

TOWN OF RESACA SEWER SERVICE ORDINANCE

ADOPTED FEBRUARY 12, 2013

ARTICLE I – IN GENERAL

Sec. 94-1. - Connection permit required.

It shall be unlawful for any person to connect to any sewer line owned by the Town of Resaca, either inside or outside the town, without written authorization of the town or system operator.

Sec. 94-2. - Application for service.

The applicant for sewer service shall make application for sewer service to the system operator, and at the same time shall make the required security deposit. The town shall be authorized, as part of the initial effort to secure customers to the system, to waive connection fees and deposits.

Sec. 94-3. - Access to premises.

Duly authorized agents of the Town of Resaca and the system operator, if different, shall have access at all hours to the premises of the applicant or customer for the purpose of installing or removing town property, inspecting piping and lines, or reading and testing meters, or for any other purpose in connection with the sewer service and its related appurtenances and facilities.

Sec. 94-4. - Notification of change of occupancy or request for discontinuance of service.

Not less than three days' notice shall be given, in person or in writing, at the offices of the system operator to discontinue sewer service or to change occupancy. The outgoing party shall be responsible for all sewer service received up to the time of departure or the time specified for departure, whichever period is longer. The new occupant shall apply for service within 48 hours after occupying the premises and failure to do so will make such person liable for paying for the sewer service received since the last meter reading.

Sec. 94-5. - Damaging the system.

It shall be unlawful for any person to interfere with or disturb in any manner or form any portion of the sewer system owned by the town. A customer is subject to being cut off from service in instances of repeated damage. Customers are responsible for the safeguard and protection of any related equipment furnished by the town or system operator in connection with the sewer system. If damage to the equipment is the result of intentional action, carelessness and/or negligence on the part of the customer, the customer will be liable for the expense of repair or replacement of the equipment.

Sec. 94-6. - Operation of System; Administration of Ordinance.

The Town of Resaca shall be authorized to enter intergovernmental agreements with other municipalities and authorities to operate and maintain the sewer system and to administer this ordinance. At the time of adoption of this ordinance, the town has entered into an intergovernmental agreement with the City of Calhoun to operate the sewer system. The ordinance shall be administered by the town or the system operator as appropriate. Even when the system is being operated by a separate system operator under agreement, the town shall still retain authority to take enforcement actions within its jurisdiction, using the methods and avenues set forth in Article V and elsewhere in this ordinance.

Sec. 94-7. – System Operator.

The “system operator” as used in this ordinance shall mean the Town of Resaca or such other entity as the Town shall designate to operate and maintain the sewer system. If the Town has entered into an intergovernmental agreement to operate and maintain the sewer system, references to the “system operator” in this ordinance shall refer to the entity actually operating the system pursuant to such intergovernmental agreement. At the time of adoption of this ordinance, the town has entered into an intergovernmental agreement with the City of Calhoun, and that City and its utilities department shall be the system operator.

Sec. 94-8. - Maintenance of pipes.

All pipes upon the premises of a customer to which the town’s sewer service is connected shall be installed, changed and maintained by the customer in accordance with the requirements of any public authorities or insurance agencies exercising authority thereover.

Sec. 94-9. - Delay in delivery or temporary interruption of service.

- (a) If the system operator is delayed in the delivery of sewer service contracted for by injunction, strike, riot, invasion, fire, flood, explosion, breakdown, acts of God, or the public enemy, or any cause beyond its control, the time fixed for the commencement of delivery of service shall be extended.
- (b) Neither the town for the system operator shall be liable to a customer, nor shall a customer be liable to the town, by reason of the failure of the town to deliver or the customer to receive service as the result of fire, strike, riot, explosion, flood, accident, breakdown, acts of God, or the public enemy, or other acts beyond the control of the party affected, it being the intention of each party to relieve the other of the obligation to supply service or to receive and pay for service when, as a result of any of the causes mentioned in this section, either party may be unable to deliver or use in whole or in part the service contracted to be delivered or received.
- (c) The town shall not guarantee that the supply of service will be free from temporary interruptions, and the town shall not be liable to the customer for damages resulting from a temporary interruption. In the event of interruptions to service, the town shall restore the service as soon as it reasonably can do so, and will, at all times, exert itself toward the end of supplying as nearly constant service as is reasonably practicable.

Sec. 94-10. - Responsibility for damages.

Neither the town, the system operator, or the customer shall be responsible for damage to the machinery, apparatus, appliances or other property of the other caused by acts of God or by defects in or failure of the machinery, apparatus or appliances of the one suffering such damage from the causes set out in [section 94-9](#), and the town shall not be in any way responsible for the delivery of service beyond the point of its delivery to the customer, and shall not be liable for damages on account of injuries to person or property resulting in any manner from the receiving, use or application by the customer of such service. The customer shall keep the machinery, lines, apparatus and appliances in a safe condition and shall indemnify and save harmless the town from the payment of any sums of money to any person whomsoever, including attorneys' fees and court costs, which it may be called upon to pay on account of damage to property or injuries to individuals resulting from or which may be in any way caused by the operation and maintenance of the machinery, lines, apparatus and appliances belonging to the customer.

Sec. 94-12 to 94-30. - Reserved.

ARTICLE II – RATES AND CHARGES

Sec. 94-31. - Rates and charges generally.

All rates, charges, fees and deposits for the sewer system shall be as prescribed by the mayor and council and schedules filed in the office of the town clerk. The minimum charge, as provided in the rate schedules prescribed by the governing body and filed in the town clerk's office, shall be made for such connection subscribed for. Rates shall be based on water service usage of the City of Calhoun water system.

Sec. 94-32. - Deposit for residential customers and special customers.

- (a) All residential customers shall post a cash security deposit for sewer service, in the amounts prescribed by the mayor and council and filed in the town clerk's office, prior to connection to the sewer system.
- (b) All special customers (churches, schools, government offices) shall post such cash security deposit prior to connection to the sewer system unless waived by the mayor and council.

Sec. 94-33. - Deposit for industrial and commercial customers.

- (a) All new and/or existing industrial and commercial sewer users purchasing sewer services from the town shall be required to post a security deposit, either in the form of cash, a bank letter of credit, or a surety bond, in the amount of two times the average monthly charge for sewer services for such customer.
- (b) Commercial and industrial customers who have maintained their sewer account without more than one penalty assessment per year, and with no cutoffs within the immediate past three years, will be allowed to lower their deposit requirements to an average of one month's billing based on the immediate past 12 months' history; however, should the customer receive more than one penalty assessment or a cutoff, the customer will be required to increase the deposit immediately to an average of two months' billing based on the immediate past 12 months' history. Once a deposit has been increased to an average of two months' billing, it shall not be subject to be lowered until three years of history has been maintained as described in this subsection.
- (c) In the case of new commercial or industrial customers initially applying for sewer services, such security deposit shall be based upon a good faith estimate of monthly sewer usage by such customer. Within six months after such new customer shall commence receiving sewer services, the town shall review the customer's records of monthly sewer usage and the security deposit posted by the customer shall be adjusted accordingly.
- (d) At least once each year the town shall review the records of the monthly sewer usage for each commercial and industrial sewer customer, and the security deposit for each such customer shall be adjusted accordingly based upon the average monthly sewer usage for the past 12 months.
- (e) Failure by any commercial and/or industrial sewer customer of the town to post the required security bond, either initially or following any of the adjustments mentioned in this section, shall be grounds to discontinue sewer service by the town to such customer/user.
- (f) There will be no deposit requirements for other public utilities or government entities.

