

**ORDINANCE OF THE CITY OF CLARKSBURG TO AMEND AND REENACT
ARTICLE 937 OF THE CODIFIED ORDINANCES REGARDING INDUSTRIAL USE OF
THE SANITARY SEWER SYSTEM**

WHEREAS, Article 937 of the Codified Ordinances authorizes and regulates the discharge of non-domestic flows by industrial users into the Sanitary Sewer System; and,

WHEREAS, this industrial pretreatment program is required and regulated by federal and state law; and,

WHEREAS, because this program was last addressed by Council in 2010, certain updates, additions and refinements are required and necessary.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AS FOLLOWS: That Article 937 of the Codified Ordinances is hereby amended as follows (*additions underlined, deletions strike-through*):

937.01 GENERAL PROVISIONS.

(a) Purpose and Policy.

(1) The City of Clarksburg has duly adopted the following ~~Rules and Regulations~~ Pretreatment Program provisions governing the admission of industrial wastes to the Publicly Owned Treatment Works.

(2) The City of Clarksburg, a body corporate and politic, existing under the laws of the State of West Virginia, was duly incorporated.

(3) The City of Clarksburg, pursuant to the laws of the State of West Virginia, established a Sanitary Board to have control over and supervision of a sewage collection system and sewage treatment plant including, but not limited to, the Publicly Owned Treatment Works.

(4) This article sets forth uniform requirements for direct and indirect contributors of industrial wastes into the wastewater and collection system owned and operated by the City via the Sanitary Board, and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403), and the regulations of the West Virginia Department of Environmental Protection.

(5) The basic objectives of ~~these Rules and Regulations~~ the Pretreatment Program are:

A. To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge in a manner making it more difficult to use beneficially or to dispose of the sludge;

B. To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

C. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

D. To provide for equitable distribution of the cost of the municipal wastewater system.

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

F. To enable the Sanitary Board 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 Plant is subject.

(6) This article provides for the regulation of direct and indirect industrial waste contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that an existing customer's capacity will not be preempted without adequate cause, and provides for the setting of fees for the equitable distribution of costs resulting from the Pretreatment Program established herein.

(7) This article shall apply to each person and any political subdivision who, by contract or agreement with the City, avails himself of sanitary sewer service; and every such person or political subdivision by availing himself of sanitary sewer service agrees to be bound by these ~~Rules and Regulations~~ provisions.

(b) Conflict. This Industrial Sewer Use Ordinance is a supplement to the City's existing Streets, Utilities and Public Services Code, Chapter Three of Part Nine of the Codified Ordinances of the City of Clarksburg (as amended). The portions of the existing Streets, Utilities and Public Services Code and all other ordinances, or parts thereof, which are inconsistent or conflicting with any part of this article are hereby repealed to the extent of such inconsistency or conflict.

(c) Severability. If any provision, paragraph, word, or section ~~of these Rules and Regulations~~ herein is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

937.02 DEFINITIONS AND ABBREVIATIONS .

(a) Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in these ~~Rules and Regulations~~ Pretreatment Program provisions, shall have the meanings hereinafter designated:

(1) "Abnormal Industrial Waste" means any industrial waste having a suspended solid content or a five-day biochemical oxygen demand (BOD₅) appreciably in excess of that normally found in municipal sewage. For the purposes of ~~these Regulations~~ this Sewer Use Ordinance and Pretreatment Program, any industrial waste containing more than 300 milligrams per liter of suspended solids, or having a BOD₅ in excess of 300 milligrams per liter, shall be considered an abnormal industrial waste, regardless of whether or not it contains other substances in concentrations differing appreciably from those normally found in municipal sewage.

(2) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(3) "Approval Authority". The State of West Virginia's pretreatment program has been approved, and the Director of the West Virginia DEP shall be recognized as the Approval Authority.

(4) "Authorized Representative of Industrial User" means an authorized representative of an industrial user who may be:

A. A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation;

B. A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively;

C. A duly authorized representative of the individual designated above if the authorization is in writing by the individual described in A. or B., and this authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates or overall responsibility for environmental matters for the company, and the written authorization is submitted to the Approval Authority. In any case, the Authorized Representative must have signature authority.

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Biochemical Oxygen Demand (BOD or BOD₅)" means the quantity of oxygen required for the biological and chemical oxidation of waterborne substances under standard laboratory procedure in five (5) days at 20 degrees Centigrade expressed in terms of weight and volume (milligrams per liter [mg/L]). It shall be determined by one of

the acceptable methods described in the current edition of "Standard Methods for the Examination of Water and Wastewater."

(7) "Categorical Standards" means National Categorical Pretreatment Standards or Pretreatment Standard.

(8) "City" means the City of Clarksburg, West Virginia, a body corporate and politic, organized and existing under the laws of the State of West Virginia.

(9) "Combined Sewer" means a sewer designated to receive both sanitary sewage and stormwater runoff, which has been approved for such purposes.

(10) "Contaminants of Emerging Concern" or "CEC" means chemical and/or other waste contaminants posing unique issues and challenges to the environment as a result of (a) the recent development of new chemicals or other products; (b) new or recently identified byproducts or waste products; (c) newly discovered or suspected adverse health or environmental impacts; (d) physical or chemical properties that are not fully evaluated or understood; (e) an absence of or pending changes to fully defined risk levels, water quality standards or guidance or other environmental program levels of control; and (f) other factors. Emerging contaminants include, but are not limited to, PFAS (polyfluoroalkyl substances), nanomaterials, pharmaceuticals and their constituents, steroids and hormones.

~~(9~~ 11) "Cooling Water (Noncontact Cooling Water)" means the water used for any air conditioning, cooling, or refrigeration purposes which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

~~(10~~ 12) "Council" means the elected members of the City Council of the City of Clarksburg, West Virginia and its duly authorized agents or representatives.

~~(11~~ 13) "Current Edition" means the latest edition of the "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association and current at the time the determination of any analysis required is to be made.

~~(12~~ 14) "Department of Environmental Protection (DEP)" means the West Virginia Department of Environmental Protection, or where appropriate, the term may also be used as a designation for the Director or other duly authorized official of said agency.

~~(13~~ 15) "Direct Discharge" means the discharge of treated or untreated wastewater directly to the waters of the State of West Virginia.

~~(14~~ 16) "Environmental Protection Agency (EPA)" means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

~~(15~~ 17) "Expansion" means an increase in hydraulic capacity.

~~(16~~ 18) "Federal Categorical Pretreatment Standard or Federal Pretreatment Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to industrial users. This term includes national prohibitive discharge limits

established pursuant to Section 403.5 of the General Pretreatment Regulations (40 CFR, Part 403) and Pretreatment Standards for specific industrial categories (e.g., 40 CFR Chapter I, Subpart N, Parts 405-471).

(17 ~~19~~) "Garbage" means solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

(18 ~~20~~) "Grab Sample" means a sample which is taken from a waste stream on a one-time basis (not to exceed 15 minutes) without regard to the flow in the waste stream and without consideration of time.

(19 ~~21~~) "Holding Tank Waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(20 ~~22~~) "Indirect Discharge" means the discharge or the introduction of any domestic or nondomestic pollutants from any source ~~regulated under Section 307(b) or (c) of the Act, (33 U.S.C.1317)~~, into the POTW (including holding tank waste discharge into the system).

(21 ~~23~~) "Industrial User" means a source of Indirect Discharge of any non-domestic, commercial or industrial wastewaters ~~which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act. (33 U.S.C. 1342).~~

(22 ~~24~~) "Industrial Waste Permit" means a discharge permit issued by the Approval Authority pursuant to the requirements of Section [937.04](#) of this ordinance ~~these Rules and Regulations.~~

(23 ~~25~~) "Industrial Wastes" means any liquid, gaseous, or waterborne waste from industrial processes or commercial establishments as distinct from sanitary sewage.

