

Chapter 15 - SANITARY SEWER USE

FOOTNOTE(S):

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Federal law references—Local delegated pretreatment programs must effectively control and document wastewater discharge from certain industrial users to publicly owned treatment works, 40 CFR 403.8(f)(1) (iii); general pretreatment regulations, 40 CFR 403.1 et seq.; categorical pretreatment regulations, 40 CFR 401.10—471.105.

State Law reference— Local pretreatment programs, 15A NCAC 2H.0900 et seq.

ARTICLE I. - GENERAL PROVISIONS

Sec. 15-1. - Purpose and policy.

- (a) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Hillsborough, hereafter referred to as the town, and enables the town to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). The objectives of this chapter are:
- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
 - (3) To promote reuse and recycling of industrial wastewater and sludge from the municipal system;
 - (4) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
 - (5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
 - (6) To ensure that the municipality complies with its NPDES or nondischarge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.
- (b) This chapter 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 and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- (c) This chapter shall apply to all users of the municipal wastewater system and supersedes the previous sanitary sewer use ordinance. Except as otherwise provided herein, the POTW director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or imposed upon the POTW director may be delegated by the POTW director to other town personnel. By

discharging wastewater into the municipal wastewater system, industrial users located outside the town limits agree to comply with the terms and conditions established in this chapter, as well as any permits, enforcement actions, or orders issued hereunder.

(Prior Code § 15-1)

Sec. 15-2. - Definitions and abbreviations.

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

- (1) *Act* or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.
- (2) *Approval authority* means the director of the Division of Environmental Management of the North Carolina Department of Environment, Health and Natural Resources or his designee.
- (3) *Authorized representative of the industrial user* includes the following:
 - a. If the industrial user is a corporation, the term "authorized representative" means:
 1. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation; or
 2. 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.
 - b. If the industrial user is a partnership or sole proprietorship, an authorized representative means a general partner or the proprietor, respectively.
 - c. If the industrial user is a federal, state or local government facility, an authorized representative means a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - d. The individuals described in subsections (a)(3)a—c of this section, 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.
- (4) *Biochemical Oxygen Demand* or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).
- (5) *Building sewer* means sewer conveying wastewater from the premises of a user to the POTW.
- (6) *Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (7) *Categorical standards* refers to the National Categorical Pretreatment Standards or pretreatment standard.
- (8) *Environmental Protection Agency* or *EPA* refers to the US Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (9)

Grab sample means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

- (10) *Holding tank waste* means any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (11) *Indirect discharge* or *discharge* means the discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act (33 USC 1317(b), (c) or (d)), into the POTW, including holding tank waste discharged into the system.
- (12) *Industrial user* or *user* means any person which is a source of indirect discharge.
- (13) *Interference* means the inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or nondischarge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria, including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA, applicable to the method of disposal or use employed by the POTW.
- (14) *Medical waste* refers to isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (15) *National categorical pretreatment standard* or *categorical standard* refers to any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317(b), (c)) which applies to a specific category of industrial users, and which appears in 40 CFR 405—471.
- (16) *National Prohibitive Discharge Standard* or *prohibitive discharge standard* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 2.1 of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR 403.5.
- (17) *New source* means:
 - a. Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical 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 section 307(c), provided that:
 1. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 3. 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.

- b. 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 (a)(17)a.2. or 3. of this section, but otherwise alters, replaces, or adds to existing process or production equipment.
 - c. For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 1. Begun, or caused to begin, as part of a continuous on-site construction program:
 - i. Any placement, assembly, or installation of facilities or equipment; or
 - ii. 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
 2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (18) *Noncontract cooling water* means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (19) *National Pollution Discharge Elimination System (NPDES) permit* refers to a permit issued pursuant to section 402 of the Act (33 USC 1342), or pursuant to North Carolina G.S. 143-215.1 by the state under delegation from EPA.
- (20) *Nondischarge permit* means a disposal system permit issued by the state pursuant to North Carolina G.S. 143-215.1.
- (21) *Pass through* means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or nondischarge permit, or a downstream water quality standard.
- (22) *Person* refers to any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.
- (23) *pH* means a measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (24) *Pollutant* means any waste as defined in North Carolina G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (25) *POTW director* refers to the Town of Hillsborough Engineer/Utilities Director.

