

TABLE OF CONTENTS

- SECTION 1 - GENERAL PROVISIONS
  - 1.1 Purpose and Policy
  - 1.2 Definitions and Abbreviations
  - 1.3 Use of Publicly Owned Treatment Works
  - 1.4 Private Sewage Disposal Requirements
  - 1.5 Building Sewers and Connections
  - 1.6 Damage and Tampering Prohibition
- SECTION 2 - GENERAL SEWER USE REQUIREMENTS
  - 2.1 Prohibited Discharge Standards
  - 2.2 National Categorical Pretreatment Standards
  - 2.3 POTW Protection Criteria
  - 2.4 Local Limits
  - 2.5 Local Pollutant Allocations
  - 2.6 State Requirements
  - 2.7 Right of Revision
  - 2.8 Dilution
  - 2.9 Pretreatment of Wastewater
  - 2.10 Accidental Discharge/Slug Control Plans
  - 2.11 Hauled Wastewater
- SECTION 3 - FEES
  - 3.1 Purpose
  - 3.2 User Charges
  - 3.3 Surcharges
  - 3.4 Pretreatment Program Administration Charges
- SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE
  - 4.1 Wastewater Dischargers
  - 4.2 Wastewater Permits
- SECTION 5 - REPORTING REQUIREMENTS
  - 5.1 Baseline Monitoring Reports
  - 5.2 Compliance Schedule Progress Reports
  - 5.3 Reports on Compliance with Categorical Pretreatment Standard Deadline
  - 5.4 Periodic Compliance Reports
  - 5.5 Reports of Changed Conditions
  - 5.6 Reports of Potential Problems
  - 5.7 Reports from Unpermitted Users
  - 5.8 Notice of Violation/Repeat Sampling and Reporting
  - 5.9 Notification of the Discharge of Hazardous Waste
  - 5.10 Analytical Requirements
  - 5.11 Sample Collection
  - 5.12 Timing
  - 5.13 Record Keeping
  - 5.14 Electronic Reporting
- SECTION 6 - COMPLIANCE MONITORING
  - 6.1 Monitoring Facilities
  - 6.2 Inspection and Sampling
  - 6.3 Search Warrants
- SECTION 7 - CONFIDENTIAL INFORMATION
- SECTION 8 - ENFORCEMENT
  - 8.1 Administrative Remedies
  - 8.2 Civil Penalties
  - 8.3 Other Available Remedies
  - 8.4 Remedies Nonexclusive
- SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE
- SECTION 10 - ADJUDICATORY HEARINGS
  - 10.1 Initial Adjudicatory Hearing
  - 10.2 Final Appeal Hearing
  - 10.3 Judicial Review
  - 10.4 Stay of Action During Appeals

SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

11.1 Upset

11.2 Prohibited Discharge Standards Defense

11.3 Bypass

SECTION 12 - SEVERABILITY

SECTION 13 - CONFLICT

SECTION 14 - EFFECTIVE DATE

## SECTION 1 - GENERAL PROVISIONS

### 1.1 Purpose and Policy

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

The objectives of this ordinance are:

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

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. The City shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other City personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the City limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

### 1.2 Definitions And Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:
  - (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, *et seq.*
  - (2) Approval Authority. The Director of the Division of Water Resources of the North Carolina Department of Environment and Natural Resources or his designee.
  - (3) Authorized Representative of the Industrial User.
    - (i) If the industrial user is a corporation, authorized representative shall mean:
      - A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

- B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
  - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
  - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
  - (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
  - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
  - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
  - (8) Control Authority – Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.
  - (9) Domestic Wastewater. Liquid waste that has the pollutant levels given in subsection 2.3 of this Ordinance and is from the noncommercial preparation and handling of food and/or from the sanitary conveniences of dwellings, commercial buildings, industrial facilities or institutions.
  - (10) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
  - (11) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
  - (12) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

- (13) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (14) Industrial User or User. Any person which is a source of indirect discharge.
- (15) Interference. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (16) 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.
- (17) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (18) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 2.1 of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.
- (19) New Source. As defined in 40 CFR 403.3(m), including any subsequent amendments & additions.
- (20) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (21) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (22) Non-discharge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
- (23) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES, collection system, or Non-discharge Permit. (24) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.
- (25) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (26) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

