

## **Water and Sewer Systems**

### **SEWER USE ORDINANCE**

#### **JOINT MUNICIPAL WATER & SEWER COMMISSION**

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Prepared for

#### **Joint Municipal Water and Sewer Commission**

Prepared by

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## **JOINT MUNICIPAL WATER AND SEWER COMMISSION SEWER USE ORDINANCE**

### **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 Lexington County Joint Municipal Water and Sewer Commission (Commission) and enables the Commission 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 promote and protect the health and safety of the citizens residing within the Commission's service;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- C. To prevent the introduction of pollutants into the Commission 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;
- D. 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;
- E. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- F. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- G. To enable the Commission 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 applies to all users of the Commission Publicly Owned Treatment Works, whether directly or indirectly contributing. The ordinance authorizes enforcement of general requirements for users and 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 General Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the General Manager may be delegated by the General Manager to other Commission 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
- SCDHEC - South Carolina Department of Health and Environmental Control
- 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.

- 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. The State of South Carolina.
- 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 Commission.

- D. Average Daily Flow. The average amount of wastewater discharged during a twenty-four (24) hour period based upon weekly or monthly data, as applicable. For example, weekly average daily flow is the *total amount of flow* discharged during a seven (7) day period divided by seven (7).
- E. 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).
- F. 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.
- G. Categorical User. Any user whose discharge is covered under the categorical pretreatment standard.
- H. Commission. The Lexington County Joint Municipal Water and Sewer Commission.
- I. Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of South Carolina.
- J. Domestic Waste. Any liquid from bathrooms, shower rooms, toilet rooms, kitchens, laundry facilities located in residences, apartments, hotels, motels, restaurants, cafeterias, office buildings, schools, and commercial establishments. It also includes similar wastes from industries when separated from industrial waste.
- K. 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.
- L. 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.



- M. Excessive Foaming. Foaming that can not be contained within the POTW or adversely affects the operation of it.
- N. 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.
- O. Headworks Analysis. Determines the maximum amounts of various pollutants that could be discharged at the headworks of the POTW without violating the receiving stream limits. This analysis is based on the minimum flow of the receiving stream, discharges from other POTW's to the receiving stream, and contributions from all users to the Commission POTW. The Head Works Analysis is updated from time to time.

In case the Commission discharges it's wastewater into another municipal POTW through a legal agreement, the Headworks Analysis may be performed based on the total number of pretreatment users in systems contributing to the participating municipal POTW, and characteristics and discharges to the new receiving stream.

- P. Indirect Discharge or Discharge. The discharge of treated or untreated wastewater into the POTW from any domestic or non-domestic source.
- Q. Industrial User. A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Federal Water Pollution Control Act (33 U.S.C. 1342).
- R. Industrial Waste. Liquid waste from industrial processes.
- S. 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.
- T. 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 Commission's NPDES permit (or any other municipality's NPDES permit which has entered into an agreement to treat Commission's wastewater) 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.

- U. May. Is permissive.
- V. Maximum Daily Flow. It is the maximum flow discharged over a twenty four (24)-hour period based upon weekly, monthly or yearly data as applicable. For example, yearly maximum daily flow is the maximum daily flow experienced over a one (1) year period.
- W. 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.
- X. Net Adjustment. Adjustment made to the user's Pretreatment Standard(s), based on the concentration of pollutant(s) in the user's intake water pursuant to Part 403.15 of 40 CFR.
- Y. 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 on-site construction program
      - (i) any placement, assembly, or installation of facilities or equipment; or
      - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; 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.
- Z. 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.
- AA. General Manager. The person designated by the Commission to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- AB. Participating Municipality. Any neighboring municipality that maintains an approved pretreatment program and which entered into a legal agreement with Commission to treat and dispose of the Commission's wastewater.
- AC. 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 POTW NPDES permit, including an increase in the magnitude or duration of a violation.

- AD. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- AE. pH. Logarithm of the reciprocal of the weight of hydrogen ions in moles (gram moles) per liter of solution.
- AF. 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).
- AG. Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- AH. 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.
- AI. Pretreatment Program. A set of procedures designed to help achieve the Commission the objectives listed in Section 1.1 of this document.
- AJ. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- AK. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- AL. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.2 of this ordinance.