Sec. 94-34. - Cash utility funds; interest on deposits; dormant accounts.

- (a) There shall be a complete separation of cash utility funds from current operating funds.
- (b) Interest shall be paid on all cash utility deposits, except residential deposits, on an annual date.

- (c) Interest shall be paid on all cash utility deposits, except residential deposits, which have been posted for 90 days or more prior to May 26 of each year.
- (d) Interest shall be paid at the rate of investment on the funds for the prior year, less actual administration cost and postage.
- (e) Interest shall be credited to each individual account with a letter of acknowledgement to accompany the bill.
- (f) Interest shall be credited to outstanding utility bills for those customers who have moved leaving a balance due on utilities.
- (g) Interest shall be held only for one year for those customers moving without leaving a valid forwarding address. This interest shall become a part of the fund and distributed to current customers as of May 26 of the following year.
- (h) Disposition of dormant accounts shall be as follows: After waiting the prescribed period for claim to the account:
 - (1) Verify, if possible, the status of the account holder, and refund the dormant account to known account holders.
 - (2) For the remainder of accounts, without sufficient addresses, advertise for four consecutive weeks notice to claim the dormant account.
 - (3) For accounts not claimed by the deadline as advertised in the notice, transfer the principal deposit to the sewer operating fund of the town after a seven-year period.
 - (4) Interest on unclaimed dormant accounts shall be transferred back to the deposit fund after one year if there are no correct mailing addresses.
- (i) Notice of these guidelines, particularly with reference to dormant accounts, shall be given to all account holders, stressing the need to keep the town advised of change in mailing addresses and of the possibility of forfeitures.

Sec. 94-35. - Scope of rate schedules; Special Service Districts.

- (a) The rate schedules contemplate a single user, such as a one-family dwelling, one farm dwelling with appurtenances, or one commercial operation, or one industrial operation.
- (b) Extraordinary circumstances such as multiple dwelling units shall be governed by special agreements made by the governing body on recommendation of the town water and sewer director or system operator.
- (c) The town may establish, by action of the mayor and council, special service districts to provide for the public health, safety and general welfare of businesses or residences within the jurisdictional boundaries of the town. Such districts may include rates for sewer service as are appropriate for services rendered and that differ from the general sewer rates for the town. For example, rates for existing customers of adjacent sewer systems who become customers of the town's sewer system may be charged different rates from customers for which the town has to construct sewer lines.
- (d) The town may charge different rates for customers outside the city limits from the rates charged to those inside the city limits. Such differences shall not be set arbitrarily.

Sec. 94-36. - Meter reading; billing; penalties for nonpayment.

- (a) Bills to customers for sewer service shall be mailed out on such days of each month as may be determined as desirable by the system operator. Bills shall be paid as specified by the system operator. A failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the customer from payment of such bills. The failure of sewer users to pay charges duly imposed shall result in the automatic imposition of the following penalties:

- (1) Nonpayment by the gross due date shall result in a ten percent (10%) penalty of the delinquent account.
 - (2) Nonpayment within ten days from the date due will result in cutoff notices being sent to the customer.
 - (3) Nonpayment within five days after mailing of the cutoff notices will result in the water being shut off at the user's property.
- (b) Service disconnected for nonpayment of bills will be restored only after bills are paid in full and such security deposit as may be required by the mayor and council is made.

Sec. 94-37. - Discontinuance of service.

- (a) When sewer service is discontinued and all bills paid, the security deposit shall be refunded to the customer by the town.
- (b) Upon discontinuance of service for nonpayment of bills, the security deposit will be applied by the town toward settlement of the account. Any balance will be refunded to the customer; however, if the security deposit is insufficient to cover the bill, the town may proceed to collect the balance in the usual way provided by law for collection of debts.
- (c) The town reserves a right to discontinue its service without notice for the following additional reasons:
- (1) To prevent fraud or abuse, including damages or tampering to the system.
 - (2) Customer's willful disregard of the town's rules.
 - (3) Emergency repairs.
 - (4) Insufficiency of water supply due to circumstances beyond the town's control.
 - (5) Legal processes.
 - (6) Direction of public authorities.
 - (7) Strike, riot, fire, flood, unavoidable accident.
 - (8) When the town determines service to a particular property is not in the best interest of the town or sewer system based on past actions and violations.

Sec. 94-38. - Complaints and adjustments.

- (a) If the customer believes the bill to be in error, such customer shall present such customer's claim, in person, at the office of the system operator before the bill becomes delinquent. Such claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as provided in this ordinance. The customer may pay such bill under protest and the payment shall not prejudice the claim.

Sec. 94-39.—94-60. - Reserved.

ARTICLE III – SEWERS AND SEWAGE DISPOSAL

Sec. 94-141. - Definitions and abbreviations.

- (a) The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and *the Act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 USC 1251 et seq.).

Approval authority means the state department of natural resources, environmental protection division.

Authorized representative of user means:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
- (3) If the user is a federal, state, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

The individuals described in subsections (1) through (3) of this definition 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 town.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under EPA-approved laboratory procedure, after five days and at 20 degrees Celsius, expressed in terms of concentration (milligrams per liter).

Building drain means that part of the horizontal piping of a building drainage system which receives the discharge of all soil, waste, and other drainage from inside the walls of any building and conveys such discharge to the building service sewer five feet outside the foundation wall of such building.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Cesspool means a covered soak pit constructed in the soil for the disposal of domestic waste.

Commercial user or contributor means any premises which or person who discharges commercial wastes which are similar to domestic wastes in nature but which do not exceed 24,000 gallons per month.

Commercial wastes means wastes of a domestic origin which are discharged from an office, store, restaurant, or other commercial establishment.

Composite sample means a sample which is composed of several individual grab samples collected at regular intervals and mixed together. The time period over which the composite sample is collected shall be stated. Either an eight-hour or a 24-hour sample composited every two hours, collected by an automatic sampler, will be acceptable.

Customer shall mean the sewer customer of the sewer system.

Cooling water means the water discharged from any use such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.

Direct discharge means the conveyance of waste from a building service sewer, including holding tank waste discharge, uninterrupted, to the public sewer system.

Domestic waste means any liquid wastes:

- (1) From the noncommercial preparation, cooking, and handling of food; and/or
- (2) Containing only human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

Easement means a right afforded a person to make limited use of another's real property.

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

Garbage means solid wastes from the domestic and commercial preparation or cooking and dispensing of food, and from the handling, storage, and sale of produce.

