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EPA MODEL PRETREATMENT ORDINANCE

Office of Wastewater Enforcement and Compliance

June 1992

U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

EPA MODEL PRETREATMENT ORDINANCE

This Model Pretreatment Ordinance has been prepared by the United States Environmental Protection Agency (USEPA), Office of Wastewater Enforcement and Compliance, Permits Division. It is intended for use by municipalities operating Publicly Owned Treatment Works (POTWs) that are required to develop pretreatment programs to regulate industrial discharges to their systems.

A municipality should not adopt the model verbatim. Instead, the model should be used as a guide for adopting new or revised legal authority to implement and enforce a pretreatment program that fulfills requirements set out in the Code of Federal Regulations (CFR). The municipality must consider conditions at its POTW and consult State law to determine what adjustments may need to be made to the model. Many provisions in the model contain blanks or brackets; these indicate that the provision must be adapted to the POTW's circumstances. Also, bracketed notes in bold print are provided for certain provisions, explaining issues the municipality must consider when crafting its legal authority.

Some provisions in the model are not strictly required by the General Pretreatment Regulations (40 CFR Part 403); however, they have been included because they may be useful in ensuring that the municipality has adequate legal authority to implement effectively its local pretreatment program. These provisions are designated as optional. Where a municipality either must adopt a provision similar to the one in the model or develop its own means of accomplishing that section's objective, the section is preceded by a bracketed note explaining the municipality's options. Other provisions, such as the model's statement of purpose and effective date, are "necessary" only to the extent that they are typical of any local ordinance.

USEPA Regions and representatives of various States and municipalities provided valuable comments in helping to prepare this document. Special thanks are extended to members of the Association of Metropolitan Sewage Authorities for their participation in the document's preparation.

This EPA Model Pretreatment Ordinance also is available on diskette in Word Perfect 5.1 format. It may be obtained by writing to:

Pretreatment Ordinance Coordinator
Permits Division (EN-336)
U.S. Environmental Protection Agency
401 M Street, SW, Washington, DC 20460

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EPA MODEL PRETREATMENT ORDINANCE

ORDINANCE NO. _____

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the **[City of _____]** and enables **[the City]** to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable **[the City]** to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

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

1.3 Abbreviations

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

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- NPDES -National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- TSS - Total Suspended Solids
- U.S.C. - United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

[Note: Each of the terms and phrases defined below are used at least once in the ordinance. When the municipality adopts its final version of the ordinance, it should delete from this Section all terms not used.]

A. 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.*

B. Approval Authority. ***[Note: Designate the State as the Approval Authority if the State has an EPA-approved pretreatment program. Alternatively, designate the appropriate Regional Administrator of EPA as the Approval Authority in a nonapproved State.]***

C. Authorized Representative of the User.

(1) If the user is a corporation:

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

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

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

(3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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

D. Biochemical Oxygen Demand or 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).

E. 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) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

F. [City]. [The City of _____] or [the City Council of _____].

G. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

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

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

J. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

K. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

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

M. 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.

N. New Source.

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

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

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

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

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

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

(i) any placement, assembly, or installation of facilities or equipment; or

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

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

O. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

P. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of [the City's] NPDES permit, including an increase in the magnitude or duration of a violation.

Q. 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 governmental entities.

R. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

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

T. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

U. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

V. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

W. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.

X. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by **[the City]**. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Y. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Z. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

AA. Significant Industrial User.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by **[the City]** on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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

BB. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance.

CC. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

DD. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

EE. **[Superintendent]**. The person designated by **[the City]** to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

FF. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

GG. User or Industrial User. A source of indirect discharge.

HH. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

II. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

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

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

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 **[or more than ____]**, or otherwise causing corrosive structural damage to the POTW or equipment;

[Note: The municipality should be aware that the General Pretreatment Regulations at 40 CFR 403.5(b) do not set an upper pH limit, although many

municipalities find such a limit necessary or useful. If the municipality wishes to set an upper pH limit, it should insert one in this section. Any pH above 12.5 is considered hazardous under 40 CFR 261.22.]

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference **[but in no case solids greater than _____ inch(es) (____") or _____ centimeter(s) (____ cm) in any dimension]**;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature greater than **[____°F (____°C)]**, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by **[the Superintendent]** in accordance with Section 3.4 of this ordinance;

[Note: Discharge prohibitions B.(1) through B.(8) are mandatory and must be included in the ordinance; discharge prohibitions B.(9) through B.(17) below are optional.]