- (26) *POTW treatment plant* refers to that portion of the POTW designed to provide treatment to wastewater.
- (27) *Pretreatment* or *treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (28) *Pretreatment program* means the program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (29) *Pretreatment requirements* means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (30) *Pretreatment standards* means prohibited discharge standards, categorical standards, and local limits.
- (31) *Publicly Owned Treatment Works (POTW) or municipal wastewater system* means a treatment works as defined by section 212 of the Act (33 USC 1292) which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, 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 the town or in any other way, users of the town's POTW.
- (32) *Severe property damage* means substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (33) *Significant industrial user* means any industrial user of the wastewater disposal system who:
- a. Has an average daily process wastewater flow of 25,000 gallons or more;
 - b. Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;
 - c. Is required to meet a national categorical pretreatment standard; or
 - d. Is found by the town, the Division of Environmental Management or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- (34) *Significant noncompliance or reportable noncompliance* means a status of noncompliance defined as follows:
- a. Violations of wastewater discharge limits.
 1. *Chronic Violations*. Sixty-six percent or more of the measurements exceed, by any magnitude, the same daily maximum limit or the same average limit in a six-month period.

2. *Technical Review Criteria (TRC) violations*. Thirty-three percent or more of the measurements equal or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs: four conventional pollutants BOD, TSS, fats, oil and grease the TRC = 1.4. For all other pollutants the TRC = 1.2.
 3. Any other violation of an effluent limit, average or daily maximum, that the control authority believes has caused, alone or in combination with other discharges, interference or pass through; or endangered the health of the sewage treatment plant personnel or the public.
 4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- b. Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - c. Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
 - d. Failure to accurately report noncompliance.
 - e. Any other violation or group of violations that the control authority considers to be significant.
- (35) *Slug load* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 15-9.
- (36) *Standard Industrial Classification or SIC* refers to a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (37) *Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (38) *Superintendent* refers to the person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.
- (39) *Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (40) *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.
- (41) *Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (42) *Wastewater permit* means as set forth in section 15-35 of this chapter.
- (43)

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

- (b) This chapter is gender neutral and the masculine gender shall include the feminine and vice-versa. The term "shall" is mandatory; the term "may" is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
- (c) The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
DEM	Division of Environmental Management
EPA	Environmental Protection Agency
gpd	Gallons per day
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
N.C.G.S.	North Carolina General Statutes
NPDES	National Pollution Discharge Elimination System
O and M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act
TSS	Total Suspended Solids
TKN	Total Kjeldahl Nitrogen

(Prior Code § 15-2; Ord. of 9-14-1998)

Secs. 15-3—15-8. - Reserved.

ARTICLE II. - GENERAL SEWER USE REQUIREMENTS

Sec. 15-9. - Prohibited discharge standards.

- (a) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.
- (b) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.
 - (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case, solids greater than one-half inch in any dimension.
 - (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 - (4) Any wastewater having a pH less than 5.0 or more than 9.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
 - (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
 - (6) Any wastewater having a temperature greater than 150 degrees Fahrenheit (60 degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
 - (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and/or safety problems.
 - (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW director in accordance with section 15-17 of this chapter.
 - (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be

in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

- (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
 - (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW director in compliance with applicable State or Federal regulations.
 - (13) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW director.
 - (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l.
 - (15) Any sludge, screenings or other residues from the pretreatment or industrial wastes.
 - (16) Any medical wastes, except as specifically authorized by the POTW director in a wastewater discharge permit.
 - (17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
 - (18) Any material that would be identified as hazardous waste according to 40 CFR 261 if not disposed of in a sewer except as may be specifically authorized by the POTW director.
 - (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 02B.0200.
 - (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - (21) Recognizable portions of human or animal anatomy.
 - (22) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the municipal wastewater system.
 - (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system, or at any point in the system, be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
- (c) *Prohibited wastes.* Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- (d) *POTW director responsibilities regarding contributing users.* When the POTW director determines that a user is contributing to the POTW, any of the enumerated substances in this section, in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW director shall:
- (1) Advise the user of the potential impact of the contribution on the POTW in accordance with article VIII, section 15-75; and
 - (2) Take appropriate actions in accordance with article IV for such user to protect the POTW from interference or pass through.