AM. 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 Commission. The definition may also apply to treatment works owned by any other municipality to which the Commission’s wastewater is conveyed for treatment and disposal. 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.

AN. Receiving Stream. Is that body of water, stream, or watercourse receiving the discharge from a waste treatment plant, or that body of water, stream, or watercourse formed by the effluent from a waste treatment plant.

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

AP. Sewage. Human excrement and gray water (household showers, dishwashing operations, Etc.).

AQ. Shall. Is mandatory.

AR. 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 Commission 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 Commission 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.

- AS. Significant Noncompliance. Criteria used to identify important violations and/or patterns of noncompliance with the discharge limits or other provisions of the Commission's Sewer Use Ordinance as defined in Section 9 of this ordinance.
- AT. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.2 of this ordinance.
- AU Southern Building Code. An ordinance prepared by the Southern Building Code Congress International, Inc. which is used to regulate the fabrication, erection, construction, enlargement, alteration and repair of structures.
- AV. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.
- AW. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- AX. 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.
- AY. Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA(a) or other Clean Water Acts.
- AZ. Toxicity Test. A procedure approved by SCDHEC, in which the responses of aquatic organisms are used to measure or detect the presence or effects of one or more substances, wastes, or environmental factors, alone or in combination.
- BA. User. A source of Indirect Discharge.
- BB. Utility Rate Schedule. A document updated from time to time which establishes the exact amounts of all categories of fees based upon various criterion such as meter sizes, flow, or other suitable criteria for the fee identified.
- BC. Waste Load Allocation. Is the establishment of flows, and pollutant limits and loads for the proposed non-domestic discharges based on the POTW Head Works Analysis which is updated from time to time.

- BD. 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.
- BE. Wastewater Collection System. That portion of the POTW which collects and conveys wastewater to the wastewater treatment plant, which consists of gravity or force mains, pumps, and other appurtenances.
- BF. 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 General Standards**

- A. Within the area serviced by Commission's sewer, if sewer service is available within a distance of two hundred and fifty (250) feet from the property boundary, the property owner shall be encouraged to tie-on to the Commission sewer line. In the event that a sewer connection has been made to the Commission sewer system, the Commission may charge for sewer service as if the service is being used, even though the sewer service is not being used. Septic tanks on any property that is serviced by Commission sewer shall be cleaned out and properly abandoned. All active septic tanks must be maintained in good working order. No spillage or overflow from septic tank waste shall be allowed. All repairs to the septic tank system shall be handled by experienced and qualified professionals only. Sewer service using privies, cesspools, and/or outhouses is prohibited.
- B. Any person desiring to connect with the Commission's sanitary sewer system shall obtain a permit for such connection upon paying applicable fees and according to the procedure outlined in Section 4.4 of this ordinance.
- C. Every building having plumbing fixtures installed intended for human habitation, occupancy, or use on premises abutting on a street, alley, or easement in which there is a public sewer shall have a separate connection with the Commission sewer, except by special permits in accordance with Section 701.2 of Southern Building Code. Reuse of building sewers is not permitted, unless approved by the General Manager.
- D. Building sewer line work shall not be commenced until the plans and specifications have been approved by all applicable governmental entities.

Such work shall be performed to the satisfaction of the Commission and all building sewer line materials, grades, and sizes shall be according to the Southern Building Code Section 7 - Sanitary Drainage. Sewer line construction or maintenance work shall follow the Occupational Safety and Health Administration Safety Standards as outlined in 29 CFR 1910.

- E. If a user located within another municipal jurisdiction contributes wastewater to the Commission POTW, the user's building sewer work shall be performed according to Section 2.1D of this ordinance. Failure to comply with this provision will result in refusal of sewer service by the Commission.
- F. Septic tank services or other maintenance services shall not contract for the removal of septic tank sludge or any maintenance of septic tank on any property serviced by Commission sewer, unless authorized by the General Manager. Any company or firm which violates this provision shall be subjected to the same fines and other enforcement actions that are applicable to the user or septic tank owner.