- (27) POTW Director. The chief administrative officer of the publicly owned treatment works (POTW) or his/her delegate. (28) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (29) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
- (30) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (31) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (32) Pretreatment Standards. Any prohibited discharge standards, categorical standards, and local limits, which apply to an industrial user.
- (33) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the POTW of the City.
- (34) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (35) Significant Industrial User (SIU). Any industrial user that discharges wastewater into a publicly owned treatment works and that:
- (i.) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
  - (ii.) Contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS and Ammonia; or
  - (iii.) Is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or
  - (iv.) Is found by the City, DWR, and/or EPA to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
  - (v.) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirements, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or Non-discharge permit, or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.
  - (vi.) Subject to approval under Rule .0907(b) of this Section, the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.

- (vii.) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (iii) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8(f)(2)(v)(C) and 403.12(e)(3).
- (36) Significant Noncompliance or SNC. The status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (a)(36), Parts (iii), (iv), or (viii) shall also be SNC.
- (i.) Chronic Violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l);
  - (ii.) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS and fats, oils and grease, 1.2 for all other pollutants (except flow and pH));
  - (iii.) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority 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);
  - (iv.) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section 8.1(e) of this SUO to halt or prevent such a discharge;
  - (v.) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - (vi.) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 45 days from the due date.
  - (vii.) Failure to accurately report noncompliance.
  - (viii.) Any other violation or group of violations that the control authority determines will adversely affect the operation or implementation of the local pretreatment program.
- (37) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 2.1 of this ordinance.
- (38) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (39) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (40) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

- (41) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.
- (42) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (43) Wastewater Permit. As set forth in section 4.2 of this ordinance.
- (44) Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
- (c) Shall is mandatory; may is permissive or discretionary.
- (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
- (e) The following abbreviations when used in this ordinance shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	EPA	Environmental Protection Agency
(5)	gpd	Gallons per day
(6)	l	Liter
(7)	mg	Milligrams
(8)	mg/l	Milligrams per liter
(9)	N.C.G.S.	North Carolina General Statutes
(10)	NPDES	National Pollution Discharge Elimination System
(11)	O & M	Operation and Maintenance
(12)	POTW	Publicly Owned Treatment Works
(13)	RCRA	Resource Conservation and Recovery Act
(14)	SIC	Standard Industrial Classification
(15)	SWDA	Solid Waste Disposal Act
(16)	TSS	Total Suspended Solids
(17)	TKN	Total Kjeldahl Nitrogen
(18)	U.S.C	United States Code.

### 1.3 Use of Publicly Owned Treatment Works

- (a) It shall be unlawful for any person to place, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.
- (b) It shall be unlawful to discharge to any waters of the State within the City, any wastewater except by permit from the State.
- (c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for permanent disposal of sewage.
- (d) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City is hereby required at his expense to install suitable toilet facilities therein; and to connect the facilities directly with the municipal wastewater system in



accordance with the provisions of this Ordinance within sixty (60) days after date of official notice to do so provided that the following conditions apply:

- (1) a public sewer is within five hundred (500) feet of the property line;
- (2) where the building is below the elevation to obtain a one percent (1%) grade in the building sewer but is otherwise accessible to a public sewer as provided in (a) above, the owner shall provide a private sewage pumping station as provided in Section 1.5(g).
- (3) no such notice shall be given to any owner(s) so long as there is currently in use adequate septic facilities in good working order;
- (4) no repair to said septic facility is needed other than normal pumping at intervals no less than every three years.

#### **1.4 Private Sewage Disposal Requirements**

Where a public sanitary sewer is not available under the provisions of Subsection 1.3 (d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this subsection.

