

Chapter 14
SEWERAGE*

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***Cross references**--Buildings, construction and related activities, Ch. 5; floodplain regulations, Ch. 8; public utilities systems, Ch. 13; subdivisions, Ch. 17; zoning, Ch. 22.

State law references--Power of city or county to provide stormwater, sewerage collection and disposal systems, Ga. Const., art. 9, sec. 2, par. 3; dumping certain wastes in storm or sanitary sewers prohibited, O.C.G.A. § 12-8-2; Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq.; adoption of ordinances, rules and regulations relating to payment for street improvements and construction of water, gas and sewer connections; payment of costs of connections, O.C.G.A. § 36-39-7; city's authority to acquire, construct, extend, operate, maintain and collect fees for water and sewage systems, O.C.G.A. § 36-34-5; Resource Recovery Development Authorities Law, O.C.G.A. § 36-63-1 et seq.; grants of state funds to municipal corporations for public purposes, O.C.G.A. § 36-40-20 et seq.; executions for collection of assessments for laying sewers, O.C.G.A. § 48-5-358.

Section 14-115A **ARTICLE VI. INDUSTRIAL DISCHARGE REQUIREMENTS**

Section 14-116 Grease, oil, and sand interceptors.

(a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the utilities superintendent, 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 utilities superintendent 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 the owner's expense.

(b) All eating and quick food establishments not now existing shall provide a grease interceptor of one thousand (1,000) gallons capacity or larger between the kitchen and sewer tap. The sewer line from restrooms shall not be tied to the grease interceptor. Grease interceptors shall be installed with an access manhole brought up to or slightly above grade for easy cleaning. Where unusual conditions which make the provisions of this subsection prohibitive or not required, an alternative system approved by the utilities superintendent can be utilized provided it removes grease to levels below those fixed in this chapter.

(c) All existing eating and quick food establishments presently operating without a grease interceptor shall be required to install one whenever it is deemed necessary by the utilities superintendent, upon recommendation by the superintendent of the sewer department, to prevent grease from entering public sewers.

(d) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, bolted in place, shall be gastight and watertight, wherever desirable.

(e) When installed, all grease, oil and sand interceptors shall be maintained at the owner's expense, in continuously efficient operation at all times. All interceptors shall be pumped and cleaned at least every six (6) months or more often if deemed necessary by the utilities superintendent. An inspection of existing conditions may be made by authorized city personnel at any time it appears that there may be a problem.

(Code 1958, § 19-60; Ord. of 5-22-95(1), § IX)

Section 14-117 Pretreatment facilities required.

(a) Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards and local limits and prohibitions as outlined in section 14-98 within the time limitations as specified by the federal, state or local pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city and shall be prepared by a registered 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 city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the city. The city in no way shall be responsible for the design and operation of the facilities. The review contemplated hereunder is intended only to assure compatibility of the pretreatment system with the city's system.

(b) 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 applies to a specific category of industrial users.

(c) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. of 6-23-97, § VII)

Section 14-118 Federal categorical standards.

The categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405--471 are hereby incorporated.

(a) Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed pursuant to this chapter for sources in that subcategory, shall immediately supersede the limitations locally imposed. The state environmental protection division shall notify all affected users of the new standard and applicable reporting requirements.

(b) Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the state for modification of specific limits in the federal pretreatment standards. "Consistent removal" means 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 for ninety-five (95) percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of title 40 of the Code of Federal Regulations, part 403--"General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained.

(c) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the superintendent a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsections (d)(1)--(8), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(d) Users described above shall submit the information set forth below:

- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner;
- (2) *Environmental permits.* A list of any environmental control permits held by or for the facility;
- (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e);
- (5) *Measurement of pollutants.*
 - a. The categorical pretreatment standards applicable to each regulated process,
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 14-122(b),
 - c. Sampling must be performed in accordance with procedures set out in Section 14-122(c);
- (6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;
- (7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be

later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 14-118(e);

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 14-67.

(e) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by this chapter:

(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 above shall exceed nine (9) months;

(3) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(f) *Reports on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in section 14-118. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 14-67.

(g) *Periodic compliance reports.*

(1) All significant industrial users shall, at a frequency determined by the superintendent 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 14-67.

(2) 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.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the superintendent, using the procedures prescribed in section 14-122, the results of this monitoring shall be included in the report.

(Ord. of 6-23-97, § VIII)

Section 14-119 Maintenance of facilities.

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation, at the owner's expense.
(Code 1958, § 19-63)

Section 14-120 Reserved.

Editor's note--Section IX of an ordinance adopted June 23, 1997, deleted former § 14-120, relating to industrial discharge contracts, which derived from Code 1958, § 19-64.

Section 14-121 Information and notification of industrial discharge requirements.

(a) The city shall annually publish in the local newspaper a list of the users who were in significant noncompliance with any pretreatment requirements or standards once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the user during the same twelve (12) months.

(b) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(c) *Reports of changed conditions.* Each user must notify the superintendent 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 sixty (60) days before the change.

- (1) The superintendent may require the user to submit information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 14-67(e).
- (2) The superintendent may issue a wastewater discharge permit under Section 14-67(h) or modify an existing wastewater discharge permit under section 14-67(k) in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater, and the discharge of any previously unreported pollutants.

(d) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require.

(e) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the superintendent monitors at the user's facility at least once a month, or if the superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. of 6-23-97, § X)

Section 14-122 Monitoring facilities.

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

(b) *Sample collection.*

(1) Except as indicated in subsection (b)(2), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the superintendent may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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

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

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

(e) *Right of entry--inspection and sampling.* The superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the superintendent 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 superintendent or other designated person, will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The superintendent 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 users operations.