## **2.2 Prohibited Discharge Standards**

- A. General Prohibitions. 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.
  - (1) No person shall discharge septic tank effluent or cesspool overflow to any open drain, ditch, stream, or well penetrating waterbearing formations, if cesspools and septic tanks are allowed in areas where no sewer service is available.
  - (2) No user shall introduce or cause to be introduced into the POTW:
    - (a) Any pollutant or wastewater which causes pass through or interference;
    - (b) Any pollutant or wastewater to which water is added for the purpose of diluting wastes that would otherwise exceed applicable maximum concentration limitations for any wastewater constituent; or
    - (c) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
- 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 10.0;
- (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 one-half inch (1/2") or 1.25 centimeter (1.25 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 150°F (65°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 General Manager in accordance with Section 3.4 of this ordinance;
- (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 at the POTW, such as, but not limited to, dye wastes and vegetable tanning solutions;
- (11) Wastewater containing any radioactive wastes or isotopes except in

compliance with applicable State or Federal regulations;

- (12) Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and other unpolluted discharges, unless specifically authorized by the General Manager;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the General Manager in a wastewater discharge permit;
- (15) Wastewater, causing, alone or in conjunction with other sources, the treatment plant's effluent to fail any toxicity test, whether or not that toxicity test was required by the NPDES Permit. The General Manager shall make reasonable efforts, consistent with state and federal law, to minimize the impact of this provision on any user who presents satisfactory evidence of scientific test results to the General Manager to demonstrate that the user's wastewater is in full compliance with the terms of its discharge permit.
- (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 100 mg/L measured as oil and grease;
- (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 five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter;
- (19) Discharge of sanitary wastewater into the storm sewer system without exception.

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.

### **2.3 National Categorical Pretreatment Standards**

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

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the General Manager 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 General Manager 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.

#### **2.4 State Pretreatment Standards**

Any applicable pretreatment standards as adopted by the State of South Carolina are hereby incorporated as if fully listed herein.

#### **2.5 Local Pretreatment Limits**

Pollutant limits are established to protect against pass through and interference, and to comply with State and Federal Regulations. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limit as identified in the most current Headworks Analysis, contained within the pretreatment program which is updated from time to time, unless additional limits are imposed pursuant to Sections 2.3 and 2.4.

These 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 General Manager may impose mass limitations for a few or all pollutants, in addition to, or in place of, the concentration-based limitations listed in the Headworks Analysis in accordance with the pretreatment program.

## **2.6 Discrepancy between Limits**

In the event that a discrepancy occurs between one or more of the discharge limits as required by the National Categorical Pretreatment Standards, State Pretreatment Standards, or Local Pretreatment Limits then the most stringent of the standards will govern.

## **2.7 Commission's Right of Revision**

The Commission reserves the right to establish, by ordinance, more stringent standards or requirements on discharges to the POTW. The Commission shall also have the right to establish, in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW:

- (A) To meet NPDES limits;
- (B) If the General Manager feels that such discharges adversely affect the operation of the POTW;
- (C) Based on the capacity of the POTW either hydraulically or pollutant loads as determined by the most recent Headworks Analysis; or
- (D) To provide an equitable share to all users or for future anticipated discharges to the POTW.

## **2.8 Dilution**

No user shall increase the use of process water, or in any other way dilute or 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 General Manager 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 Sections 2.2 through 2.4 of this ordinance within the time limitations specified by the State or the General Manager, whichever is more stringent. All 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 General Manager for review, and shall be approved by the General Manager 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 in compliance with the provisions of this ordinance or obtaining permits to construct or operate from other agencies or South Carolina Department of Health and Environmental Control (SCDHEC).

### **3.2 Additional Pretreatment Measures**

- A. Whenever deemed necessary for protection or preservation of public health and safety and the POTW, the General Manager 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 impose 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 General Manager 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 General Manager, 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 General Manager 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 every year, the General Manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The General Manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the General Manager 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 General Manager 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**

Septic tank waste and industrial waste shall not be introduced into the POTW unless authorized by the General Manager.

## **SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION**

### **4.1 Wastewater Analysis**

When requested by the General Manager, a user must submit information on the nature and characteristics of its wastewater within fifteen (15) days of the request. The General Manager is authorized to prepare a form for this purpose and may periodically require users to update this information. Failure by a user to submit the required information may result in fines or termination of service as determined by the General Manager.

### **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 General Manager, 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 General Manager 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 subject 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 without a permit into the Commission POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the General Manager 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 forty five (45) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the General

Manager.