- (a) A private sewage disposal system may not be constructed within the City boundary unless and until statement is obtained from the City stating that a public sewer is not accessible to the property and no sewer is proposed for construction in the immediate future.
- (b) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from Alamance or Orange County. The applicant shall supply any plans, specifications, and other information as is deemed necessary by the County.
- (c) A permit for a private wastewater disposal system issued by the County shall not become effective until the installation is completed to the satisfaction of the County whose designee shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the City and County when the work is ready for final inspection, and before any underground portions are covered. The plumbing inspection shall be made by the City and the system inspection shall be made by the County. Inspections shall be made within a reasonable period of time.
- (d) The type, capacity, location, and layout of a private wastewater disposal system shall comply with all recommendations of the State of North Carolina and the Alamance or Orange County Health Departments. No septic tank or cesspool shall be permitted to discharge to any natural outlet, drain, or open ditch.
- (e) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times and at no expense to the City.
- (f) No statement contained in the Subsection shall be construed to interfere with any additional requirements that may be imposed by the County or State.
- (g) When a public sewer becomes available, in accordance with the provisions of Subsection 1.3 (d), the building sewer shall be connected to the municipal wastewater system within sixty (60) days and the private disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

#### **1.5 Building Sewers and Connections**

- (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permission from the City.
- (b) A separate and independent building sewer shall be provided for every building, except as follows:
  - (1) Where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway; the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
  - (2) Townhouses (as defined by the North Carolina State Building Code) will be determined by the City on an individual basis according to property lines.
- (c) Old building sewers may be used in connection with new buildings only when they are found, on examination and tests by the City to meet all the requirements of this Subsection.
- (d) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the

requirements of the North Carolina Building and Plumbing Codes or other applicable rules and regulations of the City.

- (e) Building sewers shall be at least four (4) inches in diameter. Larger building sewers shall be used as necessary in order to carry the flow anticipated. Four (4) inch building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two (2) feet per second. Slope and alignment of all building sewers shall be neat and regular.
- (f) Building sewers shall be constructed only of:
  - (1) cast iron soil pipe with leaded or compression joints
  - (2) polyvinylchloride pipe with rubber compression or solvent welded joints
  - (3) ABS composite pipe with solvent welded or rubber compression joints of approved type
  - (4) Such other materials of equal or superior quality as may be approved by the CityUnder no circumstances will cement mortar joints be acceptable.
- (g) Each connection to the municipal wastewater system must be made at a wye or service line stubbed out, or in the absence of any other provisions, by means of a saddle, of a type approved by the City, attached to the sewer. No connections may be made by breaking into an existing sewer and inserting the service line. All such connections shall be made gastight and watertight and shall conform to the procedures set forth in the A.S.T.M. specifications, the North Carolina State Plumbing Code and the regulations established by the City.
- (h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the municipal wastewater system is at a grade of one percent (1%) or more if possible. In cases where basement floor levels are lower than ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner(s). In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.
- (i) The applicant for the tap shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by the City or their agent
- (j) All excavations for building sewer installation shall be adequately guarded with baracades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
- (k) Backflow Valve Requirements – all plumbing fixtures or outlets connected with the sanitary sewer, which are located lower than the next upstream manhole cover, shall be equipped with an approved back-flow or check valve or the building sewer shall be so equipped. In addition, all buildings with basements below street level and having a plumbing fixture or floor drain, shall be required to have back-flow valves with covers. The City shall not be responsible for any damages from back-flow due to the buildings not having back-flow valves or improperly operating back-flow valves.
- (l) Prohibited Connections – It shall be unlawful for any person to directly or indirectly connect or permit the connection of, any open gutter, septic tank, privy vault, downspout, storm sewer or rain water conductor to any sanitary sewer. Can wash areas of (36) square feet or less will be permitted provided they are constructed in such a way as to exclude entry of storm water. Should the City find any such prohibited connections, the City shall notify the property owner(s) of such deficiencies to be corrected by the property owner at no expense to the City.

### **1.6 Damage and Tampering Prohibition.**

It shall be unlawful for any person to:

- (a) Break, damage, destroy, uncover, deface or tamper with any equipment or materials belonging to the City used or intended to be used for the purposes of making measurements, tests or examinations of wastewater.
- (b) Remove, damage, or interfere with a function of any pipe, main, manhole cover, building, apparatus or equipment used in the collection, conveyance or treatment of wastewater.
- (c) Place or cause to be placed in any manhole or sewer pipe or main any material which results, or is likely to result, in the stopping or obstructing of the normal flow of wastewater.