(24 ~~26~~) "Interference" means any discharge which alone or in conjunction with a discharge or discharges from other sources that both:

A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or, and

B. ~~Is Therefore~~ is a cause of or contributes to a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions ~~and regulations~~ or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) including Title II more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(24.1 ~~27~~) "Local Limit." Specific discharge limits developed and enforced by [the Sanitary Board] upon industrial or commercial facilities to implement the general and

specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b) or to otherwise implement the requirements of this ordinance.

(~~24.2~~ 28) "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.

(~~24.3~~ 29) "Monthly Average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(~~25~~ 30) "National Pollution Discharge Elimination System (NPDES) Permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(~~26~~ 31) "National Prohibited Discharge Standard or Prohibited Discharge Standard" means any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

(~~27~~ 32) "New Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, and construction of which is 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 activity as the existing source should be considered. Construction on a site at which an existing source is located results in modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs A., B., or C. of this sub-subsection [937.02(a)(27)] but otherwise alters, replaces, or adds to an existing process or production equipment. Construction of a new source as defined under this section has commenced if the owner or operator has:

~~D.~~ 1. Begun, or caused to begin as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, grubbing, 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

~~E.~~ 2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without

substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

(~~27.1~~ 33) "Noncontact Cooling Water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(~~28~~ 34) "Occupied Building" means any structure erected and intended for continuous or periodic habitation, occupancy, or use by human beings or animals, and from which structure sanitary sewage and industrial wastes, or either thereof, is or may be discharged.

(~~29~~ 35) "Owner" means the person, firm, corporation, or association having an interest as owner, or a person, firm, corporation or association representing itself to be the owner, whether legal or equitable, sole or only partial, in any premises which is, or is about to be furnished sewage service by the Approval Authority, and the word "Owners" means all so interested.

(~~30~~ 36) "Pass Through" means a discharge which exits from a POTW into navigable 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's NPDES Permit (including an increase in the magnitude or duration of a violation).

(~~34~~ 37) "Person" means any individual, partnership, co-partnership, firm, company corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(~~32~~ 38) "pH" means the logarithm to the base 10 of the reciprocal of the hydrogen ion concentration expressed in moles per liter. It shall be determined by one of the acceptable methods described in the Current Edition of "Standard Methods for the Examination of Water and Wastewater."

(~~33~~ 39) "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(~~34~~ 40) "Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(~~35~~ 41) "POTW Treatment Plant" means the portion of the POTW designed to provide treatment to wastewater.

(~~36~~ 42) "Premises" means the property or area including the improvements thereon, to which sewage service is or will be furnished, and as used herein shall be taken to designate:

A. A building under one roof, owned or leased by one customer, and occupied as a place of business or for manufacturing or industrial purposes, or

B. A group or combination of buildings owned by one customer, in one common enclosure, occupied by one organization, corporation or firm as a place of business or for manufacturing or industrial purposes.

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

(38 44) “Pretreatment Requirements” means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an industrial user by the federal, state, or local pretreatment authorities.

(39 45) “Pretreatment Standard” means prohibited discharge standards, categorical pretreatment standards, and local limits.

(40 46) “Properly Shredded Garbage” means the wastes from the preparation, cooking and dispensing of food and from the handling, storage, and sale of produce that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

(41 47) “Publicly Owned Treatment Works (POTW)” means all separate sanitary sewers, all combined sewers, all sewage pumping stations, all sewage treatment works, and all other sewerage facilities owned and operated by the City for the collection, transportation, and treatment of sanitary sewage and industrial wastes, together with their appurtenances, and any additions, extensions, or improvements thereto that may be made by the City. It does not include separate storm sewers or culverts which have been constructed for the sole purpose of carrying storm and surface runoff, the discharge from which is not and does not become tributary to the City's sewage treatment facilities.

(42 48) “Sanitary Board” means a board consisting of members appointed by Council pursuant to Section 23 of the Charter of the City of Clarksburg that has the powers and performs the duties prescribed by general law with respect to the City's sewage collection system and sewage treatment plant. Specifically, the Sanitary Board shall have the authority and responsibility to oversee and enforce ~~the Rules and Regulations adopted~~ by this article.

(43 49) “Sanitary Sewage” means the normal water-carried household and toilet wastes from residences, business buildings, institutions, industries, and commercial establishments, exclusive of storm water runoff, surface water, groundwater and industrial wastes.

(44-50) "Sanitary Sewer" means a sewer intended to carry only sanitary or sanitary and industrial wastewaters from residences, commercial buildings, industrial plants, and institutions and to which storm, surface and ground waters are not intentionally admitted.

(44.1 51) "Septic Tank Waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(45-52) "Sewage" means a combination of water-carried wastes from residences, business buildings, institutions, and industrial and commercial establishments, together with such ground, surface or storm water as may be present.

(46 53) "Sewer" means a pipe or conduit for carrying sewage or other waste liquids.

(47 54) "Shall" is mandatory; "May" is permissive.

(48 55) "Significant Industrial User" means any Industrial User who:

A. Is subject to any Federal Categorical Pretreatment Standards under 40 CFR Section 403.6 and 40 CFR Chapter I, Subchapter N; or

B. Discharges an average flow of 25,000 gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow down wastewater); or

C. Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

D. Is designated as such by the Approval Authority, the EPA, or the West Virginia DEP on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(49 56) "Slug Load" or "Slug" means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section [937.03](#).

(50 57) "Standard Industrial Classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(51 58) "State" means the State of West Virginia

(52 59) "Storm Sewer" means a sewer which is intended to carry storm water runoff, surface waters, groundwater drainage, etc., but which is not intended to carry any sanitary sewage or industrial waste.

(53 60) "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

(54 61) "Storm water Runoff" means that portion of the rainfall which reaches a drain.

(55 62) "Superintendent" means the person or his duly authorized representative designated by the Council or Sanitary Board to supervise the administration and operation of the City of Clarksburg's Pretreatment Program and is charged with certain duties and responsibilities by this article.

(56 63) "Suspended Solids" means solids that either float on the surface or are in suspension in water, sewage, industrial waste, or other liquids and which are removable by laboratory filtration. The quantity of suspended solids shall be determined by one of the acceptable methods described in the current edition of "Standard Methods for the Examination of Water and Wastewater."

(57 64) "Toxic Pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of the Clean Water Act 307(a) or other Acts, and any other pollutant or combination of pollutants designated as toxic under the City's pretreatment Program.

(58 65) "Township" means any political subdivision of ~~Harrison County~~ and the State of West Virginia. This shall include Municipalities, Public Service Districts and any other political subdivision ~~body~~ contributing wastewater to the Clarksburg sewer system.

(59 66) "Treatment Works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature ~~to implement Section 201 of Public Law 92-500, 33 U.S.C.,~~ or necessary to recycle or reuse water at the most economical cost over the useful life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extension improvement, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear water facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residuals resulting from each treatment; or any other method or system for preventing, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.

(60 67) "Unpolluted Water or Waste" means any water or waste containing none of the following: free or emulsified grease or oil; acid or alkali; phenols or other substances imparting taste and odor to receiving waters; toxic or poisonous substances in suspension, colloidal state, or solution; obnoxious or odorous gases. It shall contain not more than 1,000 milligrams per liter by weight of dissolved solids of which not more than 250 milligrams per liter shall be as chloride, and not more than 10 milligrams per liter each of suspended solids and BOD5. The color shall not exceed 50 platinum-cobalt color units. Analyses for any of the abovementioned substances shall be made in accordance with the Current Edition of "Standard Methods for the Examination of Water and Wastewater."

(61 68) "Upgrading" means an increase in the level of treatment provided to improve the quality of the effluent water.