(Prior Code § 15-9)

Sec. 15-10. - National categorical pretreatment standards.

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

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 402.15.

(Prior Code § 15-10)

Sec. 15-11. - Local limits.

- (a) To implement the general and specific discharge prohibitions listed in this ordinance, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

[250]	mg/l BOD
[250]	mg/l TSS
[40]	mg/l TKN
[0.003]	mg/l arsenic
[0.003]	mg/l cadmium
[0.061]	mg/l copper
[0.041]	mg/l cyanide
[0.049]	mg/l lead
[0.0003]	mg/l mercury
[0.021]	mg/l nickel

[0.005]	mg/l silver
[0.05]	mg/l total chromium
[0.175]	mg/l zinc
[100]	mg/l oil and grease

(b) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW director may impose mass limits in addition to, or in place of, concentration-based limits.

(Prior Code § 15-11; Ord. of 5-12-2003)

Sec. 15-12. - State requirements.

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

(Prior Code § 15-12)

Sec. 15-13. - Right of revision.

The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in section 15-1 or the general and specific prohibitions in section 15-9 of this chapter, as is allowed by 40 CFR 403.4.

(Prior Code § 15-13)

Sec. 15-14. - Dilution.

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

(Prior Code § 15-14)

Sec. 15-15. - Pretreatment of wastewater.

(a) *Facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under section 15-35 and shall achieve compliance with all national categorical pretreatment standards, local limits, and the pretreatment standards, local limits, and the prohibitions set out in section 15-9 within the time limitations as specified by EPA, the state, or the POTW director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the POTW director before construction of the facility. The review of such plans and operating procedures

shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation in the pretreatment facilities shall be reported to and be approved by the POTW director prior to the user's initiation of the changes.

(b) *Additional Pretreatment Measures.*

- (1) Whenever deemed necessary, the POTW director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the users' compliance with the requirements of this chapter.
- (2) The POTW director may require any person discharging into the POTW to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be a type and capacity approved by the POTW director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Prior Code § 15-15)

Sec. 15-16. - Accidental discharge/slug control plans.

At least once every two years, the POTW director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The POTW director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the POTW director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW director of any accidental or slug discharge, as required by section 15-47; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Prior Code § 15-16)

Sec. 15-17. - Hauled wastewater.

The town will not accept hauled industrial waste or septage from septic tanks unless specific authorization is given in writing from the POTW director.

(Prior Code § 15-17)

Sec. 15-18. - Fats, oil and grease policy.

- (a) *Purpose.* The intent of this policy is to provide guidelines and procedures to ensure compliance with Hillsborough's Sewer Use chapter. This policy is designed to aid in the prevention of sanitary sewer blockages and obstructions from contributions and accumulation of fats, oils, and greases discharged to the sanitary sewer system from industrial or commercial establishments, particularly food preparation and serving facilities.
- (b) *Policy.*
1. The Town of Hillsborough, like most water and sewer utilities, continues to experience sewer blockages caused by the accumulation of fats, oils, and grease on the surfaces of sewer lines. Greasy wastewater can be discharged to the sewer system from several sources, including food service operations. In order to reduce sewer blockages, customers in the Hillsborough service area that discharge wastewater that contains grease must install and properly operate and maintain a grease trap or interceptor.
 2. Grease, oil and sand interceptors shall be provided when, in the opinion of the Town of Hillsborough, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not normally be required for residential users. All interception units shall be of type and capacity which is certified by a qualified professional, such as an engineer, as meeting Hillsborough's requirements and shall be easily accessible for cleaning, testing and inspection.
- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (1) *Fats, oils, and greases* refers to organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as the term "grease."
 - (2) *Food preparation or serving facility* means any commercial or industrial facility that prepares or serves food, including but not limited to a restaurant, café, cafeteria, snack bar, grill, deli, catering service, bakery, grocery store, butcher shop, or similar establishment that discharges wastewater to the Hillsborough system.
 - (3) *Cook establishments* means those establishments primarily engaged in activities of preparing, serving, or otherwise making available food for consumption and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching and which discharge wastewater to the Hillsborough system. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, nondrinkable food product in or on a receptacle that requires washing.
 - (4) *Grease trap or interceptor* means a device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the Hillsborough sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. Grease traps and interceptors are sometimes referred to herein by the term, "grease interceptors."
 - (5)