Grab sample means a sample which is taken on a one-time basis with no regard to the flow and without consideration of time.

Holding tank waste means any waste from holding tanks such as vessels, toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect discharge means the conveyance of waste to the public sewer system by any means other than that defined in this section as direct discharge.

Industrial user or contributor means an industry which discharges wastewaters having the characteristics of industrial wastes, as distinct from commercial wastes or domestic wastes, or having a total discharge volume in excess of 24,000 gallons per month.

Industrial waste means any liquid, solid, or gaseous waste, including suspended solids resulting from the processes employed in industrial or commercial establishments.

Interference means a discharge which, alone or in conjunction with discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

National categorical pretreatment standard and pretreatment standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

National Pollutant Discharge Elimination System (NPDES) permit means a permit administered by the environmental protection division of the state.

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

New source means:

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)a or (1)b of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this definition has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this subsection.

Pass-through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharges from other sources, is a cause of a violation of any requirement of the town's NPDES permit, including an increase in the magnitude or duration of a violation.

Penalty means any amount of monies set forth by the town council to be levied against an industrial, commercial, or residential user of the waste system who does not comply with any section set forth in this ordinance.

Person means any individual, firm, company, partnership, corporation, association, group, or society, and includes the state and agencies, districts, commissions, and political subdivisions created by or pursuant to state law.

pH means the negative logarithm (to base 10) of the concentration of hydrogen ions expressed in grams per liter of solution.

Polluted water or waste means any water, liquid, or gaseous waste containing any of the following: soluble or insoluble substances of organic or inorganic nature which may deplete the dissolved oxygen content of the receiving stream; settleable solids that may form sludge deposits; grease and oils; floating solids which may cause unsightly appearance; color, phenols and other substances to an extent which would impart any taste or odor to the receiving stream; and toxic or poisonous substances in suspension, colloidal state, solution, or gases.

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

Privy means a separate enclosed shelter or building containing a floor slab and seat riser constructed over an excavation in the earth and having no water connections, used as a toilet.

Privy vault means excavation in the earth below a privy to receive human waste.

Properly shredded garbage means the waste from the preparation or cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act (33 USC 1292), which is owned in this instance by the City of Calhoun. The term "publicly owned treatment works (POTW)" includes any sewers that convey wastewater to the POTW, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For purposes of this ordinance, the term "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the town who are, by contract or agreement with Calhoun, users of the Calhoun's POTW.

Residential domestic user or contributor means any premises which or person who discharges wastewaters to the public sewers which closely match domestic waste as to strength, and with a volume that does not exceed 24,000 gallons per month; and further, for billing purposes, is defined as dwelling place or places of residence. If the volume of discharge exceeds 24,000 gallons per month, the use shall be defined as an industrial user.

Sanitary sewer means a sewer intended to receive domestic sewage and admissible industrial waste but to which stormwater, surface water, and groundwater are not intentionally admitted.

Septic tank means a watertight tank designed or used to receive the discharge of sewage from a building sewer.

Sewer means a pipe or conduit for carrying sewage.

Sewer surcharge means a charge for sewer service and treatment service for wastes having characteristics different from sanitary wastes and for which additional charges must be assessed in order for the waste to be processed properly and to compensate the town for additional expenses incurred.

Sewer system means the system of sewer pipes and all related appurtenances, including but not limited to pump stations, lift stations, treatment facilities, etc., installed by the Town of Resaca within and without the jurisdictional limits of the Town, and such existing sewer pipes and related appurtenances that are acquired by or dedicated to the Town. It shall also refer to any POTW owned by Calhoun or any other entity to which the system is connected for treatment.

Significant industrial user means:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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

Significant noncompliance. Violations which meet one or more of the following criteria are defined as significant noncompliance (SNC):

- (1) Chronic violations: 66 percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance constitutes a chronic violation).
- (2) Technical review criteria (TRC) violations: 33 percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period (any exceedance of the pretreatment limit by a factor of 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH, constitutes a TRC violation).
- (3) Any other violation of effluent limits (average or daily maximum) that the town believes has caused, alone or in combination with other discharges, interference or pass-through or endangered the health of plant personnel or the public.
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Violations of compliance schedule milestones contained in a local control mechanism or enforcement order for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (6) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation that the town considers to be significant.

Slug load means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration proposed during normal operation, or cumulative flow of any duration which exceeds more than two times the average 24-hour concentration proposed during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment facilities.

Standard Industrial Classification (SIC) means the classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, or the most recent such manual.

Standard Methods means the examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, American Water Works Association and Water Environment Federation.

Storm drain and *storm sewer* mean a sewer or drain which carries stormwater, surface water, and drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

Street embraces streets, avenues, drives, boulevards, roads, alleys, lanes, and viaducts, and all other public highways in the sewer system area.

Suspended solids (SS) means solids that either float on the surface of or are in suspension in water, sewage, or other liquids, which are removable by laboratory filtering.

System operator shall mean the Town of Resaca or such entity designed under an intergovernmental agreement to operate the Town's sewer system. See Sec. 94-11.

Total suspended solids (TSS) means the sum of suspended matter and settleable matter, both volatile and nonvolatile.

Town shall mean the Town of Resaca.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of section 307(a) of the Clean Water Act or other acts.

Unpolluted water means water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.

User means any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

Wastewater and *sewage* mean the liquid and water carrying industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, which is contributed to or allowed to enter the wastewater treatment plant.

Wastewater contribution permit means the permit required by division 2 of this ordinance.

Wastewater system means any part of the town-operated system from the sewer collector lines and transportation on through and including the treatment plant.

Wastewater treatment plant means the treatment facilities owned and operated by the town.

Watercourse means a channel in which flow of water occurs, either continuously or intermittently.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and 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) For purposes of this ordinance, the following abbreviations shall have the designated meanings:

ASTM	American Society for Testing Materials
°C	Degrees Celsius
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
°F	Degrees Fahrenheit
MBAS	Methylene blue active substance
mg/l	milligrams per liter
USC	United States Code

WEF	Water Environment Federation
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- (c) All other words or abbreviations shall be construed as having the meaning defined in Glossary, Water and Sewage Control Engineering, published by the Water Environment Federation, Washington, D.C., or by their general usage if undefined.

Sec. 94-142. - Purpose; objectives.

- (a) This ordinance regulates the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system, and the removal, transportation and disposing of scavenger wastes, and provides penalties for the violation thereof.
- (b) This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the town and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR 403).
- (c) The objectives of this ordinance are to:
- (1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
 - (4) Provide for equitable distribution of the cost of the municipal wastewater system.
- (d) This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers' capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this ordinance.
- (e) This ordinance shall apply to the town and to persons outside the town who are, by contract or agreement with the town, users of the town sewer system.

Sec. 94-143. - Use of public sewers required.

- (a) *Unsanitary deposits.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage, or other objectionable waste.
- (b) *Discharge of polluted waters to natural outlet.* It shall be unlawful to discharge to any natural outlet within the town or in any area under the jurisdiction of the town any sewage or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this ordinance.
- (c) *Privies, septic tanks and similar facilities.* It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for disposal of sewage where public sewers are available.