#### **4.4 Wastewater Discharge Permitting: New Connections**

Anyone who proposes to begin discharging into the POTW must obtain permission prior to the beginning or recommencing of such discharge. The application process must be initiated at least ninety (90) days prior to the date upon which any discharge will begin or recommence. The user shall fill out a form identifying the type of discharge, domestic or non-domestic. The user identifying the proposed discharge as domestic, shall certify as follows:

“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.”

The user identifying the proposed discharge as domestic, shall be allowed to connect to the Commission’s sewer system upon payment of the applicable fees defined in Section 14 of this Ordinance and in the most recent edition of Commission-Utility Rate schedule. These fees shall include, but not limited to Tap Fee and the Impact Fee (Capacity Charge).

The user identifying the proposed discharge as non-domestic, shall fill out a waste survey questionnaire and an application form in accordance with Section 4.5 of this ordinance. Non-domestic users must obtain a discharge permit prior to commencement of discharge. All applications for wastewater discharges, whether domestic or non-domestic, must be filed at least ninety (90) days prior to the date upon which any discharge will begin.

#### **4.5 Wastewater Discharge Permit Application Contents**

All users identifying the proposed discharge as non-domestic must fill out a waste



survey questionnaire and submit a permit application. The General Manager 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 General Manager to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. The General Manager may revoke or modify a wastewater discharge permit according to Sections 5.4 through 5.7 of this ordinance. The users shall be entitled to a show cause hearing in accordance with Section 10.3 of this ordinance.

#### **4.6 Application Signatories and Certification**

All non-domestic 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**

Within forty five (45) days of receipt of a waste survey questionnaire furnished by the non-domestic user, the General Manager will evaluate the data and determine whether or not to issue a wastewater discharge permit. The General Manager may deny any application for a wastewater discharge permit for the following reasons:

- (A) Failure to furnish complete information as required in Sections 4.5 and 5.1 of this ordinance;
- (B) Inadequate or inappropriate pretreatment proposed;
- (C) Potential for discharge of toxic chemical(s);
- (D) Failure to pay the appropriate fees;
- (E) For falsifying or misrepresentation of proposed discharges or other information; and
- (F) For any other reason(s) the General Manager determines that the proposed discharges will adversely affect the operation of the POTW or the implementation of the local pretreatment program.

### **SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS**

#### **5.1 Waste Load Allocation**

The General Manager will evaluate the waste survey questionnaire data furnished by the non-domestic user and may require additional information. Within forty five (45) days of receipt of waste survey questionnaire and other information, the General Manager will establish the waste load allocation limits for the proposed discharge. Upon payment of a non-refundable waste load allocation fee the General Manager will issue a Waste Load Allocation, setting the discharge capacity and limits in the POTW for the

proposed discharges by the non-domestic user. The Waste Load Allocation will be issued for a period of one (1) year; or, until such time as the non-domestic user submits the final plans or sufficient documentation to the Commission and a permit is issued by the Commission, whichever comes first. The Waste Load Allocation is not transferable to any other user or for any other discharge other than the subject discharge. Payment of the waste allocation fee will secure the non-domestic user's capacity and limits in the POTW as set forth in the Waste Load Allocation for a period of one (1) year, provided that suitable pretreatment facilities are proposed or sufficient documents are provided by the non-domestic user that are acceptable to the General Manager and that will demonstrate to a reasonable certainty that the limits can be met. Approval of plans or documentation by the General Manager does not relieve the non-domestic user from the liability of the design of the pretreatment facilities or full compliance with any permits issued. Within one (1) year from the date of establishment of waste load allocation limits, the non-domestic user shall submit to the Commission, a completed application form, final plans and other information as discussed under Section 4.5 of this ordinance. Failure to submit this information will result in the expiration of the Waste Load Allocation without further remedy unless a prior written request by the non-domestic user for an extension of the Waste Load Allocation has been received by the General Manager prior to the Waste Load Allocation expiration date. An extension of the Waste Load Allocation will be for a period of up to an additional one (1) year and upon payment of an additional non-refundable waste load allocation fee, as well as other applicable fees that would be due based upon the allocated discharge limits as if the non-domestic user were discharging those limits even though the non-domestic user may not discharge until the operation permits are issued by SCDHEC pursuant to this ordinance. Within thirty (30) days from the date of receipt of complete information, the General Manager will determine whether or not to issue a wastewater discharge permit. The user may obtain the permit upon payment of the appropriate fees according to Sections 14 and 15 of this ordinance and the Commission-Utility Rate Schedule.