Minimum design capability means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the public sanitary sewer.

- (6) *Noncooking establishments* means those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.
- (7) *User* means any person, including those located outside the jurisdictional limits of Hillsborough, who contributes or causes or permits the contribution or discharge of wastewater into the Hillsborough sewer collections system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.
- (8) *Vehicle maintenance facility* means any commercial or industrial facility where automobiles, trucks or equipment are serviced or maintained, including garages, service stations, repair shops, oil and lubrication shops, or similar establishments.

(d) *Applicability.*

- (1) The following types of facilities will be required to have grease interceptors: restaurants, schools, hospitals, service stations, carwashes, vehicle repair and lubrication facilities, nursing homes, and any other facility that handles grease and which discharges wastewater containing grease into the Hillsborough sewer collection system. All such establishments are required to have a properly sized and functioning grease interceptor which a qualified professional certified, to Hillsborough, is designed to meet Hillsborough's sewer use and grease control requirements.
- (2) All vehicle maintenance facilities are required to have a properly sized grease, oil and sand interceptor.
- (3) Facilities other than those noted in subsections (d)(1) and (2) of this section may require the installation of a grease and oil interceptor. The Hillsborough town engineer or his designee shall determine the need and applicability of such device.

(e) *Design.*

- (1) Access manholes, with a minimum diameter of 24 inches, shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. If the tank is located in an area subject to vehicular traffic, the tank shall be constructed for traffic rated locations and the manhole rings and risers shall be designed and constructed for H-20 loading. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.
- (2) All interceptors shall be located outside of the building in such a manner that personnel from Hillsborough can inspect the interceptors at any time.
- (3) Hillsborough shall be notified of any changes of operation or process at the permitted establishment. The establishment may be required to upgrade its grease interceptor to meet current requirements and standards.
- (4) The following documents shall be submitted to Hillsborough for review and approval prior to issuance of a permit for installation of an interceptor. Any changes to the approved plan shall be approved by Hillsborough, prior to implementation.
 - a. A site plan showing the location of the interceptor, lines and cleanout or manhole;
 - b. Details of the interceptor, lines and cleanout or manhole;

c. Formula and calculations used to determine the interceptor capacity.

- (5) Every interceptor shall have sufficient capacity to perform the service for which it is provided. Interceptors shall be designed to provide for a minimum hydraulic retention time of 24 minutes at actual peak flow or 12 minutes at the calculated theoretical peak flow rate as predicted by the Uniform Plumbing Code fixture criteria, between the influent and effluent baffles with 20 percent of the total volume of the grease interceptor being allowed for sludge to settle and accumulate. Four different design methods will be available for use based on the needs of the facility. Method 1 bases the size of the device upon the number of kitchen drainage fixtures; Method 2 (EPA-1) bases the size of the device upon the number of seats in a facility; Method 3 (EPA-2) bases the size of the device upon the number of meals served each day; and Method 4 uses NCDEH standards. All four methods are on file in the engineer's office.
- (6) All grease traps and interceptors must be designed using standard engineering principles for sedimentation and floatation in gravity separators. Baffles and good inlet design are required to deflect the flow across the surface areas of the units and sufficient grease and solids storage capacity is required. Grease traps and interceptors shall be rated for the designed flow-through rate of the unit in gallons/minute.
- (7) Grease interceptors shall be installed by users as required by Hillsborough. Grease interceptors shall be installed at the user's expense. All grease interceptors shall be of a type, design, and capacity approved by Hillsborough and shall be readily and easily accessible for cleaning and inspection. All such grease interceptors shall be serviced and emptied of accumulated waste contents as required in order to maintain minimum design capabilities or effective volume of the grease interceptor, but not less frequently than once every 60 days.
- (8) Grease interceptors shall be installed to handle only discharge from food preparation, handling and cleaning areas that generate grease components. Domestic waste is to go directly into the sanitary sewer without passing through the interceptor.