- (d) *Sanitary facilities required.* The owner of any new house, building, or property used for human occupancy, employment, recreation, or other purpose situated within the town or in any area under the jurisdiction of the town, and abutting on any street, alley, or right-of-way in which there is now or shall be located a public sanitary sewer of the town is hereby required at his expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this ordinance within 90 days after date of written notice from the town clerk to the property owner requiring the property owner to make connection thereto, provided that the public sewer shall be within 100 feet of the property line. Likewise the owner of any existing house, building, or property used for human occupancy, employment, recreation, or other purpose situated within the town or in any area under the jurisdiction of the town, whose property contains a failing septic system, shall be required to connect to the public sewer in accordance with the provisions of this ordinance within 90 days after date of written notice from the town clerk to the property owner requiring the property owner to make connection thereto, provided that the public sewer shall be within 200 feet of the property line

Sec. 94-144. - Private sewage disposal facilities.

- (a) *Use required when public sewer is not available.* Where a public sanitary sewer is not available under the provisions of [section 94-143\(d\)](#), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this ordinance. The city council may waive this requirement for economic hardship reasons.
- (b) *Permit required.* Before commencement of construction of a private sewage disposal system, septic tank, or other on-site sewage management system for a single-family dwelling, the owner shall first obtain a written permit from the Gordon County health department environmental health manager.
- (c) *Approval by Gordon County.* A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Gordon County health department.
- (d) *Specifications.* The type, capacities, location, and layout of a private sewage system shall comply with all recommendations of the state department of human resources or other local or state agencies having jurisdiction. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (e) *Operation and maintenance.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the town.
- (f) *Abandonment and connection to public sewer.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in [section 94-143\(d\)](#), a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tank, cesspool, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with clean bank run gravel or dirt within 60 days of notification to do so by the town clerk or other county or state agency having jurisdiction over such matters.
- (g) *Additional requirements.* No statement contained in this ordinance shall be construed to nullify any additional requirements that may be imposed by the appropriate state or county regulatory agencies having jurisdiction over such matters.

Sec. 94-145. - Building sewers and connections; grease, oil and sand interceptors.

- (a) *Permit required.* No 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 permit from the system operator.
- (b) *Classes of building sewer permit; application for permit; fee.* There shall be two classes of building sewer permits: (i) residential and commercial service, and (ii) service to establishments producing industrial wastes. In either case, the owner or an agent thereof shall make application on a special form furnished by the system operator. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the system operator. A

permit and inspection fee per the published rate schedule at town hall for a building sewer shall be paid to the town when the application is filed.

- (c) *Payment of costs; indemnification of town.* All costs and expenses incident to the installation and connection of the building sewer to the property line shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (d) *Separate building sewer required for each building; exception.* A separate and independent building sewer shall be provided for every building. Where a building stands to the rear of another on a single lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the town may grant permission for the building sewer from the front building to be extended to the rear building and the whole shall be considered as one building sewer, upon a showing by the applicant that it is not feasible that the two buildings so connected will ultimately be on separate building lots.
- (e) *Use of old building sewers.* Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by the town, to meet all the requirements of this ordinance.
- (f) *Specifications for building sewer.* The size, slope, alignment, and 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 all conform to the requirements of the building and plumbing code or the town development guide standards. In the absence of code provisions or amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- (g) *Elevation of building sewer.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement or first floor. No building sewer shall be made parallel to or within three feet of any bearing wall that might thereby be weakened. The depth shall be sufficient to afford protection from live loads (automobiles, etc.) that may be superimposed. The building sewer shall be made at uniform grade and in straight alignment insofar as possible. The building sewer shall be constructed to that point as directed by the system operator.
- (h) *Drainage of unpolluted water to sanitary sewers.* No person shall maintain or make a connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.
- (i) *Inspection; supervision of connection.* Before any underground portions thereof are covered, the applicant for the building sewer permit shall notify the town when the building sewer is ready for inspection and connection to the public sewer. The connection shall be conducted under the supervision of an authorized representative of the town or system operator.
- (j) *Excavations.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the system operator.
- (k) *Records of connections.* The system operator shall keep a permanent and accurate record of the location, depth, and direction of all new sewer connections, including any landmarks as may be necessary to make an adequate description.
- (l) *Grease, oil and sand interceptors.* Grease, oil, and sand interceptors shall be provided when, in the opinion of the system operator, based on sound engineering standards, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the system operator and shall be located so as to be readily and easily accessible for cleaning and inspection. All interceptors shall be supplied and properly maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 94-146. - Prohibited discharges.

- (a) *Discharge of unpolluted water to sanitary sewer.* No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, cooling water, unpolluted industrial process water, or subsurface drainage into any sanitary sewer.
- (b) *Discharge of sanitary wastewater to storm sewer.* No person shall discharge or cause to be discharged any sanitary wastewater into a storm sewer system. Cooling or condensing water may be allowed to be discharged into a storm sewer system provided an NPDES permit is obtained from the state environmental protection division.
- (c) *Discharge of unground garbage.* No person shall discharge or cause to be discharged any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the system operator.
- (d) *Prohibited substances; discharge of hazardous wastes.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the wastewater system. These general prohibitions apply to all such users of the wastewater system, whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user shall not contribute the following substances to any wastewater system:
 - (1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater system or the operation of the wastewater system. 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, or any single reading over ten percent, of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides, and any other substances which the town, the state, or the EPA has notified the user is a fire hazard or a hazard to the system.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, lint or textile fibers, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
 - (3) Any wastewater having a pH less than 5.0 or greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the sewers or wastewater treatment plant.
 - (4) Any wastewater containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process or sludge disposal, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the wastewater treatment plant, or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.
 - (5) Any noxious or malodorous liquids, gases or solids which are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair, or any highly oxidized or highly reduced agents which, by interaction with other wastes, are sufficient to create a public nuisance or hazard to life.
 - (6) Any substance which may cause the sewers or wastewater treatment plant effluent, or any other product of the sewers or wastewater treatment plant 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 sewers or wastewater treatment plant cause the sewers and wastewater treatment plant to be in noncompliance with sludge use or disposal criteria developed pursuant to 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.