## **5.2 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 General Manager. Each wastewater discharge permit will indicate a specific date upon which it

will expire.

### **5.3 Wastewater Discharge Permit Contents**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the General Manager 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 five (5) years;
  - (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Commission in accordance with Sections 5.5 and 5.6 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 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 General Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

#### **5.4 Wastewater Discharge Permit Appeals**

The General Manager shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the General Manager to reconsider the terms of a wastewater discharge permit within fifteen (15) 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 General Manager fails to act within thirty (30) 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.

### **5.5 Wastewater Discharge Permit Modification**

The General Manager 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 comply with the requirements of an intermunicipal agreement entered with other neighboring municipalities for the purpose of managing wastewater.
- C. 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;
- D. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- E. Information indicating that the permitted discharge poses a threat to the POTW, Commission personnel, or the receiving waters;
- F. Violation of any terms or conditions of the wastewater discharge permit;
- G. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- H. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- I. 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.

### **5.6 Wastewater Discharge Permit Transfer**

Wastewater discharge permits may be transferred to a new owner or operator only if

the permittee gives at least sixty (60) days advance notice to the General Manager and the General Manager approves the wastewater discharge permit transfer. The notice to the General Manager 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.

### **5.7 Wastewater Discharge Permit Revocation**

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

- A. Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the General Manager 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 General Manager or other duly authorized Commission personnel timely access to the portion of the user's premises and records as are directly related to the user's discharge to the POTW. Such timely access will not be refused, but may be, except in cases of emergency, subject to the user's reasonable security, safety, and escort requirements;

- G. Refusing access to facility premises and records to personnel from other municipalities who have been authorized by the commission through an intermunicipal agreement;
- H. Failure to meet effluent limitations;
- I. Failure to pay fines;
- J. Failure to pay sewer charges;
- K. Failure to comply with the Administrative Order or compliance schedules;
- L. Failure to complete a wastewater survey or the wastewater discharge permit application;
- M. Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- N. Unauthorized dilution of wastewater in lieu of treatment; or
- O. 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.

### **5.8 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 six months (180 days) prior to the expiration of the user's existing wastewater discharge permit.

### **5.9 Regulation of Waste Received from Other Jurisdictions**

- A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the General Manager shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the



General Manager 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 General Manager 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 2.5 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Commission's ordinance or local limits;
  - (2) A requirement for the contributing municipality to submit a revised user inventory at least on 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 General Manager; and which of these activities will be conducted jointly by the contributing municipality and the General Manager;
  - (4) A requirement for the contributing municipality to provide the General Manager 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 General Manager 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 General Manager;

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

### **5.10 Management of Commission's Wastewater by Other Municipalities**

For the purpose of consolidating its wastewater operations, the Commission may enter into agreements with other neighboring municipalities for the treatment and disposal of its wastewater. When such intermunicipal agreements are executed, industrial users discharging to the Commission POTW may be subjected to the participating municipality's pretreatment standards. In such a case, the industrial user in Commission's POTW may be subjected to the following: modification of discharge permit limits, modification of reporting deadline, and change in the personnel handling compliance and enforcement issues. For the purpose of establishing discharge limits and enforcement, based upon the provisions in the intermunicipal agreement and the State requirements, the industrial users in the Commission POTW may be considered as direct users of the participating municipality's POTW. Additionally, the Commission may, through the intermunicipal agreement delegate pretreatment monitoring and enforcement authority, either fully or limited in nature, to the participating municipality. In such a case, the representatives of the participating municipality shall, at a minimum, have access to the following information to the user discharging to the Commission POTW:

- A. Access to past and existing records and reports, and
- B. Access to pretreatment facilities for the purpose of inspection, monitoring, sampling, and enforcement.

## **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 General Manager 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 General Manager 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. Categorical users 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 General Manager, 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 General Manager 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 General Manager.