(f) *Existing establishments.*

- (1) Businesses and other locations subject to this chapter which were in operation before the effective date of the ordinance from which this subsection is derived (existing establishments) and do not have grease interception systems are generally required to install such a system within one year of the effective date of this regulation. Such business may receive approval from the town engineer or his designee, to install a system under alternate standards taking into account the circumstances of the business's operation, production of waste grease, and the practicality of installation under normal requirements.
- (2) Existing businesses with an existing grease interception system that does not meet Hillsborough's standards may be required to upgrade the system or may be allowed to continue use of the present system subject to requirements such as a clean out frequency less than 60 days.
- (3) Existing systems and alternate standard systems shall be capable of meeting the local limit for oil and grease.

(g) *Servicing and records.*

- (1) Servicing and maintenance is essential for the efficient operation of grease traps and interceptors. All grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain minimum design capability or effective volume of the grease interceptor. Servicing frequency is site-specific and is dependent on the amount of oil and grease and suspended solids generated at each operation and the size of the grease trap or interceptor.

In no case shall the frequency of cleaning be less than once every 60 days, or as otherwise specified in Hillsborough's permit for the interceptor system. The volumes of greases and solids in grease traps and interceptors must not exceed the designed grease and solids storage capacity of the unit.

- (2) All grease interceptors shall be cleaned by a properly licensed cleaning and disposal operation. Wastes shall be disposed of in a proper and legal manner.
 - (3) All users, including food preparation or serving facilities and vehicle maintenance facilities shall maintain a written record of maintenance performed on the interceptor. Records shall be retained on file at the facility for a minimum of three years, for the immediately prior three-year period. All such records will be available for inspection by Hillsborough upon request.
- (h) *Variance/Appeal.*
- (1) Under certain circumstances, the interceptor size and location may need special exceptions to this policy. If an exception to this policy is requested, the user must demonstrate that the size and location will not cause the facility any problems in meeting the discharge requirements of Hillsborough. Each facility that qualifies for this variance will be reevaluated once every five years to ensure that the facility is still in compliance.
 - (2) The town engineer or his designee, reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site and building plan review, and to require repairs to, or modification or replacement of such traps.
- (i) *Enforcement.* If an obstruction of a Hillsborough sewer main occurs that causes a sewer overflow and such overflow can be attributed in part or in whole to an accumulation of grease in Hillsborough's sewer main, Hillsborough will take appropriate enforcement actions, as stipulated in this chapter, against the generator or contributor of such grease. These actions may include fines, civil penalties or a discontinuance of sewer service.

(Prior Code § 15-18; Ord. of 5-12-2003; Ord. No. 20090608-10.H)

Secs. 15-19—15-23. - Reserved.

ARTICLE III. - FEES

Sec. 15-24. - Purpose.

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

(Prior Code § 15-24)

Sec. 15-25. - User charges.

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

- (1) The user charge shall reflect at least the cost of debt service, operation and maintenance, including replacement of the POTW.
- (2) Each user shall pay its proportionate cost based on volume of flow.
- (3)

The town engineer shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Town Board for adjustments in the Schedule of Charges and Fees, as necessary.

- (4) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(Prior Code § 15-25)

Sec. 15-26. - Surcharges.

All industrial users of the POTW are subject to industrial waste surcharges on discharges which require additional pretreatment and/or testing by the POTW.

(Prior Code § 15-26)

Sec. 15-27. - Pretreatment program administration charges.