Any person determined to be responsible for any of the above actions shall be prosecuted to the fullest extent of the law seeking punitive action and penalties due to the malicious damage.

## **SECTION 2 - GENERAL SEWER USE REQUIREMENTS**

### **2.1 Prohibited Discharge Standards**

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
  - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
  - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.
  - (3) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
  - (4) Any wastewater having a pH less than 5.0 or more than 11.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment
  - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
  - (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
  - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with section 2.9 of this ordinance.
- (c) Other Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
  - (1) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
  - (2) 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. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
  - (3) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
  - (4) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable State or Federal regulations.

- (5) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.
- (6) Fats, oils, or greases of animal or vegetable origin in concentrations that cause or may cause grease accumulations that result in or may result in sanitary sewer overflows or excess grease accumulations at the treatment plant.
- (7) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (8) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.
- (9) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (10) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.
- (11) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
- (12) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (13) Recognizable portions of the human or animal anatomy.
- (14) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (15) 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 (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

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

## 2.2 National Categorical Pretreatment Standards

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

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (e) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

## 2.3 POTW Protection Criteria

No user shall discharge wastewater containing in excess of the following POTW Protection Criteria concentrations without prior notification and approval from the City. These average concentrations apply at the point where the wastewater is discharged to the POTW collection system. The City of Mebane has the right to establish additional POTW Protection Criteria at any time it is deemed necessary.

Ammonia	25	mg/l
BOD	300	mg/l

COD	750	mg/l	
Chloride	40	mg/l	
Fluoride	1.5	mg/l	
Phosphorus	7.0	mg/l	
TSS	300	mg/l	
Aluminum	2.5	mg/l	
Arsenic	0.01	mg/l	
Cadmium	0.002	mg/l	
Chromium	0.005	mg/l	(total chromium)
Copper	0.05	mg/l	
Cyanide	0.005	mg/l	
Lead	0.01	mg/l	
Mercury	<0.0002	mg/l	Contact POTW for current mercury limit.
Molybdenum	0.005	mg/l	
Nickel	0.01	mg/l	
Selenium	0.01	mg/l	
Silver	0.01	mg/l	
Zinc	0.20	mg/l	

## 2.4 Local Limits

The City of Mebane establishes technically based local limits through the calculation of Maximum Allowable Headworks Loadings (MAHL) for all pollutants of concern. Industrial User-specific local limits for appropriate pollutants of concern shall be developed in accordance with the State of North Carolina Local Limits Procedure: Criteria for Including Effluent Limits in Industrial User Permits (September 1, 1993) and EPA Local Limits Guidance Criteria. Any applicable local limits shall be included in Significant Industrial User or Industrial User wastewater discharge permits or other documents.

At no time shall the City establish Industrial User-specific local limits that would exceed any MAHL.

The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

## 2.5 Local Pollutant Allocations

The City of Mebane is also authorized to develop and issue Local Pollutant Allocations for the control of pollutants of concern. These Local Pollutant Allocations are also based on the Maximum Allowable Headworks Loading and are implemented through the issuance of City of Mebane Local Pollutant Allocation Documents. A Local Pollutant Allocation is NOT considered to be a local limit. Rather, it is a control mechanism for pollutants which do not require the issuance of a local limit.

## 2.6 State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

## 2.7 Right of Revision

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section 1.1 of this ordinance or the general and specific prohibitions in section 2.1 of this ordinance, as is allowed by 40 CFR 403.4.

## 2.8 Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

## 2.9 Pretreatment of Wastewater

- (a) Pretreatment Facilities  
Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section 4.2 of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section 2.1 of this ordinance within the time limitations as specified by EPA, the State, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance 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 City for review, and shall be approved by the POTW Director, City engineer or DWR as indicated by the complexity of the plans, before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.
- (b) Additional Pretreatment Measures
- (1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
  - (2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
  - (3) Grease, oil, and sand interceptors shall be provided in accordance with the City of Mebane Fats, Oils, and Greases Control Policy.
  - (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

## 2.10 Accidental Discharge/Slug Control Plans

- (a) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1.2(a)(36). All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.
- (b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 5.5 and 5.6.
- (c) An accidental discharge/slug control plan shall address, at a minimum, the following:
- (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by section 5.6 of this ordinance; and
  - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