- (7) Any substances which will cause the sewers or wastewater treatment plant to violate the NPDES permit or the receiving water quality standards.
- (8) Any wastewater with objectionable color not removed in the treatment process which alters the plant effluent from that which would be expected from domestic sewage, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (9) Any wastewater having a temperature which will inhibit biological activity in the sewers or wastewater treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the sewers which exceeds 149 degrees Fahrenheit (65 degrees Celsius) or wastewater treatment plant which exceeds 104 degrees Fahrenheit (40 degrees Celsius).
- (10) Any pollutants, including oxygen-demanding pollutants (BOD, etc.) or unusual chlorine demanding substances released at a flow rate and/or pollutant concentration which a user knows or has reason to expect will cause interference to the sewer or wastewater treatment plant. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.
- (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the system operator in compliance with applicable state or federal regulations.
- (12) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (13) Any waters or wastes containing concentrated acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
- (14) Materials which exert or cause unusual concentration of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries, and lime residues, or of dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate.
- (15) Wastewater containing more than 75 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral origin.
- (16) Wastewater containing more than 75 milligrams per liter of oils, fat, grease, or wax, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit (zero degrees Celsius) and 150 degrees Fahrenheit (65 degrees Celsius).
- (17) Any waters or wastes containing taste-producing substances exceeding limits which may be established by the town.
- (18) Any 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 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
- (19) 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.
- (20) Disposal of trucked or hauled pollutants, except at discharge points designated by the system operator.
- (21) Discharge of hazardous wastes.
 - a. The industrial user 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 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place within 180 days of the effective date of the ordinance from which this subsection is derived. Industrial users who commence discharging after the effective date of the ordinance from which this subsection is derived shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this subsection does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

- b. Dischargers are exempt from the requirements of subsection (a)(21)a of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute 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 industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- c. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- d. In the case of any notification made under subsection (a)(21)a of this section, the industrial 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 practicable.

(22) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.

- (e) *Permit for exceeding concentration limits.* The system operator may issue permits specifying limits greater than the limits in this ordinance based on special agreements with the town, provided that all applicable state and/or federal categorical pretreatment requirements are met and provided that local treatment plant mass loadings are not violated. The permission to exceed concentration limits will be revoked if local treatment plant mass loadings are exceeded. Additional testing requirements will be necessary for an industry which seeks permission to exceed concentration limits and may include testing of the waste treatment plant influent and effluent as well as the user's own effluent. The costs associated with such testing will be paid by the user for the parameter the user seeks permission to exceed.
- (f) *Modification of limits.* The town reserves the right to modify the industrial discharge limits and conditions at the time of the permit renewal. Industrial users requesting a permit variance must do so at least 60 days prior to the expiration of their discharge permit.
- (g) *Exemption from BOD loading levels.* Industrial users that contribute mass BOD₅ loading at levels below one-fourth of one percent of the design BOD₅ loading may be exempt from industrial pretreatment requirements, unless they are subject to federal categorical pretreatment standards, in

which case they will not be exempt. However, the town reserves the right to terminate such exemption provisions if the industrial discharge is deemed to interfere with POTW operations.

- (h) *Local limits.* The following are state environmental protection division approved technically based local limits 16 mgd average daily flows at the POTW.

	Q = 16.0 mgd	
Parameter	Monthly Average (mg/l)	Weekly Maximum (mg/l)
BOD ₅	900	900
TSS	600	600
Nickel	0.31	0.47
Lead	0.044	0.066
Zinc	1.2	1.8
Chromium	4.0	6.0
Copper	0.31	0.47
Cadmium	0.02	0.03
Silver	0.019 ²	0.019 ²
Mercury	0.002 ²	0.002 ²
Arsenic	0.033	0.05
Selenium	0.08	0.12
Cyanide	0.24	0.36
Antimony	43.0	65.0
Molybdenum	4.15	6.23
TTO	—	2.13 ¹

Notes:

¹Daily maximum total toxic organics as defined in 40 CFR 433.11(e).

²Domestic/background concentration.

- (i) *Reallocation of loading of BOD and zinc.* The town reserves the right to permit select or all industrial users for mass-based limits for BOD₅ and zinc by employing a modified "mass proportion method" to reallocate surpluses. However, the total loadings shall at no time exceed the allowance headworks loadings for the respective parameters.

Sec. 94-147. - Removal, transportation and disposal of scavenger wastes.

- (a) The town council or system operator may require a formal permit for the discharge of scavenger wastes after submission of an application on forms supplied by the town or system operator. For purposes of this section, the term "scavenger wastes" shall mean putrid or offensive matter, the contents of all privies, septic tanks, and cesspools. All other materials and substances, chemicals or chemical compounds, and/or industrial wastes will not be permitted to be discharged into the public sewer system except as otherwise provided in this ordinance.
- (b) The discharge of the wastes described in subsection (a) of this section and trucked or hauled pollutants shall be made only at a location in the sewage treatment plant as shall be designated by the system operator.
- (c) Scavenger wastes will be admitted into the sewer system only by permit and subject to payment of fees or fixed charges. The fee or charge shall be based on the full capacity of each scavenger vehicle for each discharge.
- (d) The applicant shall be the owner of the vehicle discharging the wastes. Any false, misleading, or untruthful statements as to the nature of the material shall be cause for relocation of any further discharge from the applicant.
- (e) Discharges described in subsection (a) of this section may also be suspended or terminated at any time by the system operator for willful, continued, or persistent violations of this ordinance.
- (f) All equipment, such as trucks, tanks, pumps, and hoses, used in the collection and/or transportation of scavenger wastes shall be modern equipment in good repair. When more than one vehicle is used by an applicant, each vehicle shall bear an identifying number.
- (g) All applicants for a permit shall furnish the following information with each application:
 - (1) The name and address of the applicant;
 - (2) The volume of scavenger waste for each numbered vehicle; and
 - (3) The number of scavenger vehicles in collection service.

Sec. 94-148. - Damaging or tampering with sewage disposal facilities.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

Sec. 94-149. - Billing and payment of charges; industrial user surcharge; right of town to suspend or terminate service.

- (a) *Billing.* Sewer charges shall be billed with water charges, and failure to pay sewer charges shall be treated as set forth in ordinance II of this ordinance. The town may authorize the system operator to conduct billing on its behalf.
- (b) *Industrial user surcharge.* The town or system operator shall levy a BOD₅ surcharge for industrial users whose BOD₅ concentrations exceed a certain minimum value called the surcharge concentration. The surcharge will be levied up to a maximum concentration, which is the local limit. Beyond the local limit, escalating levels of enforcement action will be pursued by the town. The surcharge concentration for BOD₅ is 300 mg/l and the local limit is 900 mg/l. The current surcharge amount and the surcharge basis may be found in the fee schedule on file with the system operator. The town reserves the right to revise the surcharge concentration for BOD₅ and the surcharge rate by providing a 30-day notice to the industrial users.
- (c) *Suspension of service or discharge permit; failure to pay charges.* The town or system operator may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the town or system operator, 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. Sewer charges shall be billed with water charges, and failure to pay sewer charges shall be treated as set forth in ordinance II of this ordinance. The town reserves the right to terminate water and wastewater disposal services and disconnect a customer from the system when the customer fails to pay for sanitary sewer service when due.
- (d) *Termination and disconnection of service.* The town or system operator reserves the right to terminate wastewater disposal services and disconnect a customer from the system when:
 - (1) A governmental agency informs the town that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the customer is discharging wastewater into the public sewer that cannot be sufficiently treated or requires treatment that is not provided by the town as normal domestic treatment; or
 - (2) The customer:
 - a. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
 - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment process;
 - c. Fails to pay monthly bills for sanitary sewer service when due; or
 - d. Repeats a discharge of prohibited wastes into public sewers.