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

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating **[the City's]** NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water,

noncontact cooling water, and unpolluted wastewater, unless specifically authorized by **[the Superintendent]**;

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by **[the Superintendent]** in a wastewater discharge permit;

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

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than **[_____ (____)mg/l]**; ***[Note: Numeric limits for these pollutants may be placed in Section 2.4.]*** or

(18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than **[_____ percent (____%)]** or any single reading over **[_____ percent (____%)]** of the Lower Explosive Limit of the meter.

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

2.2 National Categorical Pretreatment Standards

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. ***[Note: State procedures for incorporation by reference must be followed.]***

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

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

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

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

2.3 State Pretreatment Standards

[State pretreatment standards located at [insert appropriate cite to State statute or regulation] are hereby incorporated.]

[Note: In the case of an Approved State, the ordinance should incorporate applicable State pretreatment standards. Even if the State does not have an approved program, the ordinance should incorporate State pretreatment standards which are more stringent than the categorical pretreatment standards.]

2.4 Local Limits

[Note: Municipalities may need to establish limits for some or all of the pollutants listed below, and may need to set limits for pollutants not listed below. The municipality must provide public notice and an opportunity to respond to interested parties. This requirement applies whether local limits are set by ordinance or on a case-by-case basis.

The municipality may set limits as instantaneous maximums or for other durations (e.g., daily maximums or monthly averages). The municipality should define these durations in its definition section.]

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following **[instantaneous maximum allowable discharge limits]**:

____ mg/l arsenic

____ mg/l benzene

____ mg/l beryllium

____ mg/l BOD_5

___ mg/l cadmium

___ mg/l chromium

___ mg/l copper

___ mg/l cyanide

___ mg/l lead

___ mg/l mercury

___ mg/l nickel

___ mg/l oil and grease

___ mg/l selenium

___ mg/l silver

___ mg/l total phenols

___ mg/l total suspended solids

___ mg/l zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. **[The Superintendent]** may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

2.5 [City's] Right of Revision

[The City] reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.6 Dilution

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

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, the State, or **[the Superintendent]**, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to **[the Superintendent]** for review, and shall be acceptable to **[the Superintendent]** before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to **[the City]** under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

[Note: These provisions are optional. The municipality may provide legal authority to do the following.]

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

B. **[The Superintendent]** may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

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

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

3.3 Accidental Discharge/Slug Control Plans

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

A. Description of discharge practices, including nonroutine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying **[the Superintendent]** of any accidental or slug discharge, as required by Section 6.6 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.

3.4 Hauled Wastewater

[Note: The municipality must ensure that hauled industrial waste is adequately regulated and should consider taking measures to ensure that haulers of septic tank waste are not introducing industrial waste to the POTW. The following is one possible means of regulating hauled waste.]

A. Septic tank waste may be introduced into the POTW only at locations designated by **[the Superintendent]**, and at such times as are established by **[the Superintendent]**. Such waste shall not violate Section 2 of this ordinance or any other requirements established by **[the City]**. **[The Superintendent]** may require septic tank waste haulers to obtain wastewater discharge permits.

B. **[The Superintendent]** shall require haulers of industrial waste to obtain wastewater discharge permits. **[The Superintendent]** may require generators of hauled industrial waste to obtain wastewater discharge permits. **[The Superintendent]** 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 Superintendent]**. No load may be discharged without prior consent of **[the Superintendent]**. **[The Superintendent]** may collect samples of each hauled load to ensure compliance with applicable standards. **[The Superintendent]** 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.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

[Note: The municipality must control significant industrial users by permits or equivalent individual control mechanisms. Sections 4 and 5 detail one means of fulfilling this requirement.]

4.1 Wastewater Analysis

When requested by **[the Superintendent]**, a user must submit information on the nature and characteristics of its wastewater within [_____ (____)] days of the request. **[The Superintendent]** is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Discharge Permit Requirement

A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from **[the Superintendent]**, except that a significant industrial user that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.

B. **[The Superintendent]** may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within [_____ (____)] days after said date, apply to **[the Superintendent]** for a wastewater discharge permit in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after [_____ (____)] days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by **[the Superintendent]**.