(62 69) “Upset” means any exceptional incident in which there is unintentional and temporary noncompliance with Federal Categorical Pretreatment Standards or local technology-based standards adopted pursuant to these Rules and Regulations because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(63 70) “User” means any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.

(64 71) “Wastewater” means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed to or permitted to enter the POTW.

(65 72) “Watercourse” means any channel in which a flow of water occurs, either continuously or intermittently.

(66 73) “Waters of the State” means all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(b) Abbreviations. The following abbreviations shall have these designated meanings:

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Requirements <u>Regulations</u>
COD	Chemical Oxygen Demand
DEP	Department of Environmental Protection
EPA	Environmental Protection Agency
L	Liter
mg	Milligrams
mg/L	Milligrams Per Liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
USC	United States Code
TSS	Total Suspended Solids

937.03 REGULATION OF WASTEWATER DISCHARGES.

(a) General Discharge Prohibitions.

(1) The discharge of excessive amounts of unpolluted water or waste to the public sanitary sewerage system is expressly prohibited. However, such discharges to combined sewers or discharge of unpolluted water to storm sewers ~~may~~ will be permitted wherever such sewers have adequate capacity. The Sanitary Board reserves the right to define the amount it deems excessive in each particular situation.

(2) The discharge of any garbage to the public sanitary sewerage system is expressly prohibited unless the garbage has first been properly shredded by a garbage grinder or garbage disposal device.

(3) No user shall contribute or cause to be contributed, directly or indirectly, any pollutants that will pass through the POTW or interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to Federal Categorical Pretreatment Standards or any other federal, state, or local Pretreatment Standards or Requirements. A user may not contribute the following substances to the POTW:

A. Any liquids, solids, or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with any other substances, to create a fire or explosion hazard in the POTW, including, but not necessarily limited to, any waste streams with a closed-cup flashpoint of less than 140° Fahrenheit or 60° Centigrade using the test methods specified in 40 CFR Section 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the public sewer system (or at any point in the system) be more than 5 percent nor any single reading over 10 percent of the Lower Explosive Limit (LEL) of the meter. Restricted materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substances which the Approval Authority, the DEP, or EPA deem to pose a fire or explosion hazard.

B. Any solid or viscous substances which may cause obstruction to the flow in a sewer, cause mechanical action which will destroy the sewer structures, or, in the ~~judgment opinion~~ judgment of the Superintendent or Approval Authority, may cause other interference with the operation of the POTW including, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grindings, or polishing wastes.

C. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a Categorical

~~Pretreatment Standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.~~

D. Any noxious or malodorous liquid, gas, or solid which either singly or by interaction with other wastes is, in the option of the Approval Authority, sufficient to create a public nuisance or hazard to life or is sufficient to prevent entry into the sewers for their maintenance and repair.

E. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse, or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the federal Solid Waste Disposal Act, the Clean Air Act, and/or the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.

F. Any substance which will cause the POTW to violate its NPDES and/or state Disposal System Permit or the receiving water quality standards for the West Fork River.

G. Any wastewater containing dyes, paints, pigments, ink, or other coloring agents which are not removed by the treatment process and are in sufficient quantity to add any coloration above that of normal sewage, or cause objectionable color.

H. Any wastewater having a temperature in excess of 60°C (140°F) or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater that causes the temperature of the wastewater at the point of introduction into the POTW treatment plant to exceed 40°C (104°F).

I. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference to the POTW. Where the Sanitary Board deems it advisable, it may require any person discharging industrial wastewater to utilize flow equalization or restricted discharge rates to prevent potential slug loading problems, such as in the case of batch discharges.

J. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Sanitary Board in compliance with applicable state or federal regulations.

K. Any wastewater containing gases or vapors, ~~either free or occluded~~, in concentrations that may cause a hazard to human life or create a public nuisance.

L. Any wastewater having a pH lower than 5.0 or higher than 10.0, or having any other corrosive property capable of causing damage or hazards to structures, equipment, or personnel of the POTW. Where the Sanitary Board deems it advisable, it may require any person discharging industrial wastes to install and maintain at his own

expense, in a manner approved by the Sanitary Board, a suitable device to continuously measure and record the pH of the wastes so discharged.

M. Any wastewater containing petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through, or wastewater containing more than 100 mg/L of fat, oil, or grease (Hexane extractables) of animal or vegetable origin.

N. Any wastewater containing insoluble, ~~nonfloculent~~ substances having a specific gravity in excess of 2.65, or soluble substances in such concentrations as to cause the specific gravity of the waste to be greater than 1.1.

O. Any wastewater or pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute or chronic worker health and safety problems.

P. Any wastewater containing any of the following compounds in concentrations that can cause a hazard to human life: hydrogen sulfide, sulfur dioxide, nitrous oxide, or any of the halogens.

Q. Any trucked or hauled wastewater or pollutants, except at a discharge point(s) designated by the Superintendent Sanitary Board.

(4) When the Sanitary Board determines that a user is contributing any of the above enumerated substances to the POTW in such amounts that will pass through or interfere with the operation of the POTW, the Sanitary Board shall:

A. Advise the user of the impact of the contribution on the POTW;

B. Develop specific effluent limitation(s) for such user to correct the interference with the POTW, which may provide for limited, specified exceedances of the listed numeric pollutant restrictions; and/or

C. Initiate appropriate enforcement action against the user pursuant to the provisions of Section [937.07](#) of this Article ~~these Rules and Regulations~~.

(5) Grease, oil, and sand interceptors shall be provided when, in the judgment opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Superintendent, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at its ~~their~~ expense.

(b) Specific Pollutant Limitations. No person shall discharge any wastewaters containing any of the following substances in solution in concentrations exceeding the following maximum permissible concentrations:

Parameter (Total)	Discharge
	Concentration Limit (mg/L)
Arsenic	0.91
Cadmium	0.025
Chromium (Hexavalent)	0.06
Chromium	0.6255
Copper	1.8
Cyanide (Free)	0.148
Cyanide total	0.15
Lead	0.3
Mercury	0.002
Nickel	3.01
Silver	0.299
Zinc	2.12

Nor shall any person discharge any wastewaters containing ~~or~~ any other elements which will, in the opinion of the ~~Superintendent Sanitary Board~~, damage collection facilities or otherwise be detrimental to the treatment processes. The limits set forth above may be amended from time to time as deemed necessary by the Sanitary Board to protect the facilities and ensure the POTW's compliance with applicable NPDES Permit conditions and water quality standards. The Sanitary Board reserves the right to impose mass limitations and/or concentration limitations for any pollutant where it deems necessary.

(c) Special Agreements. No ~~statement contained in~~ provision of this article shall be construed as prohibiting any special agreement or arrangement between the Sanitary Board and any person or industrial user whereby an industrial waste of unusual strength or character may be discharged to the POTW by the user, provided the objectives of the General Pretreatment Regulations are fulfilled. Similar to any other requirements imposed under this article, the provisions of such special agreement will be superseded by any more stringent requirements of any applicable Federal Categorical Pretreatment Standard.

(d) Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The ~~Superintendent Sanitary Board~~ shall notify all affected users of the

applicable Federal Standards and the applicable reporting requirements under 40 CFR, Section 403.12, such as the Baseline Monitoring Report.

(e) Modification of Federal Categorical Pretreatment Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the Sanitary Board may apply to the Approval Authority for modification of specific limits in the Federal Pretreatment Standards. "Removal" shall mean a reduction in the amount of a pollutant or an alteration of the nature of a pollutant in the influent to the POTW to a less toxic or harmless state in the effluent. Consistent removal shall mean the average of the lowest 50 percent of the removals measured according to the procedures set forth in Section 403.7(b)(2) of Title 40 of the Code of Federal Regulations, Part 403 - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The Sanitary Board may modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7 are fulfilled and prior approval from the Approval Authority is obtained.

