

## **ORDINANCE NO. 2011-02 WASTE HAULERS**

### **REGULATIONS GOVERNING WASTE HAULERS**

No person in the business of collecting and disposing of septic or holding tank wastes or leachates shall discharge these wastes to any portion of the wastewater treatment system unless a permit for disposal is obtained from the City of Peshtigo. Written application for this permit shall be made to the City of Peshtigo and shall state the name and address of the applicant, the number of its disposal units, and the make, model, and license number of each unit. Permits shall be nontransferable except in the case of replacement of a permitted disposal unit. The permit holder shall provide evidence of adequate financial resources to meet all obligations under this Ordinance and applicable State and Federal laws and regulations, and shall in addition pay such application fee and annual permitting fee as the City of Peshtigo shall from time to time direct. The time and place of disposal shall be designed by the City of Peshtigo. The City of Peshtigo may impose such conditions as it deems necessary on any permit.

### **DENIAL OR REVOCATION OF PERMITS**

The City of Peshtigo reserves the right to review all permit applications on a case-by-case basis, and deny or revoke permits for reasons, including but not limited to: failure to submit manifests or reports as required by the City of Peshtigo, submission of false data to the City of Peshtigo, failure to follow any or all of the applicable provisions of this Ordinance, or failure to comply with any of the rules or requirements of the City of Peshtigo. Violation of any of the provisions of this article shall subject the permit holder to immediate suspension of its permit, and upon hearing before the City of Peshtigo revocation of its permit. The permit holder is also subject to all other provisions of this Ordinance. The City of Peshtigo reserves the right to suspend or revoke any disposal privileges immediately if, in the opinion of the City of Peshtigo, the acceptance of such wastewater will cause the treatment works to violate the provisions of its WPDES permit due to the volume or character of the wastes. In such cases, the City of Peshtigo shall give priority to wastewater generated within the service area.

### **FEES AND CHARGES**

Reference schedule of Fees and Charges.

### **INSURANCE REQUIREMENT**

Every permit holder under this section shall maintain public liability insurance (general and automobile) in a total amount not less than \$300,000, and workmen's compensation insurance meeting statutory limitations, in order to protect any and all persons or property from injury and/or damage caused in any way or manner by an act, or failure to act, by the permit holder's or their employees. A permit applicant shall furnish certification that such insurance is in full force and effect before the City of Peshtigo issues or re-issues a waste hauling permit.

### **PROHIBITED DISCHARGES**

All wastes discharged to the treatment works under a permit for disposal shall be of domestic origin only. At no time shall the City of Peshtigo accept septic or holding tanks wastes from commercial or industrial facilities without prior authorization. The waste hauler shall also certify that he shall comply with the provisions of this Ordinance and shall not deposit or drain any gasoline, oil, acid, alkali, grease, rags, waste, volatile or inflammable liquids, or any other deleterious substances into any manhole, nor allow any earth, sand, or other solid material to pass into any part of the treatment works.

### **SAMPLING AND REPORTING REQUIREMENTS**

- A. All permit holders must complete a discharge report form providing the date, time, duration of discharge, name, and address of the producer of each waste discharged. The volume, waste characteristics and the name and billing address of the permit holder shall also be provided.
- B. The City of Peshtigo reserves the right to sample any or all wastes discharge to treatment works. The permit holder shall pay any and all sampling and analytical costs for all waste loads discharged.
- C. All discharges shall be at the location specified by the City of Peshtigo.

## **HOLD AND HARMLESS PROVISION**

Any permit holder under this section shall as a condition of holding this permit, agree to indemnify and hold harmless the City of Peshtigo from any and all liability and claims for damages arising out of acts of the permit holder.

## **Regulations**

### **GENERAL PROHIBITIONS**

- A. No discharger shall discharge any wastes, which will detrimentally affect the performance of the Peshtigo Wastewater Collection and Treatment System.
- B. Every discharge to the sanitary sewer system, which will detrimentally affect the wastewater treatment works, is hereby prohibited and subject to the violation penalties of this Ordinance.