Secs. 94-150—94-170. – Reserved

ARTICLE IV – INDUSTRIAL DISCHARGE PERMIT

Sec. 94-171. - Permit required; certification statement.

- (a) It shall be unlawful for an industry or person to discharge industrial wastes to the sewer or the wastewater treatment plant except as authorized by the system operator pursuant to a permit to discharge issued by the system operator. All significant industrial users proposing to connect to or contribute to the sewer collection system or wastewater treatment plant shall obtain a wastewater discharge permit before connecting or contributing wastewater. All existing significant industrial users shall apply for a wastewater discharge permit within 90 days after the effective date of the ordinance from which this ordinance is derived, and all proposed new significant industrial users shall apply at least 90 days prior to connecting or contributing to the wastewater system.
- (b) All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

Sec. 94-172. - Application for permit.

Users required to obtain a wastewater discharge permit shall complete and file with the town or the system operator an application in the form prescribed by the town or system operator. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended (or per any later version used by the system operator).
- (3) Wastewater constituents and characteristics, including, but not limited to, those mentioned in [section 94-146](#), as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended. Results collected within the previous year will be acceptable.
- (4) Time and duration of contribution.
- (5) Average daily and three-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections and appurtenances by size, location, and elevation.
- (7) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by town, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (9) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional

pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

Sec. 94-173. - Public notice of issuance of permit; appeals.

- (a) The system operator shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the system operator to reconsider the terms of a wastewater discharge permit within 30 days of notice of its issuance.
- (b) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (c) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for the objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (e) If the system operator fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (f) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the superior court of the county.

Sec. 94-174. - Modification of permit.

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

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the town's POTW, town personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

Sec. 94-175. - Duration and renewal of permit.

Wastewater discharge permits are to be issued for a three-year period. The user must reapply for permit renewal a minimum of 90 days prior to permit expiration. The town retains the right to modify allowable discharge limits for specific pollutants if federal or state standards are changed in the interim or for other just cause.

Sec. 94-176. - Contents of permit.

- (a) A wastewater discharge permit will specify the user's responsibilities, which shall be required of the user. Failure of the user to comply with the permit requirements will result in penalties and/or discontinuance of sewer service. Permits must contain the following information:
 - (1) Statement of permit duration (no more than five years).
 - (2) Statement of nontransferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator.
 - (3) Effluent limits based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law.
 - (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements.
 - (5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.
- (b) In addition, the permit may also contain the following information:
 - (1) The unit charge or schedule of the user's charges and fees for the wastewater to be discharged to a community sewer.
 - (2) Limits on the average and maximum wastewater constituents and characteristics.
 - (3) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization.
 - (4) Requirements for installation and maintenance of inspection and sampling facilities.
 - (5) Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule.
 - (6) Requirements for submission of technical reports or discharge reports.
 - (7) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording the town access thereto.
 - (8) Requirements for notification of the town of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituent being introduced into the wastewater treatment system.
 - (9) Requirements for notification of slug discharges.
 - (10) Other conditions as deemed appropriate by the town to ensure compliance with this ordinance.

Sec. 94-177. - Transfer of permit.

Wastewater discharge 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, a new user, different premises, or a new or changed operation without prior notification (at a minimum) to the POTW and provision of a copy of the existing control mechanism to the new owner or operator. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

Sec. 94-178. - Screening equipment.

Industrial users may be required by the system operator to install in their effluent waste system, immediately prior to entrance into the town sewer, a stainless steel automatic mechanically cleaned screen of either a vibration or brush type. For textile operations, the mesh of the screen shall be fine enough to prevent the passage of lint. Mesh sizes to be used shall be submitted to the system operator for approval. The owner must maintain the screening facility in proper working condition at all times.

Sec. 94-179. - Pretreatment facilities.

Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the town 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 town for review, and shall be prepared by a registered professional engineer before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the town prior to the user's initiation of the changes. The town in no way shall be responsible for the design operation of the plant; the review is intended only to ensure compatibility of the pretreatment system with the wastewater system.

Sec. 94-180. - Publication of list of users in significant noncompliance.

The town or system operator shall annually publish in the local newspaper a list of the users which are in significant noncompliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.

Sec. 94-181. - Report of discharges; sampling; recordkeeping.

- (a) *Reporting requirements.* The user will be required to submit to the system operator reports indicating the nature and concentration of effluents on a periodic basis. Specific reporting requirements will be indicated in the user's permit.
- (b) *Analytical techniques.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136 and procedures approved by the EPA.
- (c) *Sample collection.*
 - (1) Except as indicated in subsection (c)(2) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. If flow proportional sampling is infeasible, the system operator may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
 - (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (d) *Timing of reports.* 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.
- (e) *Recordkeeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to 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 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 years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the system operator.

Sec. 94-182. - Compliance with federal pretreatment limits.

No industry will exceed the pretreatment limits as established by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which apply to a specific category of industrial users.

Sec. 94-183. - Dilution of discharge.

No user shall ever increase the use of process water or in any other way dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The town may impose mass limitations on industrial users who are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.

Sec. 94-184. - Reports of changed conditions.

- (a) Each user must notify the system operator 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 90 days before the change.
- (b) The system operator 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 94-171](#)
- (c) The system operator may issue a wastewater discharge permit under [section 94-172](#) or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.
- (d) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

Sec. 94-185. - Confidentiality of information.

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections, shall be available without restriction unless the user contends such information and data constitute a trade secret, in which case the information may be withheld from the general public. The effluent data will never be considered as confidential information. Information accepted by the town or system operator as confidential, and portions of a report which might disclose trade secrets or secret processes, shall be transmitted to a governmental agency when required to document compliance with the pretreatment program. In matters of judicial review or enforcement proceedings against an industrial user, the town shall provide all available information pertaining to that industry to the governmental agency. The town and system operator shall be required to comply with the Open Records Act.

Sec. 94-186. - Monitoring facilities.

The system operator shall require to be provided and operated, 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 system operator 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.

Sec. 94-187. - Effect of new federal categorical pretreatment standards; modification of federal pretreatment standards.

- (a) Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this ordinance. The system operator shall notify all affected users of the new standard and applicable reporting requirements.
- (b) Where the town's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the town may apply to the state for modification of specific limits in the federal pretreatment standards. For purposes of this subsection, the term "consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system and 95 percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) or 40 CFR 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the Act. The town may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR 403, section 403.7, are fulfilled and prior approval from the approval authority is obtained.

Sec. 94-188. - Compliance with federal categorical pretreatment standards.

- (a) The categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405 through 471, are hereby incorporated.
- (b) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the system operator may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the system operator shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- (d) 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 the EPA when developing the categorical pretreatment standard.
- (e) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Sec. 94-189. - Baseline monitoring reports.