### **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 General Manager 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**

- A. All significant industrial users shall, at a frequency determined by the General Manager but in no case less than twice per year, 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. The General Manager may furnish a preprinted discharge monitoring report form to the user for the purpose of reporting. Submittal of a discharge reporting form shall not relieve the user from furnishing detailed information on the nature and concentration of pollutants and flow data.
- 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 General Manager, using the procedures prescribed in Sections 6.10 and 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 General Manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

- A. The General Manager 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 General Manager may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.5 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 twenty five percent (25%) or greater, and the discharge of any previously unreported pollutants.

## **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, and not more than one (1) hour of the discovery of the discharge, notify the General Manager of the incident by telephone. Written notice, either hand delivered or sent by facsimile transmission, shall be provided to the General Manager within 3 days. 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 General Manager, 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.

- 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 Sampling Users**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the General Manager as the General Manager 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 General Manager 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 General Manager as soon as possible and no later than thirty (30) days after becoming aware of the violation. The user is not required to resample if the General Manager monitors at the user's facility at least once a month, or if the General Manager 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**

- A. Any user who commences the discharge of hazardous waste shall notify the General Manager, 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 thirty (30) 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 General Manager, the EPA Regional Waste Management 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 SCDHEC. The user shall report, to the Commission all sample analyses conducted according to 40 CFR Part 136 or SCDHEC approved procedures, including those that are not designed for periodic compliance reporting under Section 6.4 of this ordinance.

### **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 General Manager 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 Commission, or where the user has been specifically notified of a longer retention period by the General Manager.

## **SECTION 7 - COMPLIANCE MONITORING**

### **7.1 Right of Entry: Inspection and Sampling**

The General Manager or an authorized representative of the Commission or authorized representative of a municipality participating in an intermunicipal agreement 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 General Manager and his authorized Commission representative(s) 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. Except in an emergency, as determined by the General Manager, this right of entry shall be at reasonable times and after reasonable notice and shall be subject to the user's reasonable security, safety, and escort requirements.

- 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 General Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The General Manager 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 General Manager 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 flow measuring devices shall be calibrated at least once every six months. To insure accuracy, all water quality analysis shall be justified using blanks.
- 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 General Manager and shall not be replaced. The costs of clearing such access shall be born by the user.
- E. Unreasonable delays in allowing the General Manager access to the user's premises shall be a violation of this ordinance.

## **7.2 Search Warrants**

If the General Manager or an authorized representative of the Commission or authorized representative of the participating municipality 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 a violation of state criminal statutes, or a violation of federal criminal statutes, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Commission 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 General Manager may, with the assistance of the Lexington County Sheriff, South Carolina DHEC, or other law enforcement agencies, seek issuance of a search warrant.

## **SECTION 8 - CONFIDENTIAL INFORMATION**

Documentation and other materials which had been designated as confidential by the user and which are disclosed to the Commission pursuant to this ordinance shall be carefully maintained and protected by Commission personnel. Those who use or have access to such documentation and materials which have been identified as confidential will be made aware that there are significant penalties and liabilities for disclosing the confidential documents and materials of a user.

## **SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE**

The General Manager shall publish annually, in a daily newspaper of general circulation in Lexington County, 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 General Manager 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 General Manager'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 General Manager determines will adversely affect the operation or implementation of the local pretreatment program.

## **SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **10.1 Notification of Violation**

When the General Manager 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 General Manager may serve upon that user a written Notice of Violation. Unless otherwise specified in the Notice of Violation, within ten (10) 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 General Manager.

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 General Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

## **10.2 Consent Orders**

The General Manager 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 through 10.6 of this ordinance and shall be judicially enforceable.

## **10.3 Show Cause Hearing**

The General Manager 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 a hearing officer 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 hearing, 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 hearing shall be served personally upon the registered agent in accordance **with** state law or be registered or certified mail (return receipt requested) at least seven (7) 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. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other actin against the user.

The hearing officer who conducts the show cause hearing shall be appointed by the General Manager and shall be selected on the basis of fairness, qualifications, and expertise with the issue or issues which need to be resolved at the hearing.

#### **10.4 Compliance Orders**

When the General Manager 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 General Manager 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 General Manager 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 General Manager 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 Emergency Suspensions**

The General Manager 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 General Manager 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 General Manager 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 General Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed, unless the termination proceedings in Section 10.7 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 General Manager prior to the date of any show cause or termination hearing under Sections 10.3 or 10.7 of this ordinance.