### **SPECIFIC DISCHARGE PROHIBITIONS**

- A. No discharger shall discharge or cause to be discharged any of the following, measured at the point of discharge into the wastewater collections facilities:
  - 1. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius or lower than 32 degrees Fahrenheit (0 degree Celsius).
  - 2. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment facility or the operation of the wastewater treatment facility. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over ten percent of the Lower Explosive Limit (LEL) of the meter.
- B. This prohibition includes pollutants which create a fire or explosion hazard in the collection system or wastewater treatment facility including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods specified in 40 CFR 261.21.
- C. Garbage from homes, hotels, restaurants, institutions, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or for consumption off the premises when served by caterers.
- D. Any garbage other than ground garbage.
- E. Solid or viscous substances in quantities, or of such size, that it is capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
- F. Any waters or wastes having a pH lower than 6.0 s.u. or higher than 9.0 s.u., or having any other corrosive property capable of causing damage or hazard to sewers, structures, equipment or personnel of the system.
- G. Any water or waste which contains fat, oil, or grease, emulsified or not, in concentrations greater than 100 mg/L by weight as analyzed by the methods described in 40 CFR, Part 136 or Chapter NR 219 of the Wisconsin Administrative Code or in concentrations that will cause interference or pass-through at the wastewater treatment plant.
- H. Any water or waste containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure any person and/or to interfere with any waste treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the receiving waters of the wastewater treatment facility.
- I. Any industrial waste, which exceeds the limitations, set forth in the categorical standards.
- J. Any radioactive wastes or isotopes of such half-life or concentration that they do not comply with the National Pollutant Discharge Elimination System or are likely to cause damage or be hazardous to the system or personnel operating the system.
- K. Any slug.
- L. Any waters or wastes, which, alone or in combination with other wastes, cause excessive discoloration, and/or cause the Peshtigo Wastewater Utility to violate its WPDES permit.
- M. Any substances in concentrations, which are not compatible with the treatment processes, employed at the wastewater treatment facility.

**SPECIFIC POLLUTANT LIMITATIONS**

To protect Wastewater Treatment Plant processes, enhance sludge handling and disposal, control pass-through of pollutants into receiving water, and protect the Treatment Plant and Collection Systems workers, the following pollutants shall not exceed the listed limits:

A. Local Limits		
Parameter	imum Limit (mg/L)	Surcharge Limit
ARSENIC	0.1	----
BOD5	NONE	275.00
CADMIUM	0.14	----
CHROMIUM	2.41	----
COPPER	1.4	----
CYANIDE	0.19	----
LEAD	2.02	----
MERCURY	0.01	----
NICKEL	1.35	----
PHENOLS	25.0	----
SELENIUM	0.12	----
SILVER	0.5	----
SUSPENDED SOLIDS	NONE	355.00
ZINC	2.25	----
PH	6.0 – 9.0	----
PHOSPHORUS	NONE	8.0
OIL AND GREASE	100.00	----

**EXCESSIVE DISHCHARGE, DILUTION**

- A. No discharger shall increase the use of process water, or in any way attempt to dilute a discharge in lieu of adequate treatment in order to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other limitations established by this Ordinance or by the State.
- B. The City of Peshtigo may impose mass limitations on permittees, which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

**ACCIDENTAL DISCHARGE**

- A. Each discharger shall provide adequate protection from accidental discharge of prohibited materials, total toxic organics, or other substances regulated by this Ordinance. In the case of any accidental discharge, which could cause problems to the wastewater treatment system, including slug loads, it is the responsibility of the discharger to immediately notify the City of Peshtigo of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. Such notifications shall not relieve the discharger of any liability, which may be incurred as a result of the discharge.
- B. Written notice. Within 5 working days following an accidental discharge, shall submit to the City of Peshtigo a detailed written report describing the cause of the discharge and the measures to be taken by the discharger to prevent similar future occurrences. Such notification shall not relieve the discharger of any liability, which may be incurred as a result of the discharge.

**GREASE, OIL, AND SAND INTERCEPTORS**

Grease, oil, and sand traps shall be provided by the discharger when, in the opinion of the City of Peshtigo, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or any flammable wastes, sand, or other harmful materials. Traps shall not be required for residential users. All traps shall be readily and easily accessible for cleaning and inspection. The discharger shall be responsible for the proper maintenance of approved traps, and for the removal and disposal, by appropriate means, of the captured material and shall maintain records of the dates, and means of disposal. These records shall be subject to review by the City of Peshtigo. Any removal and hauling of the collected materials not performed by the discharger must be performed by a licensed waste disposal firm.