(f) State Requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those imposed under this article.

~~(g) Right of Revision. The City, upon recommendation by the Sanitary Board, reserves the right to establish by amendment to this article more stringent limitations or requirements on discharges to the POTW if deemed necessary.~~

(~~h~~ g) Excessive Discharge. No user shall ever increase the use of process water or cooling water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other specific pollutant limitation developed by the Sanitary Board or State.

(~~h~~ h) Accidental Discharges.

(1) Users discharging non-domestic or industrial wastewaters ~~Each user~~ shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Sanitary Board for review and shall be approved by the Sanitary Board before construction of the facility. All existing users shall complete and submit such a plan within 90 days after the effective date of this article. No user who commences contribution to the POTW after the effective date of this article shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Sanitary Board.

(2) All industrial users, whether permitted or not, shall immediately telephone and notify the ~~Superintendent Sanitary Board~~ of all accidental spills, slug discharges, or other discharges that could cause potential problems for the POTW. This notification shall include the location of the discharge, type of waste, concentration and volume of

waste, and any mitigating and/or corrective actions taken. Upon request by the Superintendent Sanitary Board the industrial user shall also prepare and submit to the Sanitary Board within five days after such notice a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent any similar occurrences in the future. 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, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(3) 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 dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(j i) Hauled Wastewater.

(1) No septic tank waste may be discharged to the POTW without prior consent of the Superintendent. Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate Section [937.03](#) or any other requirements established by the City. The Superintendent may require septic tank waste haulers to obtain individual wastewater discharge permits.

(2) The Superintendent may require haulers of industrial waste to obtain wastewater discharge permits. The Superintendent may require generators of hauled waste to obtain individual wastewater discharge permits. The Superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(3) Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable Standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(5) Permits issued under this subsection shall be for a duration not to exceed a five year term. Permit renewal requests shall be submitted six (6) months prior to the expiration date of the previous permit term.

j. Contaminants of Emerging Concern (CEC)

(1) The Superintendent may require users to provide specified information on the user's purchase, manufacture (intentional, incidental or unintentional), discharge or other information or data on specified CECs and/or information on products or processes that may create or contribute to the creation or discharge of CECs.

(2) The Superintendent may require users to provide data regarding any CECs of concern as identified by the user or designated by the Superintendent that may be discharged to the POTW. This data requirement may include waste flow sampling by the user in accordance with the requirements of the Superintendent. In the alternative, the Sanitary Board may sample the subject waste flow. The cost of data collection and/or sampling shall be the responsibility of the user.

(3) The Superintendent may require a separate Pretreatment Permit or amendment to an existing permit to monitor and regulate CECs. Any such permit requirements may be based upon the Superintendent's determination of CEC numeric criteria based upon available toxicity data, USEPA or WVDEP standards, or generally accepted scientific criteria. These permit requirements may include, at the sole discretion of the Superintendent:

(a) Monitoring and reporting of designated CECs; and,

(b) Numeric effluent limits adopted as local limits or calculated as either generally applicable or user specific technology-based limits; and,

(c) Requirements for best management practices.

937.04 ADMINISTRATION OF INDUSTRIAL WASTE PERMITS.

(a) Permit Requirements.

(1) It shall be unlawful for any existing industrial user within the City's sewer service area to discharge any wastewater to the POTW without first applying for an Industrial Waste Permit authorized by the Sanitary Board in accordance with the provisions of this article.

(2) All industrial users proposing to connect to or to contribute to the City's POTW shall apply for an Industrial Waste Permit before connecting to or contributing to the POTW. The Sanitary Board will determine if a permit is required.

(b) Permit Application.

(1) Users required to obtain an Industrial Waste Permit shall complete and file with the Sanitary Board, a permit application in the form prescribed by the Sanitary Board and accompanied by an application fee according to the fee schedule adopted by the Sanitary Board. Under the provisions of Section [937.05\(b\)\(1\)](#), the Sanitary Board reserves the right to assess additional charges and fees to cover any reasonable costs incurred by the Sanitary Board in reviewing and processing the permit application. Existing significant industrial users shall apply for an Industrial Waste Permit within 90 days after written notification from the Sanitary Board that the user must obtain a permit. Proposed new users shall apply at least 90 days prior to connecting to or contributing to

the POTW. In support of the permit application, the user shall submit, in units and terms appropriate for evaluation, the following information wherever possible:

- A. Name, address, and location of facility (if different from the mailing address).
- B. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- C. Wastewater constituents and characteristics including but not limited to those ~~identified mentioned~~ in Section 937.03 (b) as determined by a certified WVDEP analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.
- D. Time and duration of contribution.
- E. Average daily and three-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- F. Site plans, floor plans, mechanical and plumbing plans or sketches to approximate scale in sufficient detail to show all sewers, sewer connections, and appurtenances by the size, location, and elevation.
- G. Description of activities, facilities, and plant processes on the premises, including a list of all toxic pollutants and pollutants prohibited or regulated by this article which are or could potentially be discharged to the POTW.
- H. Where known, the nature and concentration of any pollutants in the discharge which are limited by any Sanitary Board, State or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards.
- I. If additional pretreatment and/or operation and maintenance procedures are ~~will be~~ required to meet the Pretreatment Standards, the user shall submit the shortest schedule by which the user is able to ~~will~~ provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

1. The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
2. No increment referred to in paragraph (1) above shall exceed nine months.

3. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Sanitary Board including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Sanitary Board.

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

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

L. Number of employees, and hours of operation of plant, and proposed or actual hours of operation of pretreatment system.

M. Any other environmental permits applicable to the facility.

N. Any other information as may be deemed by the Sanitary Board to be necessary to evaluate the permit application.

(2) ~~The Superintendent, or authorized representative, of the Sanitary Board~~ shall review the permit application for completeness within 60 days of its receipt and notify the applicant in writing as to whether the application is considered complete or incomplete. If the application is incomplete, the Superintendent shall specify the additional information that is required to complete the application and a date for submitting the necessary information. After an application is completed, the Superintendent may still request additional information but only to clarify, modify, or supplement the previously submitted material. If the Superintendent deems it necessary, a site visit may be scheduled with the applicant to assist the Superintendent in evaluating the application. Failure or refusal to correct deficiencies in the application within a reasonable time schedule may be cause for permit denial and appropriate enforcement action as per Section [937.06](#).

(3) The Superintendent shall issue a draft Industrial Waste Permit or notice of intent to deny a permit within 60 days after receipt of the completed application. The applicant shall be given a minimum 30-day period to review and comment on the proposed permit or permit denial. Upon request, the Superintendent shall schedule an informal meeting with the applicant to review the draft permit or proposed permit denial action. In the event that the applicant and the Superintendent cannot come to an agreement on the draft permit or permit denial, the applicant may request a formal meeting before the Sanitary Board to appeal the draft permit denial or specific provisions of the draft permit. A request for an appeal must be submitted in writing to the Sanitary Board within 30 days after the informal meeting with the Superintendent. The request shall clearly state the specific action or provision(s) being appealed and the grounds for the appeal. Within 30 days after the close of the applicant's review period or the appeal meeting, the Sanitary Board shall issue a final Industrial Waste Permit.

(c) Permit Modifications. The terms and conditions of a permit may be subject to modification during the term of the permit as limitations or requirements identified in this article are modified or if other just cause exists. The issuance of modified permits shall be done in accordance with the procedures prescribed in Section [937.04\(b\)\(1\)](#) of this article. Any such modification in the permit shall include a reasonable time schedule for compliance.