4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.5 of this ordinance, must be filed at least [_____ (____)] days prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. **[The Superintendent]** may require all users to submit as part of an application the following information:

A. All information required by Section 6.1(B) of this ordinance;

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

C. Number and type of employees, hours of operation, and proposed or actual hours of operation;

D. Each product produced by type, amount, process or processes, and rate of production;

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

F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

G. Time and duration of discharges; and

H. Any other information as may be deemed necessary by **[the Superintendent]** to evaluate the wastewater discharge permit application.

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

4.6 Application Signatories and Certification

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

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based

on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4.7 Wastewater Discharge Permit Decisions

[The Superintendent] will evaluate the data furnished by the user and may require additional information. Within [_____ (___)] days of receipt of a complete wastewater discharge permit application, **[the Superintendent]** will determine whether or not to issue a wastewater discharge permit. **[The Superintendent]** may deny any application for a wastewater discharge permit.

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

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

5.2 Wastewater Discharge Permit Contents

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

A. Wastewater discharge permits must contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed [_____ (___)] years **[not more than five]**;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to **[the City]** in accordance with Section 5.5 of this ordinance,

and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards;

(4) Self 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; and

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

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

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

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

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

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

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

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

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

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

5.3 Wastewater Discharge Permit Appeals

[The Superintendent] shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition **[the Superintendent]** to reconsider the terms of a wastewater discharge permit within [_____ (____)] days of notice of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

D. If **[the Superintendent]** fails to act within [_____ (____)] days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the **[insert name of appropriate Court]** for **[proper jurisdiction]** within **[insert appropriate State Statute of Limitations]**.

5.4 Wastewater Discharge Permit Modification

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

A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to **[the City's]** POTW, **[City]** personnel, or the receiving waters;

E. Violation of any terms or conditions of the wastewater discharge permit;

F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

H. To correct typographical or other errors in the wastewater discharge permit; or

I. To reflect a transfer of the facility ownership or operation to a new owner or operator.
[Note: Modification for this purpose may not be allowed unless the permit is transferable as provided in Section 5.5.]

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least [_____ (____)] days advance notice to **[the Superintendent]** and **[the Superintendent]** approves the wastewater discharge permit transfer. The notice to **[the Superintendent]** must include a written certification by the new owner or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

5.6 Wastewater Discharge Permit Revocation

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

A. Failure to notify **[the Superintendent]** of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to **[the Superintendent]** of changed conditions pursuant to Section 6.5 of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports;

E. Tampering with monitoring equipment;

F. Refusing to allow **[the Superintendent]** timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a minimum of [_____ (____)] days prior to the expiration of the user's existing wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

[Note: The municipality must ensure that discharges received from entities outside of its jurisdictional boundaries are regulated to the same extent as are discharges from within its jurisdictional boundaries. How a municipality regulates such discharges largely will be determined by what is allowed under its State law. The municipality must determine the extent of its authority under State law to regulate users located outside of its jurisdictional boundaries. If the municipality does not have the legal authority to issue enforceable permits directly to extrajurisdictional dischargers and cannot obtain this authority under State law, it should strongly consider entering into an agreement with the municipality in which the dischargers are located. The agreement would require that the contributing municipality either regulate the dischargers within its jurisdiction directly or allow the municipality (in which the POTW is located) to regulate such dischargers. Following is one possible means of regulating dischargers located outside of the municipality's jurisdictional boundaries.]

A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, **[the Superintendent]** shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, **[the Superintendent]** shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as **[the Superintendent]** may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to **[the City's]** ordinance or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by **[the Superintendent]**; and which of these activities will be conducted jointly by the contributing municipality and **[the Superintendent]**;

(4) A requirement for the contributing municipality to provide **[the Superintendent]** with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring **[the Superintendent]** access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by **[the Superintendent]**; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

[Note: Where the contributing municipality has primary responsibility for permitting, compliance monitoring, or enforcement, the intermunicipal agreement should specify that the municipality (in which the POTW is located) has the right to take legal action to enforce the terms of the contributing municipality's ordinance or to impose and enforce pretreatment standards and requirements directly against noncompliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.]

SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

A. 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 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to **[the Superintendent]** a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to **[the Superintendent]** a report which contains the information listed in paragraph 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 which 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 wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of Pollutants.

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

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by **[the Superintendent]**, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance.

(c) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.

