compliance schedule not in excess of 4 months,
 - (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
 - (2) Within 9 months of the promulgation of a Federal categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a Federal categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by **Sec. 19-57**(b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable Federal categorical pretreatment standard.
 - (3) A request for a modification by the permittee shall constitute a waiver of the 60 day notice required by N.C.G.S. 143-215.1(b) for modifications.
- (j) Permit Conditions.
- (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this Ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - (i) a statement of duration (in no case more than 5 years);
 - (ii) a statement of nontransferability;
 - (iii) applicable effluent limits based on categorical standards or local limits or both;
 - (iv) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (v) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 19-37 (a)(42);
 - (vi) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 19-37 (a)(42), if determined by the **POTW Director** to be necessary for the User and,
 - (vii) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 19-37 (a)(42). Also see Sections **19-63 and 19-64**;
 - (viii) a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
 - (2) In addition, permits may contain, but are not limited to, the following:
 - (i) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

- (ii) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- (iii) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
- (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
- (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- (vii) Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (viii) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
- (ix) Compliance schedules for meeting pretreatment standards and requirements.
- (x) Requirements for submission of periodic self-monitoring or special notification reports.
- (xi) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in **Sec. 19-71** and affording the POTW Director, or his representatives, access thereto.
- (xii) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
- (xiii) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
- (xiv) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those becoming effective during the terms of the permit.
- (xv) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.
- (k) **Permits Duration.** Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (l) **Permit Transfer.** Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (m) **Permit Reissuance.** A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with **Sec. 19-57** a minimum of 180 days prior to the expiration of the existing permit.

Sec. 19-58 Hearings

Hearings: The local government may conduct hearings in accordance with its regular hearing procedure.

- (1) **Initial Adjudicatory Hearing.** An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under **Sec. 19-78**, or one issued an administrative order under **Sec. 19-77** shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such

written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The POTW Director shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the decision by registered or certified mail as described in paragraph (iii) below. The terms and conditions of a permit under appeal shall be as follows:

- (i) **New Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
 - (ii) **Renewed Permits.** Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
 - (iii) **Terminated Permits.** Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) **Final Appeal Hearing.** Any decision of the POTW Director made as a result of an adjudicatory hearing held under paragraph (i) above may be appealed, to the City Manager upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with the City's hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The City Manager shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
- (3) **Official record.** When a final decision is issued under **Sec. 19-58(2)** above, the City Manager shall prepare an official record of the case that includes:

- (i) All notices, motions, and other like pleadings;
- (ii) A copy of all documentary evidence introduced;
- (iii) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (iv) A copy of the final decision of City Manager.

- (4) **Judicial Review.** Any person against whom a final order or decision of the City Manager is entered, pursuant to the hearing conducted under paragraph (2) above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Lenior County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter with a copy to the City. Within 30 days after receipt of the copy of the written request for review by the Court, the City Manager shall transmit to the reviewing court the original or a certified copy of the official record.

DIVISION 5. REPORTING REQUIREMENTS

Sec. 19-59 Baseline Monitoring Reports

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

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

- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
- (4) 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 waste stream formula set out in 40 CFR Part 403.6(e).
- (5) Measurement of Pollutants.
 - (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, 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 **Sec. 19-68** of this Ordinance.
 - (iii) Sampling must be performed in accordance with procedures set out in **Sec. 19-69** of this Ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 19-37(a)(3) 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.

- (7) Compliance Schedule. If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Section must meet the requirements set out in **Sec. 19-60** of this Ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with **Sec. 19-57(c)** of this Ordinance.

Sec. 19-60 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by **Sec. 19-59(b)(7)** of this Ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

Sec. 19-61 Compliance Reports For Categorical Pretreatment Standards

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to

such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in **Sec. 19-59(b)(4-6)** of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR Part 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with **Sec. 19-57(c)** of this Ordinance.

Sec. 19-62 Periodic Compliance Reports

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section **19-67 and 19-69** of this ordinance. All periodic compliance reports must be signed and certified in accordance with section 19-57(c) of this ordinance.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section **19-68 and 19-69** of this ordinance, the results of this monitoring shall be included in the report.

Sec. 19-63 Reports Of Changed Conditions

Each user must notify the POTW Director of any planned significant changes to the user's operations or system that might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See Section 19-64(d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under **Sec. 19-57** of this Ordinance.

- (b) The POTW Director may issue a wastewater discharge permit under **Sec. 19-57** of this Ordinance or modify an existing wastewater discharge permit under **Sec. 19-57** of this Ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases or decreases of twenty percent (20%) or greater, or the discharge of any previously unreported pollutants.

Sec. 19-64 Reports Of Potential Problems

- (a) 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 as defined in Section 19-37(a)(42), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed pursuant to this Ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 19-37(a)(42).

Sec. 19-65 Reports From Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require. All users classified as Non-Significant Categorical Industrial Users under Section **[19-37**

(40)(v)] shall provide appropriate reports to the POTW Director as the POTW Director may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(g).