## **2.11 Hauled Wastewater**

- (a) Only wastewater that would under normal circumstances be transported to the POTW by pipeline, will be accepted.
- (b) Discharging will only be done under the direction of Mebane Wastewater plant personnel.
- (c) Discharging will not be allowed during certain plant conditions such as plant upsets, weather conditions, etc.
- (d) The contents of the discharge are subject to randomly collected samples by City of Mebane wastewater personnel. When random samples are collected the discharger is required to ensure that it is representative of the load. It is required that you discharge a portion of your load, allow sample collection, and then discharge the remainder. Cost of analysis will be billed to the discharger.
- (e) The general discharge prohibitions as indicated in the City of Mebane Sewer Use Ordinance are to be observed at all times.
- (f) Haulers are responsible for obtaining a Pump and Haul permit from the North Carolina Division of Water Resources for transporting wastes where required.
- (g) Any damage to City of Mebane property while discharging waste must be immediately reported to the City with a complete description of the damage, date, time, driver, and truck number. The cost of such repairs will be billed to the discharger.
- (h) A complete manifest must accompany each load to the City of Mebane Wastewater Treatment Plant and be given to the City personnel on site.

## **SECTION 3 - FEES**

### **3.1 Purpose**

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the City for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.

### **3.2 User Charges**

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Manager of the City shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Council serving the City for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

### **3.3 Surcharges**

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
  - (1) Metered water consumption as shown in the records of meter readings maintained by the City; or
  - (2) If required by the City or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance

with plans approved by the City. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the City.

- (3) Where any user procures all or part of his water supply from sources other than the City, the user shall install and maintain, at his own expense, a flow measuring device of a type approved by the City.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the City. A minimum of three samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.
- (d) The amount charged will be set forth in the City of Mebane Industrial Surcharge Policy.

### **3.4 Pretreatment Program Administration Charges**

The schedule of charges and fees adopted by the City may include charges and fees for:

- (a) Reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) Monitoring, inspections and surveillance procedures;
- (c) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) Permitting;
- (e) Other fees as the City may deem necessary to carry out the requirements of the Pretreatment Program.

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

### **4.1 Wastewater Dischargers**

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

### **4.2 Wastewater Permits**

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

- (a) **Significant Industrial User Determination**  
All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.
- (b) **Significant Industrial User Permit Application**  
Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW



Director's determination in 4.2(a) above. The application shall include at a minimum the information required by 15A NCAC 02H 0.0916(c)(1)(A-M). In support of the application, the user shall submit any other information deemed necessary by the POTW Director to evaluate the permit application. This may include reporting requirements under 40 CFR Part 403.12(b) and Section 5.1 of this Ordinance.

(c) Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 1.2(a)(3) and contain the following certification statement:

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

(d) Application Review and Evaluation

The POTW Director will evaluate the data furnished by the user and may require additional information.

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

(e) Tentative Determination and Draft Permit

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
  - (i) proposed discharge limitations for those pollutants proposed to be limited;
  - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
  - (iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the City into a significant industrial user permit.

(f) Permit Supporting Documentation

The Control Authority staff shall prepare the following documents for all Significant Industrial User Permits.

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

- i. Documentations of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
    - ii. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
- (g) Final Action On Significant Industrial User Permit Applications
  - (1) The POTW Director shall take final action on all applications not later than **180** days following receipt of a complete application.
  - (2) The POTW Director is authorized to:
    - (i) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
    - (ii) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
    - (iii) modify any permit upon not less than 60 days notice and pursuant to section 4.2(i) of this ordinance;
    - (iv) revoke any permit pursuant to section 8.1 of this ordinance;
    - (v) suspend a permit pursuant to section 8.1 of this Ordinance;
    - (vi) deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (h) Permit Modification
  - (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance
    - (i) changes in the ownership of the discharge when no other change in the permit is indicated,
    - (ii) a single modification of any compliance schedule not in excess of four months,
    - (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
  - (2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 4.2(b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
  - (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.
- (i) Permit Conditions
  - (1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
    - (i) a statement of duration ( in no case more than five years);
    - (ii) a statement of non-transferability;
    - (iii) applicable effluent limits based on categorical standards or local limits or both;
    - (iv) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
    - (v) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 1.2(a)(36);