- (a) Within either 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 system operator a report which contains the information listed in subsection (b) of this section. At least 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 system operator a report which contains the information listed in subsection (b) of this section. 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 in subsection (a) of this section shall submit the following information:
 - (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 operations 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.*
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the system operator, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and longterm average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with accepted procedures.

Sampling must be performed in accordance with accepted procedures.

- (6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (7) *Compliance schedule.* If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance. 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 94-190](#)
- (c) All baseline monitoring reports must be signed and certified.

Sec. 94-190. - Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule:

- (1) 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.
- (2) No increment referred to in subsection (1) of this section shall exceed nine months.
- (3) The user shall submit a progress report to the system operator no later than 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.
- (4) In no event shall more than nine months elapse between such progress reports to the system operator.

Sec. 94-191. - Reports on compliance with categorical pretreatment standard deadline.

Within 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 system operator a report containing the information described in [section 94-189\(b\)\(1\)](#) through (7). 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 longterm 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.

Sec. 94-192. - Periodic compliance reports.

- (a) All significant industrial users shall, at a frequency determined by the system operator, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with [section 94-171](#).
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the system operator using the procedures prescribed in this ordinance, the results of this monitoring shall be included in the report.

Sec. 94-193. - Notification of violation; repeat sampling and reporting.

If sampling performed by a user indicates a violation of wastewater discharge limitations, the user must notify the system operator within 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 system operator within 30 days after becoming aware of the violation. The user is not required to resample if the system operator monitors at the user's facility at least once a month, or if the system operator resamples within a month following the violation.

Sec. 94-194. - Accidental discharges; defenses; bypass.

- (a) *Protection from accidental discharge; slug control plan.* Each industrial user shall provide protection from accidental discharge or slug loading of prohibited materials or other substances regulated by this ordinance. A slug discharge is any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge. Facilities to prevent accidental discharge or slug loading of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, before construction of the facility. The town shall evaluate all industrial users of the need for developing a slug discharge plan at least every two years. Industrial users shall complete such a plan within 90 days after being notified by the town. No user shall be permitted to introduce pollutants into the system until accidental discharge or slug loading procedures have been approved by the town. A slug control plan shall contain, at a minimum, the following elements:
 - (1) Description of discharge practices, including nonroutine batch discharges.
 - (2) Description of stored chemicals.

- (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for followup written notification within five days.
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including 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, measure for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Review of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. In the case of an accidental discharge or slug loading, it is the responsibility of the user to immediately telephone and notify the town of the incident. The notification shall include the location of the discharge, the type of waste, the concentration and volume, and corrective actions.

- (b) *Written notice of accidental discharge.* Within five days following an accidental discharge or slug loading, the user shall submit to the system operator a detailed written report describing the cause 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 wastewater system, fish kills, or any other damage to person or property, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.
- (c) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (d) *Upsets.*
 - (1) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (d)(3) of this section are met.
 - (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
 - a. An upset occurred and the user can identify the cause of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - c. The user has submitted the following information to the system operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 1. A description of the indirect discharge and cause of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including the exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - (4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- (5) 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.
 - (6) Users shall control production of all discharges, to the extent necessary to maintain compliance with categorical pretreatment standards, upon reduction, loss, or failure of the user's 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, is lost, or fails.
- (e) *Defenses.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions of this ordinance or the specific prohibitions 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:
- (1) 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
 - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit, and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (f) *Bypass.*
- (1) For the purposes of this section:
Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - (2) 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 ensure efficient operation. These bypasses are not subject to the provisions of subsections (f)(3) and (4) of this section.
 - (3) If a user knows in advance of the need for a bypass, it shall submit prior notice to the system operator, at least ten days before the date of the bypass, if possible. A user shall submit oral notice to the system operator of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five 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 system operator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
 - (4) Bypass is prohibited, and the system operator may take an enforcement action against a user for a bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment.

Secs. 94-195—94-220. - Reserved.

ARTICLE V - ENFORCEMENT

Sec. 94-221. - Authority of inspectors.

- (a) *Search warrants.* If the system operator 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 town designed to verify compliance with this ordinance or any permit or order issued under this ordinance, or to protect the overall public health, safety, and welfare of the community, the system operator may seek issuance of a search warrant or inspection warrant.
- (b) *Compensation for injury to inspectors.* While performing the necessary work on private properties referred to in subsection (a) of this section, any claims resulting from injury or death to the system operator or duly authorized employees of the town or system operator shall be compensated by the company even when there is no negligence or failure on the part of the company.
- (c) *Right of entry; sampling and monitoring.* The system operator shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued under this ordinance. Users shall allow the system operator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
 - (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the system operator will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (2) The system operator shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operation.
 - (3) The system operator may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated once a month to ensure their accuracy.
 - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the system operator and shall not be replaced. The costs of clearing such access shall be born by the user.
 - (5) Unreasonable delays in allowing the system operator access to the user's premises shall be a violation of this ordinance.
- (d) *Testing by independent laboratory.* At the order of the system operator, all persons discharging wastewater into the town sewer system shall have their discharge tested by a town-approved independent testing laboratory at such person's expense at a frequency specified by the system operator at his discretion.

Sec. 94-222. - Administrative enforcement remedies.

- (a) *Notice of violation.* When the system operator finds that any industrial user has violated or is violating this ordinance, or a wastewater permit or order issued under this ordinance, the system operator or his agent may serve upon the user written notice of the violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the system operator. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

- (b) *Consent orders.* The system operator is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (d) of this section.
- (c) *Show cause orders.* The system operator may order any industrial user which causes or contributes to a violation of this ordinance, or a wastewater permit or order issued under this ordinance, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least ten days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.
- (d) *Compliance orders.* When the system operator finds that an industrial user has violated or continues to violate this ordinance or a permit or order issued under this ordinance, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements deemed reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.
- (e) *Cease and desist orders.* When the system operator finds that an industrial user has violated or continues to violate this ordinance or any permit or order issued under this ordinance, the system operator may issue an order to cease and desist all such violations and direct those persons in noncompliance to do one of the following:
 - (1) Comply with the order.
 - (2) Take appropriate remedial or preventive action needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Sec. 94-223. - Emergency actions.

The town or system operator may take whatever emergency action is necessary whenever a situation occurs that presents a hazard to the personnel or facilities of the town or where there is a danger to public health.

Sec. 94-224. - Appeals.

- (a) Any user, permit applicant, or permit holder affected by any decision, action, or determination made by the system operator interpreting or implementing the provisions of this ordinance or in any permit issued under this ordinance may file with the system operator a written request for reconsideration within 30 days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- (b) If the finding made by the system operator is unsatisfactory to the person requesting reconsideration, he may, within 30 days after notification of the action, file a written appeal to the town council. The written appeal shall be heard within 30 days from the date of filing. The town council shall make a final recommendation on the appeal within 15 days of the close of the meeting. The system operator's decision, action, or determination shall remain in effect during such period of reconsideration. Appeal from the decision of the town council shall be as provided for by law.

Sec. 94-225. - Judicial proceedings and relief.