Sec. 19-66 Notice Of Violation/Repeat Sampling And Reporting

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

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

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

(b) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

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

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

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

Sec. 19-67 Notification Of The Discharge Of Hazardous Waste

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the

POTW of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).

(b) If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user:

(1) An identification of the hazardous constituents contained in the wastes,

(2) An estimation of the mass and concentration of such constituents in the waste stream discharge during the calendar month

(3) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.

(c) All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under **Sec. 19-63** of this Ordinance. The notification requirement in this Section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of **Sections 19-59, 19-61, and 19-62** of this Ordinance.

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

(e) In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director,

and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- (f) In the case of any notification made under this Section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (g) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable Federal or State law.

Sec. 19-68 Analytical Requirements

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

Sec. 19-69 Grab and Composite Sample Collection

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge
- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

- (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

Sec. 19-70 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports that 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.

Sec. 19-71 Record Keeping

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

Sec. 19-72 Electronic Reporting

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Division 7 of this Ordinance.

DIVISION 6. COMPLIANCE MONITORING

Sec. 19-73 Monitoring Facilities

The City may require users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should

normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

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

Sec. 19-74 Inspection And Sampling

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

Sec. 19-75 Search Warrants

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

Justice to gain free and easy access to the building, structure, property or part thereof suspected to be contributing to the cause of the violation.

Sec. 19-76 Confidential Information

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

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

All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

DIVISION 7. ENFORCEMENT

Sec. 19-77 Administrative Remedies

- (a) Notification Of Violation. Whenever the POTW Director finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- (b) Consent Orders. The POTW Director is hereby empowered to enter into consent orders, assurances of

voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to **Sec. 19-77(d)**, below.

(c) Show Cause Hearing.

- (1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this Ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.
- (3) A show cause hearing under this Section is not a prerequisite to the assessment of a civil penalty under **Sec. 19-78** nor is any action or inaction taken by the POTW Director under this Section subject to an administrative appeal under **Sec. 19-58**.

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

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

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

An industrial user to whom an administrative order is issued may appeal the administrative order under the procedures set under **Sec. 19-58** of this Ordinance.

(e) Emergency Suspensions.

- (1) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Nondischarge permit.
- (2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.
- (3) The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination Of Permit or Permission to Discharge

The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
 - (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.
- (g) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under **Sec. 19-77** of this Ordinance why the proposed action should not be taken.

Sec. 19-78 Civil Penalties

(a) Any user who is found to have failed to comply with any provision of this Ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to twenty five thousand dollars (\$25,000) per day per violation

- a. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
 - (i) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
 - (ii) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
 - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;
 - (3) The effect on ground or surface water quantity or quality or on air quality;
 - (4) The cost of rectifying the damage;

- (5) The amount of money saved by noncompliance;
 - (6) Whether the violation was committed willfully or intentionally;
 - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (8) The costs of enforcement to the City.
- (c) Appeals of civil penalties assessed in accordance with this Section shall be as provided in **Sec. 19-58**.

Sec. 19-79 Other Available Remedies

Remedies, in addition to those previously mentioned in this Ordinance, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (a) Criminal Violations. The District Attorney for the City's Judicial District may, at the request of the City, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (NCGS 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (NCGS 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (NCGS 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (NCGS 143-215.6B(i)).
- (b) Injunctive Relief. Whenever a user is in violation of the provisions of this Ordinance or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Lenoir County for the issuance of a restraining order or a preliminary and permanent injunction that restrains or compels the activities in question.
- (c) Water Supply Severance. Whenever an industrial user is in violation of the provisions of this Ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at

the user's expense, after it has satisfactorily demonstrated ability to comply.

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

Sec. 19-80 Remedies Nonexclusive

The remedies provided for in this Ordinance are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

Sec. 19-81 Annual Publication Of Significant Noncompliance

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

Sec. 19-82 Upset

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance

with applicable operation and maintenance procedures; and

- (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (iii) Steps being taken and/or planned to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility fails, or is reduced or lost.

Sec. 19-83 Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in **Sec. 19-38(a)** of this Ordinance or the specific prohibitions in **Sections 19-38(b)(2), (3) and (5) through (7)** of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, whether alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when 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) Pursuant to 40 CFR Part 403.5(a)(2), the affirmative defense outlined in **Sec. 19-83** cannot apply to the specific prohibitions in **Sections 19-38(b)(1), (4), and (8)**.

Sec. 19-84 Bypass

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

(b) Notice.

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(c) Prohibition of Bypass.

- (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment

facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

- (iii) The user submitted notices as required under paragraph (b) of this Section.

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

DIVISION 8. IMPLEMENTATION

Sec. 19-85 Severability and Conflict

- (a) If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.
- (b) All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict. This ordinance repeals and replaces **Sec. 19-36** through **Sec. 19-42** and **Sec. 19-56** through **Sec. 19-69** of the City Code of Ordinances in effect prior to and at the time of its adoption.

Sec. 19-86 Effective Date

This Ordinance shall be in full force and effect from and after passage, approval and publication, as provided by law.