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

(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 Section 6.2 of this ordinance.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(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 Superintendent]** no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to **[the Superintendent]**.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to **[the Superintendent]** a report containing the information described in Section 6.1(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.4 Periodic Compliance Reports

[Note: 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 Superintendent]** but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

B. 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.

C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by **[the Superintendent]**, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each user must notify **[the Superintendent]** of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [_____ (____)] days before the change.

A. **[The Superintendent]** may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this ordinance.

B. **[The Superintendent]** may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 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 increases of [____ **percent** (____%)] or greater, and the discharge of any previously unreported pollutants. ***[Note: EPA regulations do not define the term "significant change." However, it is recommended that changes of twenty percent (20%) or greater be considered significant changes.]***

6.6 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, that may cause potential problems for the POTW, the user shall immediately telephone and notify **[the Superintendent]** of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days following such discharge, the user shall, unless waived by **[the Superintendent]**, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance. ***[Note: This report is not required under the General Pretreatment Regulations and, therefore, is optional.]***

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.

6.7 Reports from Unpermitted Users

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

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify **[the Superintendent]** within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to **[the Superintendent]** within thirty (30) days after becoming aware of the violation. The user is not required to resample if **[the Superintendent]** monitors at the user's facility at least once a month, or if **[the Superintendent]** samples between the user's initial sampling and when the user receives the results of this sampling.

6.9 Notification of the Discharge of Hazardous Waste

[Note: The municipality may choose to prohibit the discharge of hazardous wastes.]

A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. 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 discharged. However, notifications of changed conditions must be submitted under Section 6.5 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 6.1, 6.3, and 6.4 of this ordinance.

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

C. In the case of any new regulations 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 Superintendent]**, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

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

6.10 Analytical Requirements

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

6.11 Sample Collection

A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, **[the Superintendent]** may authorize the use of

time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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

6.12 Timing

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

6.13 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 **[the City]**, or where the user has been specifically notified of a longer retention period by **[the Superintendent]**.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

[The Superintendent] shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow **[the Superintendent]** ready

access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, **[the Superintendent]** will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. **[The Superintendent]** shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. **[The Superintendent]** may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated **[insert desired frequency]** to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of **[the Superintendent]** and shall not be replaced. The costs of clearing such access shall be born by the user.

E. Unreasonable delays in allowing **[the Superintendent]** access to the user's premises shall be a violation of this ordinance.

7.2 Search Warrants

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

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from **[the Superintendent's]** inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of **[the Superintendent]**, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

[The Superintendent] shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-)month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-)month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other discharge violation that **[the Superintendent]** believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in **[the Superintendent's]** exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s) which **[the Superintendent]** determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

[Note: The municipality must refer to State law to see if the remedies listed in Sections 10, 11, and 12 are allowable. The municipality must have the authority to seek injunctive relief for noncompliance and to seek or assess penalties of at least $1,000 a day for each violation of pretreatment standards or requirements by industrial users.]

10.1 Notification of Violation

When **[the Superintendent]** finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, **[the Superintendent]** may serve upon that user a written Notice of Violation. Within [_____(___)] days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to **[the Superintendent]**. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of **[the Superintendent]** to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

[The Superintendent] may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

[The Superintendent] may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before **[the Superintendent]** and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least [_____ (____)] days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

10.4 Compliance Orders

When **[the Superintendent]** finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, **[the Superintendent]** may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may

not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.5 Cease and Desist Orders

When **[the Superintendent]** finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, **[the Superintendent]** may issue an order to the user directing it to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements; and

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

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

10.6 Administrative Fines

[Note: The municipality should consult State law to determine whether it has the legal authority to impose administrative penalties.]

A. When **[the Superintendent]** finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, **[the Superintendent]** may fine such user in an amount not to exceed **[insert maximum fine allowed under State Law]**. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after [_____ (____)] calendar days, be assessed an additional penalty of [_____ percent (____%)] of the unpaid balance, and interest shall accrue thereafter at a rate of [_____ percent (____%)] per month.

A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for **[the Superintendent]** to reconsider the fine along with full payment of the fine amount within [_____ (____)] days of being notified of the fine. Where a request has merit, **[the Superintendent]** may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. **[The Superintendent]** may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.7 Emergency Suspensions

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

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, **[the Superintendent]** may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. **[The Superintendent]** may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of **[the Superintendent]** that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to **[the Superintendent]** prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

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

10.8 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any user who violates the following conditions is subject to discharge termination:

A. Violation of wastewater discharge permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by **[the Superintendent]** shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When **[the Superintendent]** finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, **[the Superintendent]** may petition the **[insert name of appropriate Court]** through **[the City's]** Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. **[The Superintendent]** may also seek such other action as is appropriate for legal

and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.2 Civil Penalties

[Note: The municipality must have the minimum authority to seek civil or criminal penalties in the amount of at least $1,000 per day per violation.]

A. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to **[the City]** for a maximum civil penalty of **[insert maximum allowed under State law but not less than $1,000]** per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. **[The Superintendent]** may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by **[the City]**.

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

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.3 Criminal Prosecution

[Note: The municipality should enact all criminal authorities authorized under State law.]

A. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than **[insert maximum fine allowed under State law]** per violation, per day, or imprisonment for not more than [_____ (____)] years, or both.

B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a **[misdemeanor]** and be subject to a penalty of at least **[insert maximum fine allowable under State law]**, or be subject to imprisonment for not more than [_____ (____)] years, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than **[insert maximum fine allowable under State law]** per violation, per day, or imprisonment for not more than [_____ (____)] years, or both.

D. In the event of a second conviction, a user shall be punished by a fine of not more than **[insert maximum fine allowable under State law]** per violation, per day, or imprisonment for not more than [_____ (____)] years, or both.

11.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. **[The Superintendent]** 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 Superintendent]** may take other action against any user when the circumstances warrant. Further, **[the Superintendent]** is empowered to take more than one enforcement action against any noncompliant user.

SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Performance Bonds [Optional]

[The Superintendent] may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to **[the City]**, in a sum not to exceed a value determined by **[the Superintendent]** to be necessary to achieve consistent compliance.

12.2 Liability Insurance [Optional]

[The Superintendent] may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

12.3 Water Supply Severance [Optional]

Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

12.4 Public Nuisances [Optional]

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by **[the Superintendent]**. Any person(s) creating a public nuisance shall be subject to the provisions of **[the City Code] [insert proper citation]** governing such nuisances, including reimbursing **[the City]** for any costs incurred in removing, abating, or remedying said nuisance.

12.5 Informant Rewards [Optional]

[The Superintendent] may pay up to **[_____ dollars ($____)]** for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty **[or an administrative fine]** levied against the user, **[the Superintendent]** may disperse up to **[_____ percent (____%)]** of the collected fine or penalty to the informant. However, a single reward payment may not exceed **[_____ dollars ($____)]**.

12.6 Contractor Listing [Optional]

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to **[the City]**. Existing contracts for the sale of goods or services to **[the City]** held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of **[the Superintendent]**.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

[Note: Although Federal law allows the affirmative defenses set out in this Section, some Approved States do not allow for one or more of the affirmative defenses listed below.]

13.1 Upset

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

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

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

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

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

(3) The user has submitted the following information to **[the Superintendent]** within twenty-four (24) hours of becoming aware of the upset **[if this information is provided orally, a written submission must be provided within five (5) days]**:

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

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

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

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

E. 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.

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

13.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(3) through [(__)] of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when **[the 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.

[Note: The references in Section 13.2 should refer only to specific prohibitions actually listed in the ordinance. Also note that, pursuant to 40 CFR Section 403.5(a)(2), the affirmative defense outlined in Section 13.2 cannot apply to the specific prohibitions in Sections 2.B(1) and (2), and (8).]

13.3 Bypass

A. For the purposes of this section,

(1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

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

C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to **[the Superintendent]**, at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to **[the Superintendent]** 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 the 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 Superintendent]** may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. (1) Bypass is prohibited, and **[the Superintendent]** may take an enforcement action against a user for a bypass, unless

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

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

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

(2) **[The Superintendent]** may approve an anticipated bypass, after considering its adverse effects, if **[the Superintendent]** determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 14 - WASTEWATER TREATMENT RATES

[RESERVED]

SECTION 15 - MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees [Optional]

[The City] may adopt reasonable fees for reimbursement of costs of setting up and operating **[the City's]** Pretreatment Program which may include:

A. Fees for wastewater discharge permit applications including the cost of processing such applications;

B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

C. Fees for reviewing and responding to accidental discharge procedures and construction;

D. Fees for filing appeals; and

E. Other fees as **[the City]** may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by **[the City]**.

15.2 Severability [Optional]

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 16 - EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.