As soon as possible after the promulgation of a Federal Categorical Pretreatment Standard, the Industrial Waste Permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Within 180 days after the effective date of the applicable Federal Categorical Pretreatment Standard, any user which has not previously submitted an application for an Industrial Waste Permit, as required by Section [937.04\(b\)\(1\)](#), shall submit to the Sanitary Board an application for an Industrial Waste Permit and a Baseline Monitoring Report as required by 40 CFR, Part 403, Section 403.12(b). Within 180 days after the effective date of the applicable Federal Categorical Standard, any user with an existing Industrial Waste Permit shall submit to the Sanitary Board a Baseline Monitoring Report including the information required by Section [937.04\(b\)\(1\)H](#) and (b)(1)I. ~~hereof.~~

(d) Permit Conditions. Industrial Waste Permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the Sanitary Board. Permits may contain the following requirements:

(1) Unit charges or a schedule of user charges and fees for the wastewater to be discharged to the POTW.

(2) Limits on the average and maximum wastewater constituents and characteristics.

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization.

(4) Requirements for installation and maintenance of inspection and sampling facilities.

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

(6) Compliance schedules; however, it must be noted that no such compliance schedule shall exempt an industrial user from further enforcement action for failure to meet a compliance date for any applicable Federal Pretreatment Standards.

(7) Requirements for submission of technical reports or discharge reports.

(8) Requirements for maintaining and retaining plant records relating to the wastewater discharge as specified by the Sanitary Board, and affording the Sanitary Board access thereto.

(9) Requirements for prior notification of the Sanitary Board of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

(10) Requirements for notification of slug or accidental discharges as per Section [937.03](#)(i)(2) and developing and implementing a Slug Discharge Control Plan in accordance with the requirements of Section 403.8(f)(1)(v) of 40 CFR, Part 403.

(11) Requirements for compliance with all applicable Federal Categorical Pretreatment Standards and reporting requirements.

(12) Requirements for submitting to the Sanitary Board all ~~available~~ sampling and monitoring data conducted in accordance with 40 CFR, Part 136 procedures.

(13) Requirements for developing and implementing a Spill Prevention and Control Plan and use of best management practices (BMPs) to prevent spills or accidental discharges from entering the public sanitary sewerage system.

(14) Penalty provisions as provided for under Sections [937.07](#) and [937.08](#).

(15) Other conditions as deemed appropriate by the Sanitary Board to ensure compliance with this article. (Ord. 02-16. Passed 5-16-02.)

(16) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(17) Requirements to control Slug Discharge, if determined by the Superintendent to be necessary.

(18) Equivalent Categorical Pretreatment Standard limits may be provided in accordance with the requirements of Section 403.6(c) of 40 CFR 403 if the Superintendent determines that concentration-based limits should replace mass-based limits or that mass-based limits should replace concentration-based limits.

(e) Permit Duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification by the Sanitary Board during the term of the permit if the limitations or requirements identified in Section [937.03](#) are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permit Renewal. A user with a currently effective permit shall submit a new permit application to the Sanitary Board at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Superintendent. The terms and conditions of the existing permit shall remain fully effective and enforceable until the effective date of a new permit, provided the permittee has properly submitted a complete application for permit renewal within the specified

time period, and the Sanitary Board has not revoked the existing permit or denied the permit renewal in accordance with the provisions of this article.

(g) Permit Transfer. Industrial Waste Permits are issued to a specific user for a specific operation. A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior written approval of the Sanitary Board. The Permittee shall notify the succeeding owner or controller of the existence of this Permit by certified letter, a copy of which shall be forwarded to the Sanitary Board, at least thirty (30) days prior to completing any such transfer. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit until such time that a new permit is issued by the Sanitary Board.

(h) Reporting Requirements.

(1) All industrial users, whether permitted or not, shall notify the Sanitary Board immediately of all discharges that could cause problems to the POTW, including any slug loadings or accidental spills by the industrial user.

(2) All industrial users shall notify the Superintendent Sanitary Board within 24 hours of becoming aware of a violation, based on the sampling performed by the industrial user. In addition, the industrial user shall also repeat the sampling and analysis for the pollutant parameter in noncompliance and submit the results of the repeat analysis to the Superintendent Sanitary Board within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the Sanitary Board performs sampling at the User's facility at least once a month, or if the Sanitary Board performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Superintendent [the Sanitary Board] receives the results of this sampling, or if the Sanitary Board has performed the sampling and analysis in lieu of the Industrial User.

(3) All industrial users, whether permitted or not, shall promptly notify the Superintendent Sanitary Board in advance of any substantial change in the volume or character of pollutants in their discharge, ~~including the listed or characteristic hazardous wastes for which the industrial user has submitted an initial notification under Section 403.12(p) of 40 CFR, Part 403.~~ For the purposes of this requirement, substantial changes include, but are not limited to, flow increases of 10 percent or greater and the discharge of any previously unreported pollutants. Formal written notification shall be submitted to the Sanitary Board at least sixty (60) days prior to any introduction of any new pollutants so that permit requirements can be established as necessary. The Sanitary Board reserves the right to deny or place conditions on any new or increased contributions to its sewer system.

(4) All industrial users, whether permitted or not, shall notify the Superintendent Sanitary Board, the U.S. EPA, and the West Virginia DEP in writing of any discharge into the POTW of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261, ~~in accordance with the requirements of Section 403.12(p) of 40 CFR, Part 403.~~ At a minimum, such notification must include the name of the listed or characteristic hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges to

the POTW more than 100 kilograms of such waste per calendar month, the notification shall also include identification of the hazardous constituent(s) contained in the waste and measured mass and concentration of those constituent(s) in the waste stream in the current calendar month and estimation of mass and concentration of those constituent(s) in the waste stream for the following twelve months. The industrial user shall also notify the Sanitary Board in writing, at least sixty (60) days in advance, of any substantial change in the volume or character of any listed or characteristic hazardous wastes discharged for which the Permittee has submitted initial notification under Section 403.12(p) of 40 CFR, Part 403. Substantial changes include, but are not limited to, flow increase of ten percent or greater and/or the discharge of previously unreported pollutants. Upon issue of new state or federal regulations identifying additional characteristics of hazardous waste or announcing any additional substance as a hazardous waste, the industrial user shall within ninety days of public notice of the new regulation, notify the Superintendent, the U.S. EPA, and the West Virginia DEP in writing of any discharge regulated under the new rule.

(5) Within 180 days after the effective date of any Categorical Pretreatment Standard now or later promulgated by the U.S. EPA, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR Section 403.6(a)(4), whichever is later, any industrial user subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Sanitary Board, a Baseline Monitoring Report containing the information listed in paragraphs (b)(1) through (b)(7) of 40 CFR Section 403.12. At least ninety (90) days prior to commencement of any discharge, New Sources, and any sources that become industrial users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the Sanitary Board a Baseline Monitoring Report which contains the information listed in paragraphs (b)(1) through (b)(5) of 40 CFR Section 403.12 and information on the method of pretreatment the source intends to use to meet the applicable Pretreatment Standards.

(6) 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 industrial user subject to Pretreatment Standards and Requirements shall submit to the Sanitary Board a 90-day Compliance Report containing the information described in paragraphs (b)(4) through (b)(6) of 40 CFR Section 403.12. For industrial users subject to equivalent mass or concentration limits established by the Sanitary Board, this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(7) The Baseline Monitoring Report and 90-day Compliance Report that must be submitted by categorical industrial users shall include a statement, reviewed and signed by an Authorized Representative of the Industrial User as defined in this article, and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and

maintenance and/or additional pretreatment is required for the industrial user to comply with the applicable Pretreatment Standards and Requirements.

(8) Any industrial user subject to a Categorical Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Sanitary Board, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Sanitary Board, a periodic compliance report indicating the nature and concentration of pollutants in the effluent which are limited by such Categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flow during the reporting period. At the discretion of the Sanitary Board and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Sanitary Board may agree to alter the months during which the above reports must be submitted. For industrial users subject to equivalent mass or concentration limits established by the Sanitary Board, this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation) this report shall include the user's actual production during the appropriate sampling period. (Ord. 02-16. Passed 5-16-02.)