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

## **10.7 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;
- E. Violation of the pretreatment standards in Section 2 of this ordinance;
- F. Falsifying reports;
- G. Failure to install monitoring equipment (intentional)
- H. Improper sampling scheme;
- I. Violation of compliance schedule; or
- J. Wastewater dilution, in lieu of treatment.

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 General Manager 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 General Manager 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 General Manager may petition Lexington County Court of Common Pleas through the Commission 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 General Manager 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**

- A. In the event 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 Commission may seek a civil penalty in an amount not to exceed two thousand dollars (\$2,000.00) pursuant to South Carolina Code Section 6-11-285 for each day during the period of the violation. The Commission shall issue a rule to show cause and conduct a hearing in accordance with South Carolina Code Section 6-11-285.
- B. The General Manager may seek to recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including medical treatment of injured Commission employees, sampling and monitoring expenses, and the cost of any actual damages incurred by the Commission.
- 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 Remedies Nonexclusive**

The remedies provided for in this ordinance are not exclusive. The General Manager 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 Commission's enforcement response plan. However, the General Manager may take other action against any user when the circumstances warrant. Further, the General Manager is empowered to take more than one enforcement action against any noncompliant user.

## **SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION**

### **12.1 Performance Bonds**

The General Manager 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 Commission, in a sum not to exceed a value determined by the General Manager to be necessary to achieve consistent compliance.

### **12.2 Proof of Financial Responsibility**

The General Manager may decline to issue or reissue and may revoke any existing 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 financial assets sufficient to restore or repair damage to the POTW, together with any and all other expenses incurred by the Commission caused by its acts or omissions. The General Manager may require the user to provide a copy of its current financial statement or a copy of its current liability insurance policy or such other documents as will demonstrate to the General Manager that the user is financially responsible. The user may meet this requirement by proof of unencumbered assets.

### **12.3 Water Supply Severance**

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

### **12.4 Public Property Damage**

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 damage to public property and shall be corrected or abated as directed by the General Manager.

### **12.5 Informant Rewards**

The General Manager may, in his discretion, pay up to \$2,500 for information leading to the discovery of noncompliance of any requirement of this ordinance by a user. In the event that the information provided results in a recovery in a civil lawsuit or the recovery of administrative fine levied against the user, the General Manager may, in his discretion, disperse up to ten percent (10%) of the collected recovery of fine to the informant. However, the single reward payment to any informant may not exceed ten thousand and no/100 (\$10,000). The General Manager may, in his discretion make awards under this section to more than one informant if he finds, in his discretion, that information provided by multiple informants worthy of reward.

### **12.6 Contractor Listing**

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 Commission. Existing contracts for the sale of goods or services to the Commission held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the General Manager.

## **SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

### **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 General Manager 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 2.2(A) of this ordinance or the specific prohibitions in Sections 2.2(B)(3) through 2.2(B)(6) 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 Commission was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

### **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 General Manager, at least ten (10) days before the date of the bypass, if possible.

- (2) A user shall submit oral notice to the General Manager 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 General Manager 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 General Manager 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 General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

#### **SECTION 14 - WASTEWATER TREATMENT RATES**

To provide facilities for conveying and treating the wastewater, to recover the annual operating costs, and to provide sludge management costs, the Commission adopts the following Categories of fees. The amount of each of the fees established herein is detailed in the most recent Commission - Utility Rate Schedule which is updated from time to time. All users shall pay the appropriate fee as determined by the General

Manager based upon the rates in the Utility Rate Schedule and the type of service being provided.