- (vi) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 1.2(a)(36), if determined by the POTW Director to be necessary for the User and,
  - (vii) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 1.2(a)(36). Also see Sections 5.5 and 5.6;
  - (viii) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
- (i.) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
  - (ii.) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
  - (iii.) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - (iv.) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
  - (v.) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
  - (vi.) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  - (vii.) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
  - (viii.) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  - (ix.) Compliance schedules for meeting pretreatment standards and requirements.
  - (x.) Requirements for submission of periodic self-monitoring or special notification reports.
  - (xi.) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 5.13 and affording the POTW Director, or his representatives, access thereto.
  - (xii.) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  - (xiii.) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.
  - (xiv.) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
  - (xv.) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (j) **Permit Duration**  
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (k) **Permit Transfer**  
Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (l) **Permit Reissuance**  
A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section 4.2 a minimum of 90 days prior to the expiration of the existing permit.

## SECTION 5 - REPORTING REQUIREMENTS

### 5.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the information set forth below.
  - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
  - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
  - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
  - (5) Measurement of Pollutants.
    - (i) The categorical pretreatment standards applicable to each regulated process.
    - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 5.10 of this ordinance.
    - (iii) Sampling must be performed in accordance with procedures set out in section 5.11 of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
  - (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 1.2(a)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 5.2 of this ordinance.
  - (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section 4.2(c) of this ordinance.

### 5.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by section 5.1(b)(7) of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for

major components, commencing and completing construction, and beginning and conducting routine operation);

- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

### **5.3 Reports on Compliance with Categorical Pretreatment Standard, Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in section 5.1(b)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 4.2(c) of this ordinance.

### **5.4 Periodic Compliance Reports**

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

- (a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 5.10 and 5.11 of this ordinance. All periodic compliance reports must be signed and certified in accordance with section 4.2(c) of this ordinance.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in section 5.10 and 5.11 of this ordinance, the results of this monitoring shall be included in the report.

### **5.5 Reports of Changed Conditions**

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least *thirty (30)* days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See Section 5.6(d) for other reporting requirements.

- (a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 4.2 of this ordinance.
- (b) The POTW Director may issue a wastewater discharge permit under section 4.2 of this ordinance or modify an existing wastewater discharge permit under section 4.2 of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

### **5.6 Reports of Potential Problems**

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 1.2(a)(36), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the

discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

- (b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 1.2(a)(36).

### **5.7 Reports from Unpermitted Users**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

All users classified as Non-Significant Categorical Industrial Users under Section **1.2(a)(34)(F)** shall provide appropriate reports to the POTW Director as the POTW Director may require. AT a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR Part 403.12(q).

### **5.8 Notice of Violation/Repeat Sampling and Reporting**

- (a) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:
  - (i) if the POTW Director monitors at the user's facility at least once a month; or
  - (ii) if the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the POTW Director does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
  - (i) the POTW Director monitors at the user's facility at least once a month; or
  - (ii) the POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
  - (iii) the POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.

### **5.9 Notification of the Discharge of Hazardous Waste**

The City prohibits the discharge of any hazardous wastes without notification and approval of the POTW Director.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of

discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 5.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 5.1, 5.3, and 5.4 of this ordinance.

- (b) Dischargers are exempt from the requirements of paragraph [(a)], above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

#### **5.10 Analytical Requirements**

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

#### **5.11 Grab and Composite Sample Collection**

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

proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

#### **5.12 Timing**

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

#### **5.13 Record Keeping**

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

#### **5.14 Electronic Reporting**

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

### **SECTION 6 - COMPLIANCE MONITORING**

#### **6.1 Monitoring Facilities**

The City requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

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

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

#### **6.2 Inspection and Sampling**

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



### **6.3 Search Warrants**

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

## **SECTION 7 - CONFIDENTIAL INFORMATION**

- (a) Information and data provided by an industrial user to the POTW Director pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the POTW Director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the POTW Director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.
- (b) Information provided by an industrial user to the POTW Director that is determined to be entitled to confidential treatment shall be made available upon written request to the Division of Water Resources or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.
- (c) Information and data received by the Division or other state agency under paragraph (b) above shall be subject to the processes set forth in G.S. 143-215.3C.