(9) Periodic Compliance Reports. All Significant Industrial Users must, at a frequency determined by [the Superintendent submit no less than twice per year (June and December reports indicating the nature, 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. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the User. (Ord. 10-23. Passed 9-14-10.)

(10) The Baseline Monitoring Reports, 90-day Compliance Reports, and periodic compliance reports from both categorical and noncategorical industrial users shall be based upon sampling and analyses of the discharge, including the flow or production and mass where requested by the Sanitary Board, performed during the period covered by the report. All sampling and analyses shall be representative of normal work cycles or production levels and the expected pollutant discharges to the POTW. All techniques shall be in accordance with the procedures and standards described in 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not include sampling or analytical techniques for the pollutant in question, or where the EPA Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Sanitary Board or other persons, approved by the EPA Administrator.

(11) All Baseline Monitoring Reports, 90-day Compliance Reports, and periodic compliance reports from both categorical and noncategorical industrial users shall be

signed by an Authorized Representative of the Industrial User as defined in this article and include 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 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."

(12) Users that send electronic (digital) documents to the Sanitary Board to satisfy the requirements of this Section must: [\[specify POTW requirements for IU submittal of electronic reports here\]](#).

(13) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

(i) Monitoring Facilities.

(1) When required by the Sanitary Board, an industrial user shall install a suitable manhole or manholes on his connecting sewer or sewers to facilitate observation, sampling and measurement of the combined flow of wastes from his premises. Alternate monitoring facilities or arrangements may be acceptable to the Sanitary Board under certain conditions and will be considered on a case-by-case basis. Such manhole or manholes shall be accessible and safely located and shall be constructed in accordance with plans approved by the Sanitary Board. The monitoring facilities shall be installed by the Owner at his expense and shall be maintained by him so as to be safe and accessible to the Sanitary Board or its authorized representative at all times.

(2) There shall be ample room in or near such sampling manhole or monitoring facility to allow accurate sampling and preparation of samples for analysis. The monitoring facilities that the user is required to install shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Sanitary Board's requirements and all applicable local construction standards and specifications. Construction shall be completed within 180 days following written notification by the Sanitary Board.

(j) (1) Inspection and Sampling. The Sanitary Board shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Sanitary Board or its representative(s) ready access at all reasonable times to all parts of the premises necessary for the purpose of inspection, sampling, records examination (including the right to inspect and copy records) or in the performance of any of their duties. The right of access for inspection shall extend to, but not necessarily be limited to, production areas or other premises where wastewater discharges are generated, chemical storage

areas, hazardous waste storage areas, any pretreatment facilities, and any sampling and monitoring equipment or facilities. The Sanitary Board and the Approval Authority shall have the right to set up, on the user's property, such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards such that upon presentation of suitable identification, personnel from the Sanitary Board, designated representatives of the City, and/or the Approval Authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(2) Sample Collection. Samples collected to satisfy reporting requirements must be ~~based on data~~ obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in subsection B. and C. below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the Superintendent ~~[the Sanitary Board]~~, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by [the City], as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section [937.04](#)(h) and [937.04](#)(g)(6) [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, [the Superintendent] may authorize a lower minimum. For the reports required by paragraphs Section [937.04](#)(h)(9) (40 CFR 403.12 (e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(3) 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. (Ord. 11-12. Passed 5-19-11.)

(k) Pretreatment.

(1) Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Existing sources shall comply with Categorical Pretreatment Standards within three years of the date the Standard is effective, unless a shorter compliance time is specified in the applicable Standard. New Sources shall install and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to discharge to the POTW. Within the shortest feasible time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards.

(2) Any facilities required to pretreat wastewater to a level acceptable to the Sanitary Board shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Sanitary Board for review and shall be acceptable to the Sanitary Board before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Sanitary Board under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Sanitary Board prior to the user's initiation of the changes.

(l) The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the Sanitary Board, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all ~~Significant Industrial Users (or any other Industrial User that violates paragraphs C., D. or H. of this Section)~~ and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section [937.02](#);

(2) 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 numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other TRC violation of a ~~Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long term average, Instantaneous Limit, or narrative standard)~~ that the Superintendent determines has caused, alone or in combination with

other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in [the Superintendent's] exercise of its emergency authority to halt or prevent such discharge.

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

(6) Failure to provide, within forty-five (45) days after the due date, required reports such reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

(m) Confidential Information.

(1) All records relating to compliance with Pretreatment Standards shall be made available to officials of the EPA or West Virginia DEP upon request.

(2) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Sanitary Board that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

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

(n) Recordkeeping. 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, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best

Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Superintendent.

937.05 FEES.

(a) Purpose. The purpose of this section is to provide for the recovery of costs from industrial users of the City's wastewater disposal system for the implementation of the pretreatment program established herein.

(b) Charges and Fees.

(1) The City may, by ordinance, adopt charges and fees which may include:

A. Fees for reimbursement of the costs of setting up and operating the Sanitary Board's Pretreatment Program.

B. Fees for compliance monitoring, inspections, and surveillance procedures.

C. Fees for reviewing accidental discharge procedures and construction.

D. Fees for permit applications.

E. Fees for filing appeals.

F. Fees for consistent removal (by the City's POTW) of pollutants otherwise subject to Federal Pretreatment Standards.

G. Other fees as the City at the recommendation of the Sanitary Board may deem necessary to carry out the requirements contained herein.

(2) These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the City under the Streets, Utilities and Public Services Code, of Part Nine of the Codified Ordinances of the City of Clarksburg, as amended, including the industrial waste surcharge provisions of Section [937.06](#).

(3) Adopted fee. The following fees were adopted by the City at the recommendation of the Sanitary Board.

INDUSTRIAL PRETREATMENT PROGRAM FEES

Application Fee	\$100.00
Permit Fee (if required)	\$150.00
Annual Renewal Fee	\$150.00
Major Permit Modification Fee	\$250.00
Minor Permit Modification Fee	No Charge
Discharge Analysis Fees *	Permittee's Responsibility
Trucked in Waste	\$30.00 per 1000 gallons
Gate Fee for Trucked in Waste	\$20.00 per truck entry

* For reporting purposes and for annual inspections.

~~A. All sludge haulers shall be permitted.~~

~~B. Permits.~~

~~1. Permits shall be valid for five (5) years.~~

~~2. Permit renewal requests shall be submitted six (6) months prior to the expiration date of the previous permit.~~

(4) Permits for Hauled Wastewater: Discount: When obtaining a permit for hauled wastewater, the charge for the first year shall be \$250.00 (the \$100.00 application fee plus the \$150.00 permit fee). Each year thereafter shall be \$150.00 for the annual renewal fee for the duration of the permit (for a total of \$850.00 for the five (5) year permit). However, the Permittee shall only pay \$750.00 for the entire five (5) year permit should Permittee pay said \$750.00 when initially obtaining the permit.

937.06 SURCHARGE FOR CERTAIN INDUSTRIAL WASTES .

(a) General. Although the sewage treatment works are capable of treating certain abnormal industrial wastes, as heretofore defined in section 937.02 of this Article ~~these Rules and Regulations~~, the actual treatment of such wastes will increase the cost of operating and maintaining the public sanitary sewerage system. Therefore, there is hereby imposed upon each person discharging such abnormal industrial waste into the public sanitary sewerage system a surcharge, or surcharges, which are intended to cover such additional cost. Such surcharges shall be in addition to the regular sewage collection, transportation, and treatment charges set forth in the prevailing Sewer Charges of the Streets, Utilities and Public Services Code of Part Nine of the Codified Ordinances of the City of Clarksburg, and shall be payable as hereinafter provided in the amount hereinafter provided.