(3) The superintendent 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 as often as need to insure 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 superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this chapter.

(f) If the superintendent 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 chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the superintendent may seek issuance of a search warrant from the municipal court of the City of Thomasville.

(Ord. of 6-23-97, § XI)

Section 14-123 Accidental spills.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the state environmental protection division for review, before construction of the facility. All existing users shall complete such a plan by January 1, 1983. No industrial user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the state environmental protection division. 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 chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the state environmental protection division and the city of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Within twenty-four (24) hours following an accidental discharge, the user shall submit to the state environmental protection division and the city a detailed written report describing the cause of the discharge and the measures taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, 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 chapter or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Code 1958, § 19-67; Ord. of 11-8-93, § III)

Section 14-124 Pretreatment requirements and enforcement.

The pretreatment program of the city is developed and enforced by the city. To that end the city shall have full power to do any and all of the following:

(a) Deny or condition any increased or new discharges;

(b) Require compliance with pretreatment standards;

(c) Control industrial discharges to the treatment works to insure compliance;

(d) Require the development of an industrial compliance schedule for installation of required technologies;

(e) Require submission of appropriate notices and industrial self-monitoring reports necessary to assess and assure compliance;

(f) Conduct, as necessary, inspections, surveillance and monitoring procedures to independently determine compliance or noncompliance;

(g) Have access to industrial records and entry to any industrial user's premises, where an effluent source or treatment system is located;

(h) *Notification of violation.* When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may serve upon that user a written notice of violation. Within five (5) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of this notice of violation. Nothing in this section shall limit the authority of the superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation;

(i) *Consent orders.* The superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to section 14-124(k) and (l) and shall be judicially enforceable;

(j) *Show cause hearing.* The superintendent may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user;

(k) *Compliance orders.* When the superintendent finds that a user violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard requirement, the superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation.

Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user;

(l) *Cease and desist orders.* When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued

hereunder, or any other pretreatment standard requirement, or that the user's past violations are likely to recur, the superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements, and
- (2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user;

(m) *Administrative fines.*

- (1) When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may fine such user in an amount not to exceed one thousand dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- (2) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten (10) percent of the unpaid balance, and interest shall accrue thereafter at a rate of one (1) percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- (3) Users desiring to dispute such fines must file a written request for the superintendent to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the superintendent may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user;

(n) *Emergency suspension.* The superintendent 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 superintendent 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;

(o) 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 superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the superintendent that the period of endangerment has passed, unless the termination proceedings in section 14-124(q) are initiated against the user;

(p) 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 superintendent prior to the date of any show cause or termination hearing under section 14-124(j).

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

(q) *Termination of discharge.* In addition to the provisions in section 14-67(m), any user who

violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit condition,
- (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, or
- (5) Violation of the pretreatment standards in Section 14-118.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 14-124(j) why the proposed action should not be taken. Exercise of this option by the superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user;

Judicial Enforcement Remedies

(r) Injunctive relief. When the superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other treatment standard or requirement, the superintendent may petition the Superior or State Court of Thomas County through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user;

(5) *Civil penalties.*

(1) A user who has violated, or continues to violates, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a civil penalty of at least one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user;

(t) *Criminal prosecution.*

(1) A user who violates any provision of this chapter, waste water discharge permit, or order issued hereunder, or any other pretreatment standard or requirement hereunder shall, upon conviction, be guilty of a misdemeanor and shall be punished as set forth in subsection (t)(4).

(2) A user who introduces any substance into the POTW which causes personal injury or property damage shall upon conviction, be guilty of a misdemeanor and shall be punished as set forth in subsection (t)(4).

(3) A user who knowingly makes any false statements, representations, certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued

hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a misdemeanor and shall be punished as set forth in subsection (t)(4).

- (4) Each violation of any portion of the foregoing subsections shall constitute a separate offense. Any user convicted of any such offense shall be subject to such punishment as the municipal court of the City of Thomasville shall impose, subject to all limitations contained in the Charter of the city;

(u) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The superintendent may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the superintendent may take other action against any user when the circumstances warrant. Further, the superintendent is empowered to take more than one (1) enforcement action against any noncompliant user.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal or local requirements.
(Ord. of 6-23-97, § XII)

Section 14-125 Affirmative defenses to discharge violation.

- (a) *Upset.*

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An "upset" does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(3), below are met.

- (3) A user who wished 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(s) of the upset;
- b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- c. The user submitted the following information to the superintendent within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:
 1. A description of the indirect discharge and cause of noncompliance,
 2. The period of noncompliance, including 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.

(b) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(c) Users will have the opportunity for judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(d) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power

of the treatment facility is reduced, lost, or fails.

(e) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 14-96 or the specific prohibitions in section 14-98(1) through (19) 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 city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(f) *Bypass.*

(1) For the purposes of this section:

Bypass means the intentional diversion of wastestreams 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 assure efficient operation. These bypasses are not subject to the provision of subsections (f)(3) and (4) of this section.
- (3) a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent, at least ten (10) days before the date of the bypass, if possible.
b. A user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (4) Bypass is prohibited, and the superintendent may take an enforcement action against a user for a bypass, unless;
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The user submitted notices as required under subsection (f)(3) of this section.

The superintendent may approve an anticipated bypass, after considering its adverse effects, if the superintendent determines that it will meet the three (3) conditions listed in subsection (f)(4)a. of this section.

(Ord. of 6-23-97, § XIII)

Section 14-126 14-126--14-140. Reserved.