The system operator may initiate proceedings in the superior court of the county or the municipal court of the town against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program. In such action, the system operator may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

Sec. 94-226. - Authority to terminate service; revocation of discharge permit.

- (a) *Termination of service after notice and hearing.* In addition to other remedies provided in this ordinance, the system operator may issue a show cause notice to any user who appears to be violating any provision of this ordinance to show cause why sewer service should not be discontinued. The notice shall include the nature of the violation with sufficient specificity as to the character of the violation and the dates on which such violations occurred to enable the user to prepare a defense. Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least 20 days prior to the proposed action, except in the event of an emergency. At the show cause hearing, the user may present any defense to such charges, either in person or through submission of written or documentary proof. Following the hearing or opportunity for a hearing, the town or system operator may at its discretion order termination of sewer service if satisfied from all available proof that the violation was willful and the termination is necessary to abate the offending condition or to prevent future violations. The town or system operator may terminate service for a period not to exceed one year for a willful violation and may terminate service indefinitely to abate offending conditions or prevent future violations subject to the correction of such conditions or violations by the user. Any violation of provisions of this ordinance that is not corrected or abated following a notice and opportunity for a hearing shall be grounds for termination of service and/or plugging of the sewer line.
- (b) *Emergency termination of service.*
- (1) The system operator may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The system operator may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
 - (2) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the system operator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or its receiving stream, or endangerment to any individuals. The system operator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the system operator that the period of endangerment has passed, unless the termination proceedings in subsection (c) of this section are initiated against the user.
 - (3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the system operator prior to the date of any show cause or termination hearing.
 - (4) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.
- (c) *Revocation of discharge permit.* The system operator may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause why the proposed action should not be taken. Exercise of this option by the system operator shall not be a bar to, or a prerequisite for, taking any other action against the user.
- (1) Violation of wastewater discharge permit conditions;

- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
 - (5) Violation of the pretreatment standards in [section 94-146](#)
 - (6) Failure to notify the system operator of significant changes to the wastewater prior to the changed discharge;
 - (7) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (8) Falsifying self-monitoring reports;
 - (9) Tampering with monitoring equipment;
 - (10) Refusing to allow the system operator timely access to the facility premises and records;
 - (11) Failure to meet effluent limitations;
 - (12) Failure to pay fines;
 - (13) Failure to pay sewer charges;
 - (14) Failure to meet compliance schedules;
 - (15) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (16) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - (17) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.
- (d) *Voiding of discharge permit.* Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Sec. 94-227. - Payment of cost of correction or termination actions.

The cost of correction or termination under [section 94-226](#) shall be added to any sewer service charge payable by the person violating this ordinance or the owner or tenant of the property upon which the violation occurred, and town shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

Sec. 94-228. - Payment of costs of damage to facilities.

When a discharge waste causes an obstruction, damage, or any other impairment to facilities, the town or system operator shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

Sec. 94-229. - Civil penalties.

- (a) *Generally.* Any person, including but not limited to industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to \$1,000.00 per day for each day during which the act or omission continues or occurs:
- (1) Violates any effluent standard or limitation imposed by a pretreatment program.
 - (2) Violates the terms or conditions of a permit issued pursuant to a pretreatment program.

- (3) Fails to complete a filing requirement of a pretreatment program.
 - (4) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of a pretreatment program.
 - (5) Fails to pay user or cost recovery charges imposed by a pretreatment program.
 - (6) Violates a final determination or order of the town.
 - (7) Violates any provisions of this ordinance, the pretreatment permit or any order.
- (b) *Assessment procedure; appeals.* Any civil penalty shall be assessed in the following manner:
- (1) The system operator may issue an assessment against any person or industrial user responsible for the violation.
 - (2) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the system operator a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the town council. If a petition for review of the assessment is not filed within 30 days of the date the assessment is served, the violator shall be deemed to have consented to the assessment, and it shall become final.
 - (3) When any assessment becomes final because of a person's failure to appeal the system operator's assessment, the system operator may apply to the municipal court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.
 - (4) In assessing the civil penalty, the system operator may consider the following factors:
 - a. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.
 - b. Damages to the town, including compensation for the damage or destruction of the facilities of the POTW, which also includes any penalties, costs, and attorneys' fees incurred by the town as the result of the illegal activity, as well as the expenses involved in enforcing this ordinance and the costs involved in rectifying any damages.
 - c. The cause of the discharge or violation.
 - d. The severity of the discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters.
 - e. The effectiveness of action taken by the violator to cease the violation.
 - f. The technical and economic reasonableness of reducing or eliminating the discharge.
 - g. The economic benefit gained by the violator.
 - (5) The system operator may institute proceedings for assessment in the name of the town in the superior court of the county if the violation occurred in the county.
- (c) *Schedule of penalties.* The town may establish by regulation a schedule of the amount of civil penalty which can be assessed by the system operator for certain specific violations or categories of violations.
- (d) *Assessment of penalties by state.* Civil penalties in excess of \$1,000.00 per day for each day of the violation may be assessed by the director of the environmental protection division of the state department of natural resources.

Sec. 94-230. - Criminal penalties.

Any person or user who willfully or negligently violates any provision of this ordinance shall, upon conviction, be punished by a fine of not more than \$500.00, unless greater is allowed by state law, or by imprisonment for not more than sixty days, or both. Each day any violation of this ordinance shall

continue shall constitute a separate violation. The town is authorized to prosecute any violation of this ordinance in either the municipal court of the town or the superior court of the county.

Sec. 94-231. - Administrative fines.

- (a) *Generally.* When the system operator finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued under this ordinance, or any other pretreatment standard or requirement, the system operator may fine such user in an amount not to exceed \$1,000.00 per violation per day. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- (b) *Interest; lien.* Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 1.5 percent of the unpaid balance, and interest shall accrue thereafter at a rate of 1.5 percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties only when the user is the owner of the property.
- (c) *Appeals; payment of costs of enforcement actions.* Users desiring to dispute such fines must file a written request for the system operator to reconsider the fine along with full payment of the fine amount within ten days of being notified of the fine. Where a request has merit, the system operator may convene a hearing on the matter. If the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The system operator may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

Sec. 94-232. - Falsifying information.

Any person or user who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or maintained by the town under this ordinance or the Act, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this ordinance or the Act, shall, upon conviction, be punished by a fine of not more than \$1500.00, or by imprisonment for not more than sixty days, or both, and may subject himself to further prosecution and penalties under 18 USC 1001 and section 309(c)(2) of the Act (33 USC 1319(c)(2)) as well as OCGA Sec. 16-10-20.

Sec. 94-233. - Unlawful discharges declared nuisance.

Discharge of wastewater in any manner in violation of this ordinance, or of any order issued by the town or system operator as authorized by this ordinance, is hereby declared a public nuisance and shall be corrected or abated as directed by the town or system operator. Any person creating a public nuisance shall be subject to the provisions of the town codes or ordinances governing such nuisance.

Secs. 94-234—94-270. - Reserved.