(b) Surcharge Sampling. The strength of any industrial waste, the discharge of which is to be subject to surcharge, shall be determined monthly, or more frequently if the Sanitary Board deems necessary, from samples taken either at the manhole or any other sampling point mutually agreed upon by the Sanitary Board and the producer of such waste. The frequency and duration of the sampling period shall be such as, in the opinion of the Sanitary Board, will permit a reasonably reliable determination of the average composition of such waste, exclusive of storm water runoff. Samples shall be collected or their collection supervised by a representative of the Sanitary Board and shall be in proportion to the flow of waste, exclusive of storm water runoff, and composited for analysis in accordance with the Current Edition of "Standard Methods for the Examination of Water and Wastewater." Except as hereinafter provided, the strength of the waste so found by analysis shall be used for establishing the surcharge or surcharges. However, the Sanitary Board may, if it so elects, accept the results of routine sampling and analyses by the producer of such wastes in lieu of making its own samplings and analyses.

(c) BOD Surcharge Rate. In the event any industrial waste is found by the Sanitary Board to have a BOD₅ in excess of 300 milligrams per liter, the producer of said waste shall be surcharged an amount equal to the product of the actual volume of wastes in thousand gallons per billing period, exclusive of storm water runoff, discharged to the public sanitary sewerage system and the "BOD surcharge rate." The "BOD surcharge rate" shall be determined by the following formula:

$$R_c = 0.00834 \times P \times (C - 300)$$

Where R_c = the BOD surcharge rate in cents per 1,000 gallons of waste discharged.

P = the average annual fixed, operating and maintenance cost of secondary treatment processes per pound of BOD received at the treatment works. I.E., $P = \$0.39$ per pound BOD in 1997.

C = the average BOD₅ of the industrial waste expressed in milligrams per liter as determined in accordance with subsection (b) hereof.

The figure 300 appearing in the above formula corresponds to the maximum BOD₅ permissible without surcharge. The figure 0.00834 is the factor to convert milligrams per liter to pounds per 1,000 gallons. No discount will be permitted for sewage or industrial wastes having a BOD₅ of less than 300 milligrams per liter.

(d) Suspended Solids Surcharge Rate. In the event any industrial waste is found by the Sanitary Board to have an average suspended solids concentration in excess of 350 milligrams per liter, the producer of such waste shall be surcharged an amount equal to the product of the actual volume of wastes in thousand gallons per billing period, exclusive of storm water runoff, discharged to the public sanitary sewerage system and the "suspended solids surcharge rate." The "suspended solids surcharge rate" shall be determined by the following formula:

$$R_s = 0.00834 \times B \times (S - 350)$$

Where Rs = the suspended solids surcharge rate in cents per 1,000 gallons of waste discharged.

B = the average annual fixed, operating and maintenance cost of the sludge digestion, sludge drying and sludge disposal operations per pound of suspended solids received at the treatment works. I.E., B=\$0.16 per pound of suspended solids in 1997.

S = the average suspended solids concentration of the abnormal industrial waste expressed in milligrams per liter as determined in accordance with subsection (b) hereof.

The figure 350 appearing in the above formula corresponds to the maximum suspended solids concentration permissible without surcharge. The figure 0.00834 is the factor to convert milligrams per liter to pounds per 1,000 gallons. No discount will be permitted for sewage or industrial wastes having a suspended solids concentration of less than 350 milligrams per liter.

(e) The surcharges provided for in this section shall be added to the regular sewerage service charge and any other industrial user charges imposed by the City under the prevailing Sewer Charges of this article. The surcharges shall be due at the same time and subject to the same late payment penalties and delinquency remedies established by the City for regular sewerage service charges.

937.07 ENFORCEMENT.

(a) Emergency Action Powers.

(1) The Superintendent may, upon informal notice to an industrial user, order the user to immediately halt or prevent a discharge to the POTW which, in the judgment ~~opinion~~ of the Superintendent, reasonably appears to present an imminent endangerment to (i) the health or welfare of persons, or to (ii) interference with or damage to the POTW. For the purpose of this paragraph, informal notice to an industrial user may be issued by a telephone call, an on-site inspection/visit, a cease and desist order, or any combination of these methods.

(2) In the event that an industrial user should fail to voluntarily comply with an emergency order to immediately halt or prevent a discharge to the POTW, the Superintendent shall take whatever action deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or the endangerment of any individuals. The costs associated with any such emergency action shall be assessed to the industrial user, and the City shall not be responsible for any damages, including loss of income, as a result of such emergency action.

(3) The Sanitary Board shall authorize permission to resume a discharge that has been halted under the emergency action provisions of Section 937.07(a)(1) upon satisfactory proof that the imminent danger has been eliminated. Within 25 days after the date of any such emergency action, the industrial user shall submit to the Sanitary Board a detailed written statement describing the cause or causes of the harmful

contribution that necessitated the emergency action and the measures that will be taken to prevent any future occurrence of the incident.

(b) Revocation of Permit.

(1) The conditions and requirements of this article are applicable to all users permitted or not. These conditions shall be incorporated into the user's permit either expressly or by reference. All users, whether permitted or not, have a duty to comply with all of the conditions of this article. Any noncompliance constitutes a violation of this article and is subject to appropriate enforcement action including, but not limited to, suspension of wastewater treatment service, permit revocation or denial of a permit renewal application.

(2) The Sanitary Board may suspend wastewater treatment service of nonpermitted users or revoke an industrial user's permit and suspend wastewater treatment service, or deny a permit renewal application, for any of the following causes:

A. Determination by the Superintendent Sanitary Board that the discharge presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW.

B. Failure of the user to disclose fully all relevant facts during the permit application or issuance process, or the user's misrepresentation of any relevant facts at any time.

C. Falsifying monitoring or compliance reports or tampering with or knowingly rendering inaccurate any monitoring device or method required to be maintained under the user's permit.

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

E. Willful and knowing failure to comply with any conditions of the user's permit or this article.

(3) In the event of a nonemergency situation, where the Sanitary Board has determined that a user's discharge presents, or may present, a threat to the environment or the operation of the POTW, or where revocation of a user's Industrial Waste Permit is warranted as an enforcement action, the Sanitary Board shall, after formal written notification to the affected user and provision of ample opportunity for the user to respond, require the user to halt or prevent the discharge.

(c) Notification of Violation.

(1) Except in cases of emergency situations subject to the provisions of Section [937.07\(a\)\(1\)](#) hereof, whenever the Sanitary Board determines that an industrial user has violated or is violating any prohibitions, limitations, or requirements of the user's permit or this article, the Sanitary Board may issue by certified mail a formal written notification stating the nature of the violation. The user shall be afforded a minimum period of thirty (30) days after the receipt of the notification of violation within which to correct the deficiency or violation, or to submit to the Sanitary Board a

proposed corrective action plan and schedule for correcting the violation. However, all violations result in immediate liability, and the Sanitary Board may seek such penalties and/or take other enforcement action as it deems necessary during this response period.

(2) In the case of procedural violations, an industrial user may correct the violation by fulfilling the duties or requirements that are deficient. The Sanitary Board shall review the corrective action taken by the user to determine whether or not the violation has been adequately corrected. Failure to correct a violation within a reasonable time period may result in further enforcement action.

(3) In the case of discharge violations, the industrial user may correct the violation by process modifications or implementing appropriate pretreatment technology. The Sanitary Board shall review the proposed corrective action plan and schedule submitted by the user to determine whether or not the plan is adequate to correct the violation and consistent with the objectives of any applicable Federal Pretreatment Standards and the General Pretreatment Regulations. The Sanitary Board may require modifications to the plan and schedule, including the submission of interim progress reports, to verify correction of the violation within an appropriate compliance schedule. The Sanitary Board may modify the user's permit to incorporate a reasonable schedule of compliance to implement an acceptable corrective action plan. In no case will any such compliance schedule exempt a user from further enforcement action by the Sanitary Board for the discharge violations or from enforcement action for failure to meet a compliance date in any applicable Federal Pretreatment Standards. (Ord. 02-16. Passed 5-16-02.)