## **SECTION 8 - ENFORCEMENT**

### **8.1 Administrative Remedies**

- (a) Informal Enforcement Notifications/Actions – The City of Mebane is authorized to take the following informal actions in response to instances of noncompliance. No “formal” enforcement procedure is contingent upon the completion of any lesser or informal procedure:
  - (1) Informal Notice of Deficiency/Informal Notice of Violation  
Informal NODs and NOVs are used for minor isolated violations or as an initial step leading to an escalated enforcement response. All informal NODs and NOVs are documented and placed in the respective industrial user file.  
The Informal NOD/NOV may be verbal, by telephone, facsimile, email, data summary sheet entry, inspection report entry, or on-site notification to the industrial user that a violation and/or deficiency has occurred.
  - (2) Enforcement Meeting  
An Enforcement Meeting is an informal meeting used to gather information concerning noncompliance, discuss steps to alleviate noncompliance and determine the commitment level of the industrial user.
  - (3) Initiation of Self-Monitoring or Increase in Self-Monitoring

Initiation/additional self-monitoring is used when a violation has occurred and additional self-monitoring must be conducted per 40 CFR Part 403.12(g)(2). This is also used for exceedance of Local Pollutant Allocations.

(4) Employee Training Requirement

When the POTW Director determines that a violation has been caused by an industrial user employee(s) lack of knowledge concerning permit/SUO requirements, employee training may be required.

(5) Installation of Additional Sampling and/or Monitoring Equipment

In instances where the POTW Director determines that due to a violation or problem caused by the industrial user, more intensive and immediate sampling may need to be conducted on a routine basis, installation of additional sampling and/or monitoring equipment may be required.

(6) Other Informal Actions

The POTW Director is authorized to develop and implement any other informal actions as necessary to ensure compliance with pretreatment standards, permit/document limits, local allocations or any other Ordinance requirement.

(b) Formal Enforcement Notifications/Actions – The City of Mebane is authorized to take the following formal actions in response to instances of noncompliance. No “formal” enforcement procedure is contingent upon any lesser or informal procedure.

(1) Formal Notice Of Violation

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

(2) Consent Orders

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 8.1(d), below.

(3) Show Cause Hearing

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. The

City may itself conduct the hearing and take the evidence, or may designate any officer or employee to:

- (A) Issue in the name of the City 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 POTW Director for action thereon.

At any hearing held pursuant to this ordinance, 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. The Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate. The POTW Director's final decision shall be to either proceed with the proposed enforcement action or to modify the action. Such modification may include but is not limited to the issuance of an order that sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenance shall have been installed and are properly operated. Further orders and directives as are necessary and appropriate may be issued.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 8.2 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under Section 10.

(4) Administrative Orders

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

- (A) Immediately comply with all requirements;
- (B) Comply in accordance with a compliance time schedule set forth in the order;
- (C) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (D) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(5) Emergency Suspensions

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(6) Termination of Permit or Permission to Discharge

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

- (A) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (B) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (C) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (D) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section 8.1 of this ordinance why the proposed action should not be taken.

**8.2 Civil Penalties**

- (a) Any user who is found to have failed to comply with any provision of Article III - Sewer System, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.
  - (1) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
    - (i) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
    - (ii) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
- (b) In determining the amount of the civil penalty, the POTW Director shall consider the following:
  - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  - (2) The duration and gravity of the violation;
  - (3) The effect on ground or surface water quantity or quality or on air quality;
  - (4) The cost of rectifying the damage;
  - (5) The amount of money saved by noncompliance;
  - (6) Whether the violation was committed willfully or intentionally;
  - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
  - (8) The costs of enforcement to the City.
- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 10.1.

**8.3 Other Available Remedies**

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

(a) Criminal Violations.