A. Fees.

- (1). Application Fee. A user shall pay a fee at the time of initial application for service.
- (2). Survey Questionnaire Fee. Fee for the analysis of waste survey information for the proposed wastewater discharge to determine if the user must have a wastewater discharge permit.
- (3). Capacity Reservation Fee. Fees for providing a reservation of capacity in the Commission POTW for a specific period of time.
- (4). Tap Fee. Fees for providing the connection to the Commission's sewer system.
- (5). Impact Fee (Capacity Charge). Fees for the impact of wastewater discharges on the POTW. The impact on the Commission POTW will be assessed using the Guidelines for Unit Contributory Loadings as published by SCDHEC (latest edition).
- (6). Sewer Availability Fees. Commission may charge for sewer when sewer service is available adjacent to any property in use, or otherwise occupied, even if a property is not discharging wastewater into the Commission's sewer system.
- (7). Monthly Usage Fees. All users are subjected to a monthly fee based on the rate system adopted by the Commission which is updated from time to time.
- (8). Surcharge Fees. All industrial users shall be subjected to the following types of surcharges. The exact amount is based on the current rates adopted by the Commission.
  - (a) BOD exceeding 250 mg/L
  - (b) TSS exceeding 250 mg/L
  - (c) Other pollutants, if available, in amounts exceeding the "pro-rata" share based upon the flow using the allowable remaining balance as determined by the Headworks Analysis and making an equitable distribution of the unused balance of pollutants to all users requesting additional capacity and subject to the approval of the

General Manager.

- (9). Late Fee. Fees for not paying any one or more of the aforementioned fees.
- (10). Connection Reestablishment Fee. Fees for reestablishment of a previously severed sewer service (or water supply) caused by a violation of the discharge permits or failure to pay the aforementioned fees within the specified deadlines.

B. Measurement.

(1) Monthly Usage Measurement.

- (a) The Commission may install a separate meter for sewer service to the user for measurement of the monthly sewer flow.
- (b) If the user is also a Commission water user, and the Commission feels that it is impractical to install separate flow measurement equipment for the sewer line serving the user, it is permissible to use the water meter serving the user as the basis for the monthly sewer fee.
- (c) In the event that the user is not a water customer or has no water meter, the Commission may at its discretion make a determination of a flat rate monthly fee based upon similar types of users and their discharges or may monitor flows temporarily to obtain an average flow as a basis for the monthly charge, install a meter in well water supply line at owners expense, or use any other equitable method of determining an average usage.
- (d) If the Commission determines that it is impractical to install a separate meter for measurement of sewer flow and uses any alternate method for determination of monthly sewer fees, the user has the right to pay the Commission for all costs to install a separate meter for sewer. In addition to the costs for the installation of the meter there will be a separate monthly fee for maintenance and reading of the separate meter.

(2) Surcharge Measurement.

- (a) Surcharges shall be billed on a monthly basis to all permitted users who have additional capacity of any pollutant beyond the pro-rata share based on flows as determined by the latest headworks analysis



as updated from time to time. The monthly Surcharge Fee shall be based on the permitted amount of each pollutant or on the actual discharge of any pollutant, whichever is greater. However, if the amount of pollutant discharged is in excess of the permitted amount there may be fines and penalties in accordance with Section 10 of this Ordinance.

## **SECTION 15 - MISCELLANEOUS PROVISIONS**

### **15.1 Pretreatment Charges and Fees**

To provide for reimbursement of the development cost of the Commission's Pretreatment Program, for recovery of the annual operating costs, and for maintenance of the pretreatment program, the Commission herein adopts the following categories of fees. The amount of each of the fees established herein is detailed in the most recent Commission-Utility Rate Schedule which is updated from time to time. All users shall pay the appropriate fees as determined by the General Manager based upon the rates in the Utility Rate Schedule and the types of service being provided.

- A. Pretreatment Application Fees. Fees for wastewater discharge permit applications including the cost of processing such applications in the following two part process:
  - (1) Waste Load Allocation Fee. A non-refundable fee paid by the non-domestic user prior to the issuance of the Waste Load Allocation. The Waste Load Allocation insures the non-domestic user of the capacity and loading limits in the POTW for a period of one (1) year, within which time final plans or sufficient documentation must be submitted to the Commission and a Wastewater Discharge Permit must be issued.
  - (2) Wastewater Discharge Permit Fee. Fee for review of final plans or other documentation, processing, and issuance of pretreatment permits.
- B. Annual Fee. 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. This fee is billed at the beginning of each fiscal year or at the discretion of the General Manager may be billed monthly for twelve (12) months. Failure to pay the required dues by the due date will result in fines and/or surcharges.
- C. Fees for reviewing and responding to accidental discharge procedures and

construction.

- D. Fees for filing appeals.
- E. Other fees as the Commission 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 Commission.

### **15.2 Severability**

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. This ordinance shall supersede the previous sewer use ordinance and amendments thereof.