(4) If the City performed the sampling and analysis in lieu of the Industrial User, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. (See 40 CFR 403.12(g)(2).1)

(d) Notification of Enforcement Action.

(1) Except in the case of emergency situations subject to the provisions of Section [937.07\(a\)\(1\)](#) hereof, whenever the Sanitary Board deems it necessary to take enforcement action, including revocation of the user's permit, under the provisions of this article, the Sanitary Board may issue the affected user a formal written notification of the proposed enforcement action by certified mail. Such notice shall state the basis for the proposed action and the reasons for the Sanitary Board's tentative action.

(2) The industrial user shall be afforded a minimum period of 30 days within which to comment on the proposed action and to submit to the Sanitary Board a written request for a meeting with the Sanitary Board to appeal the proposed action. All requests for an appeal meeting shall clearly state the specific action or provision(s) of the proposed action that is being appealed and the grounds upon which the appeal is based. Any supporting evidence that is relevant to the appeal must also be submitted with the request for appeal. The Sanitary Board may deny the appeal request on the basis of insufficient grounds or may schedule a meeting for the user to present the

appeal to the Sanitary Board. As soon as practicable after the conclusion of the review period or the appeal meeting, the Sanitary Board shall issue, to the user, a formal written notification of the intended enforcement action and their conclusions. It must also be noted that all violations result in immediate liability, and the Sanitary Board may seek such penalties and/or take other enforcement action as it deems necessary during the 30-day response period.

(e) Consent Orders. The Sanitary Board is hereby empowered to enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. In no case will any such order exempt a user from further enforcement action for failure to meet a compliance date in any applicable Federal Pretreatment Standards.

(f) Upset Provisions. Under the conditions specified in Section 403.16 of the Federal General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR, Part 403), an upset shall constitute an affirmative defense to an enforcement action for noncompliance with ~~either~~ Federal Categorical Standards or local technology-based standards ~~adopted pursuant to this article~~. Any industrial user seeking to establish the occurrence of an upset shall have the burden of proof to demonstrate that the conditions necessary for an upset according to the General Pretreatment Regulations have been met.

(g) Show Cause Hearing.

(1) In certain cases, such as those involving revocation of a user's permit, the Sanitary Board may order a user to show cause before the Sanitary Board why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Sanitary Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Sanitary Board why the proposed enforcement action should not be taken. The notice of the bearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The Sanitary Board may itself conduct the hearing and take evidence or may designate any of its members, or in conjunction with the affected user, the Sanitary Board may designate a neutral Hearing Officer ~~arbitrator or board of arbitration~~ to:

A. Issue in the name of the Sanitary Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

B. Take the evidence;

C. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Sanitary Board for action thereon.

(3) At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(4) After the Sanitary Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed on existing treatment facilities, devices, or other related appurtenances and are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(h) Injunctive Relief. When the Sanitary Board finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Sanitary Board may petition the Circuit Court of Harrison County, West Virginia, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of this wastewater discharge permit, order, or other requirement imposed by this article on activities of the user.

(i) Compliance Orders. When the Sanitary Board finds that an industrial user has violated or continues to violate this article, or a permit, or order issued thereunder, the Sanitary Board may issue a compliance order to the industrial user responsible for the discharge directing that following a specified time period, sewer service facilities, devices, or other related appurtenances shall have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(j) Cease and Desist Orders. When the Sanitary Board finds an industrial user has violated or continues to violate this article or any permit or order issued hereunder, the Sanitary Board may issue an order to cease and desist all such violations and direct the industrial user in noncompliance to:

(1) Comply forthwith.

(2) Take such appropriate remedial or preventative actions needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

937.08 PENALTIES, DELINQUENCIES, AND REMEDIES.

(a) Criminal Penalties.

(1) Any person who is found to have violated an order of the ~~Wastewater Treatment Plant~~ Superintendent or Sanitary Board, or who fails to comply with any provision of this article, or the orders, rules, regulations, and permits issued hereunder by the ~~Wastewater Treatment Plant~~ Superintendent or Sanitary Board, where such violation is found to be either intentional or a repeat violation within one year of the prior violation shall upon conviction be subject to pay a fine of not more than one thousand

dollars (\$1,000) and the costs of prosecution, and in default of payment of fine and costs, to undergo imprisonment for not more than 30 days, for each and every offense. Each day's continuation of a violation shall constitute a separate offense. In addition to the penalties recommended herein, the Sanitary Board shall be able to recover court costs, court reporter's fees, and any other expense of litigation by appropriate suit at law against the person found to have violated the provisions of this article.

(2) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under the industrial waste discharge provisions of this article, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall upon conviction be subject to pay a fine of not more than one thousand dollars (\$1,000) and costs of prosecution, and in default of payment of fine and costs, to undergo imprisonment for not more than 30 days, for each and every offense. In addition to the penalties recommended herein, the Sanitary Board shall be able to recover court costs, court reporter's fees, and any other expense of litigation by appropriate suit at law against the person found to have violated the provisions of the City and/or Sanitary Board.

(b) Recovery of Damages and/or Costs. Any person violating any of the provisions of this article or who discharges or causes a discharge which produces a deposit or obstruction or otherwise causes damage to or impairs the operation of the public sanitary sewerage system shall be liable to the Sanitary Board for any expenses, losses, or damages caused by such violation or discharge. The Sanitary Board shall bill the user for the costs incurred by the Sanitary Board for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this article and shall be subject to further enforcement action and penalties according to the provisions of this article.

(c) Civil Penalties.

(1) Any industrial user who has violated or continues to violate this article or any order or permit issued hereunder shall be liable to the Sanitary Board for a civil penalty of not more than one thousand dollars (\$1,000), plus actual damages incurred by the Sanitary Board per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the Sanitary Board may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including, but not limited to, sampling and monitoring expenses.

(2) The Sanitary Board shall petition the Circuit Court of Harrison County, West Virginia, to impose, assess, and recover such sums. In determining the amount of 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, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factors as justice permits.

(d) Delinquencies and Remedies.

(1) Each sewerage service charge, additional charge, surcharge and penalty imposed by this article, together with interest at a rate of 12 percent per annum from the expiration of thirty (30) days after the date upon which it shall become due, shall be a debt due the Sanitary Board and shall be a lien on the property served, and if not paid within thirty (30) days after it shall become due, shall be deemed delinquent. There shall be further imposed, a late payment penalty of ten percent (10%). In such event, the Sanitary Board may proceed to file a lien in the Office of the County Clerk of the County Commission of Harrison County, West Virginia and collect the same in the manner provided by law for the filing and collection of municipal claims.

(2) In the event of failure to pay any sewerage service charge, additional charge, surcharge, or penalty after they become delinquent, as herein provided, the Sanitary Board shall be authorized to remove or close the sewer service connection and shall have the right to enter upon the property serviced for such purpose and to take such steps as may be necessary to accomplish such removal or closing. The expense of restoring any such service, shall likewise be a debt due the Sanitary Board and a lien on the property served and may be filed and collected as hereinabove provided. Such sewage service connection shall not again be turned on or the sewage service restored until all sewage service charges, additional charges, surcharges, and penalties, including the expense of removal, closing, and restoration, shall have been paid or adequate provisions for their payment shall have been made.

(3) Change of ownership or occupancy of any property served by the public sanitary sewerage system as to which the sewer service charge, additional charge, surcharge or penalty imposed by this article is delinquent, as provided in Section [937.07](#)(b)(1) hereof, shall not be cause for reducing or eliminating the rights and remedies of the City and/or Sanitary Board set forth in this article.