**Enforcement**

**WRITTEN NOTICE OF VIOLATION**

- A. Any person determined by the City of Peshtigo to be in Significant Noncompliance shall be served with a written notice stating the nature of the violation and the action proposed to be taken in response to such violation. A written notice of violation shall be served for any of the following permit violations:

1. An accidental discharge or slug load.
2. Exceedance of discharge limits as reported on semi-annual reports.
3. Exceedance of discharge limits as determined by the City of Peshtigo compliance monitoring, or data from other State of Wisconsin registered or certified labs.
4. Violation of a compliance schedule where a milestone date is exceeded by more than 90 days.
5. Failure to provide required reports within 30 days from the due date.
6. Failure to allow authorities access to premises for monitoring and/or inspection purposes. For an initial discharge violation, the notice shall provide a date by which the City of Peshtigo shall hold an inspection of the facility in violation.

#### **CITY OF PESHTIGO RESPONSE TO VIOLATION**

- A. The City of Peshtigo shall have any or all of the following options in response to a violation of a Wastewater Discharge Permit. The City of Peshtigo may:
  1. Issue an order to immediately cease the unlawful conduct identified in the Notice of Violation (NOV).
  2. Issue an order to cease the unlawful conduct identified in the NOV within a specified period of time.
  3. Shut off water and/or sewer service to a discharger if an imminent or actual threat to environment, human health and welfare, or proper operation of the wastewater treatment system is determined to exist.
  4. Commence a civil forfeiture action to collect penalties.
  5. Make claim for damages sustained to the system, or as a result of contamination of the sludge.
  6. Suspend or revoke a Wastewater Discharge Permit.
  7. Commence an action at law or in equity in a State or Federal Court for declaratory judgment, money damages and/or a temporary and/or permanent injunction.

#### **OPPORTUNITY FOR AND PURPOSE OF HEARING**

- A. The notice of violation shall provide the discharger with an opportunity for a hearing prior to enforcement action being taken. Such notice shall provide a time within which the discharger may request a hearing. Following a request for a hearing, a hearing shall be held before the Control Authority and the alleged violator shall be notified, in writing, of the time, date, and place thereof. At such hearing, the alleged violator shall be entitled to be represented by counsel, to present witnesses, and to cross examine all witnesses who testify.
- B. The purpose of such hearing shall be to determine the existence of mitigating factors, if any, and to determine the factual basis underlying the alleged violation.
- C. The failure to make written request for a hearing within the specified time frame shall constitute a waiver of the right to such hearing. In the event of an emergency, an order under Section 46 of this Ordinance may be issued by the City of Peshtigo without written notice and prior hearing, provided that such written notice and hearing are provided following the issuance of the order as soon thereafter as is practical, but in no event greater than ten days after the order is issued.

#### **WRITTEN DETERMINATION**

Within ten days following the hearing, or in the absence of a hearing request within ten days following the last day on which a hearing could have been requested, a written finding and determination shall be made.

#### **SUSPENSION, REVOCATION, OR NON-RENEWAL PERMIT**

- A. The City of Peshtigo may commence an administrative proceeding, upon notice and an opportunity to be heard, to seek the suspension or revocation of any Wastewater Discharge Permit if a discharger:
  1. Fails to factually report to the City the constituents and characteristics of its wastewater discharger;
  2. Fails to report to the City any violation of this Ordinance, or of any order promulgated under authority of this Ordinance, or any violation of discharger's permit issued pursuant to this Ordinance;
  3. Fails to report to the City any significant change in the constituents and characteristics of its wastewater discharge, or a change of +/-20% in discharger's wastewater discharge flow;
  4. Fails to provide the City or other regulatory agency access to its premises for inspection, sampling, or monitoring purposes;

5. Fails to abide by the terms and conditions of this Ordinance, any order promulgated under authority of this Ordinance, any permit issued pursuant to this Ordinance, or any court order enforcing this Ordinance and orders promulgated under its authority;
6. Fails to provide accurate and truthful information to the City;
7. Attempts to tamper with any sampling or monitoring equipment, or with the analysis or reports required by this Ordinance; or
8. Fails to file an amended permit application where one is required by this Ordinance.