The District Attorney for the applicable Judicial District may, at the request of the City, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]

(b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(c) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

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

#### **8.4 Remedies Nonexclusive**

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

### **SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE**

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, SNC, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

### **SECTION 10 – ADJUDICATORY HEARINGS**

#### **10.1 Initial Adjudicatory Hearing**

Any person who deems himself aggrieved by the denial of a permit, the grant of a permit subject to conditions he deems unacceptable, or against whom a civil penalty has been assessed or an administrative order issued, shall have the right to request an adjudicatory hearing before the POTW Director or other hearing officer designated by the POTW Director. Such hearing must be requested not later than thirty (30) days following receipt of the permit, civil penalty assessment, administrative order, or other action complained of and shall be made in writing directly to the POTW and shall specify the act or action complained of in detail and the factual or legal basis for its reversal. Such written request shall be delivered personally to the offices of the POTW and a receipt granted therefore, or delivered via certified mail and return receipt with proof of delivery. From and after thirty (30) days, of the date complained

of, if no written demand for a hearing is made, the action shall be deemed final and binding. Upon receipt of written demand for a hearing, the POTW Director shall establish a date, time and place for the hearing on the issues so raised by the complaining party. Such hearing shall be held not later than forty five (45) days from the receipt of the written demand for a hearing. At said hearing, the complaining party may present to the POTW Director or designated hearing officer any evidence, legal authorities or argument which is relevant to the contested issues, and may be represented by counsel or other authorized representative. The POTW Director or designated hearing officer may also hear other evidence as he deems necessary. The POTW Director or designated hearing officer shall enter his ruling on the matters complained of not later than twenty (20) days from the date of said hearing, and shall transmit a copy of his decision by registered or certified mail to the POTW and to the complaining party. The POTW Director or designated hearing officer may tax the costs of the hearing to any person whose appeal is denied, in whole or in part. Costs as used here may include professional, legal, investigative, technical or reporting services.

## **10.2 Final Appeal Hearing**

Any decision of a hearing officer made as a result of an adjudicatory hearing held under Section 10.1 above may be appealed to the City Council of the City of Mebane upon filing a written demand for such hearing within ten (10) days of receipt of notice of the decision of the initial adjudicatory hearing. Hearings held under this subdivision shall be conducted utilizing the procedure for hearings before the Board of Adjustments of the City of Mebane. Failure to make written demand within the time specified herein shall bar further appeal. At the date set for hearing before the City Council, the City Council shall examine all documentary evidence introduced, hear testimony if offered by either party, arguments of the parties and/or their counsel and shall render a decision thereon. All testimony shall be under oath and shall be transcribed by the City Clerk. The City Council shall make a final decision on the appeal within 90 days from receipt of the demand filed under Section 10.1 and shall transmit a written copy of its decision by registered or certified mail. The decision is a final decision for the purposes of seeking judicial review. The City Council may tax the cost of the hearing to any person whose appeal is denied, in whole or in part. Costs as used here may include professional, legal, investigative, technical, or reporting services.

## **10.3 Judicial Review**

Any person against whom a final order or decision of the City Council is entered pursuant to a hearing conducted under Section 10.2 above, may seek judicial review of the order or decision by filing a written petition, in the nature of *certiorari* within thirty (30) days after receipt of notice by registered or certified mail of the order or decision of the City Council, with the Superior Court of Alamance County, along with a copy to the City. Said appeal shall be in the nature of an appeal of a decision of a state agency and shall be conducted in accordance with the provision of Administrative Practice Act of the State of North Carolina.

## **10.4 Stay of Action During Appeals**

During appeals before a hearing officer, the City Council or the General Court of Justice, the terms and conditions of a permit under appeal shall be as follows:

- (a) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (b) Renewed Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (c) Terminated Permits. Upon appeal, including judicial review in the General Court of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

## **SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

### **11.1 Upset**

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the POTW Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
  - (i) A description of the indirect discharge and cause of noncompliance;
  - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

### **11.2 Prohibited Discharge Standards Defense**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 2.1 (a) of this ordinance or the specific prohibitions in sections 2.1(b)(2), (3), and (5 - 7) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

### **11.3 Bypass**

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.
- (b)
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten (10) days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c)
  - (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless

- (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (iii) The user submitted notices as required under paragraph (b) of this section.
- (2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

#### **SECTION 12 - SEVERABILITY**

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

#### **SECTION 13 - CONFLICT**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

#### **SECTION 14 - EFFECTIVE DATE**

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