## **SERVICE OF NOTICE, FINDINGS, AND DETERMINATIONS**

Service of notices, findings, and determination provided for in this Ordinance shall be by personal service or by Certified Mail with Return Receipt. Notices to the City of Peshtigo shall be served at or delivered to the Peshtigo Municipal Building at 331 French Street, P.O. Box 100, Peshtigo, Wisconsin, 54157.

## **PROCEDURE OF REVIEW**

Any discharger, permit applicant, or permit holder who may be adversely affected by a decision, action, or determination made by the representative of the City of Peshtigo interpreting or implementing the provisions of this Ordinance or of any permit issued herein, may file with the City of Peshtigo a written request for reconsideration within ten days of the date of such decision, action, or determination, setting forth in detail the facts and arguments supporting the request for reconsideration. The City of Peshtigo shall render a decision on the request for reconsideration, in writing, within fifteen days of receipt of the request.

## **Penalties**

Except where a specific penalty is otherwise stated, any person who shall violate any provision of this Ordinance, or orders authorized by this Ordinance shall, upon conviction thereof, be subject to the penalties as outlined in Section 1-17 Code. In addition, dischargers shall be liable for the costs to repair damage to the wastewater treatment system, and any forfeitures, fines, and costs assessed to the City of Peshtigo resulting from violations of this Ordinance. Each day a violation continues shall be deemed a separate offense. If a discharger defaults on payment of such forfeiture and costs, the violator shall be incarcerated under applicable Section 66.119(3) of Wisconsin Statutes for violators of municipal ordinances. The forfeiture specified in this Ordinance shall be in addition to all other remedies specified in this Ordinance or available in law or equity.

## **PENALTIES FOR ACCIDENTAL DISCHARGE OF A REPORTABLE QUANTITY OF REGULATED WASTEWATER**

Any reported accidental discharge which enters the sanitary sewer shall require a forfeiture of One Thousand Dollars (\$1,000.00) from the discharger. The penalty for not reporting an accidental discharge shall be a forfeiture of One Thousand Dollars (\$1,000.00).

## **PENALTIES FOR EXCEEDING LIMITATIONS OF THE WASTEWATER DISCHARGE PERMIT**

- A. Compatible Pollutants. Facilities discharging compatible pollutants shall be governed by the rate structure established by the User Charge System, and specified on the fee schedule released annually by the City of Peshtigo.
- B. Incompatible Pollutants. Facilities discharging incompatible pollutants in excess of limits provided in applicable wastewater discharge permits shall be governed according to the following rate structure:
  1. For any discharge violation resulting in the discharger being in Significant Non-Compliance, the penalty shall be minimum of One Thousand Dollars (\$1,000.00) per violation. Should the City of Peshtigo incur additional monitoring and analytical costs, these costs shall be assessed the discharger in addition to the above penalty.
- C. Any discharger whose discharge, alone or in conjunction with other discharges, causes the City of Peshtigo Wastewater Treatment Facility to be in violation of its WPDES discharge permit shall be liable for all direct and indirect costs, and a forfeiture of not more than One Thousand Dollars (\$1,000.00) per day.

## **Validity**

## **CONFLICTING ORDINANCE**

All Ordinances or parts of Ordinances or regulations in conflict (only to the extent of the conflict) with this Ordinance are hereby superseded.

**INVALID CLAUSE**

If any provision, paragraph, section, sentence or article of this Ordinance is invalidated by any Court of competent jurisdiction, the remaining provisions, paragraphs, sections, sentences, and articles shall continue in full force and effect.

**COMPLIANCE WITH ORDINANCE**

Whenever, throughout this Ordinance, provision is made for inspection, approvals or reviews, such activities are undertaken for the exclusive purpose of assuring compliance with this Ordinance and no person may rely upon such activity for any other reason.

**Enacting Clause**

**DATE OF EFFECT**

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

Dated this 6<sup>th</sup> day of September, 2011.

OFFERED BY:

Mary E. Jack.  
Alderman

SECONDED BY:

Catherine Malke  
Alderman

APPROVED:

Allan J. Krizenesky  
Allan J. Krizenesky, Mayor

ATTEST:

Mary Ann Wills  
Mary Ann Wills  
City Clerk-Treasurer