The Schedule of Charges and Fees adopted by the town may include charges and fees for:

- (1) Reimbursement of costs of setting up and operating the pretreatment program;
- (2) Laboratory testing, monitoring, inspections and surveillance procedures;
- (3) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (4) Permitting;
- (5) Other fees as the town may deem necessary to carry out the requirements of the pretreatment program.

(Prior Code § 15-27)

Secs. 15-28—15-33. - Reserved.

ARTICLE IV. - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

Sec. 15-34. - Wastewater dischargers.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the Town of Hillsborough. When requested by the POTW director, a user must submit information on the nature and characteristics of its wastewater within 20 days of the request. The POTW director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Prior Code § 15-34)

Sec. 15-35. - Wastewater permits.

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

- (1)

Significant industrial user determination. All persons proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater shall request from the POTW director a significant industrial user determination. If the POTW director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.

- (2) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the town an application in the form prescribed by the POTW director, and accompanied by an application fee in the amount prescribed in the Schedule of Charges and Fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in this section. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
- a. Name, address, and location, if different from the address;
 - b. Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
 - c. Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in article II of this chapter, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; 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;
 - d. Time and duration of the indirect discharge;
 - e. Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
 - f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
 - g. Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
 - h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any 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 (O and M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
 - i. If additional pretreatment and/or O and M 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 longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
 - (i) 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. No increment in the schedule shall exceed nine months;

- (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW director including, at 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. In no event shall more than nine months elapse between such progress reports to the POTW director;
 - j. Each product produced by type, amount, process or processes and rate of production;
 - k. Type and amount of raw materials processed, average and maximum per day;
 - l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
 - m. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 40-3.12(b) and 15A NCAC 02H.0908(a), as outlined in section 15-42.
 - n. Any other information as may be deemed by the POTW director to be necessary to evaluate the permit application.
- (3) *Application signatories and certification.* 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 or the person 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."
- (4) *Application review and evaluation.* The POTW director will evaluate the data furnished by the user and may require additional information.
- a. The POTW director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.
 - b. Within 30 days of receipt, the POTW director shall acknowledge and accept the complete application; or, if not complete, shall return the application to the applicant with a statement of what additional information is required.
- (5) *Tentative determination and draft permit.*
- a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
 - b. If the staff's tentative determination in subsection (5)a of this section is to issue the permit, the following additional determinations shall be made in writing:
 - (i) Proposed discharge limitations for those pollutants proposed to be limited;
 - (ii) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 - (iii) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - c.

The staff shall organize the determinations made pursuant to subsections (5)a and b of this section and the town's general permit conditions into a significant industrial user permit.

- (6) *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:
 - a. A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
 - b. A quantitative description of the discharge described in the application which includes at least the following:
 - (i) The rate of frequency of the proposed discharge; if the discharge is continuous, the average daily flow;
 - (ii) The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
 - (iii) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.
- (7) *Final action on significant industrial user permit applications.*
 - a. The POTW director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - b. The POTW director is authorized to:
 - (i) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this chapter and G.S. 143-215.1;
 - (ii) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - (iii) Modify any permit upon not less than 60 days notice and pursuant to subsection (1) of this section;
 - (iv) Revoke any permit pursuant to article VIII of this chapter;
 - (v) Suspend a permit pursuant to article VIII of this chapter;
 - (vi) Deny a permit application when in the opinion of the POTW director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (8) *Hearings.*
 - a. *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee user assessed a civil penalty under section 15-76, or one issued an administrative order under section 15-75 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW director upon making written demand, identifying the specific issues to be contested, to the POTW director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision of the

contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW director shall transmit a copy of the hearing officer's decision by registered or certified mail.

- (i) *New permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (ii) *Renewed permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

b. *Final appeal hearing.*

- (i) Any decision of a hearing officer made as a result of an adjudicatory hearing held under subsection (8)a of this section may be appealed to the Town Board upon filing a written demand within ten days of receipt of notice of the decision. The Board of Commissioners shall hear the matter de novo in a quasi-judicial proceeding. When the subject of the appeal is the denial of a permit or a condition placed on the permit, the applicant shall have the burden of proof at the hearing. When the subject of the appeal is the assessment of a civil penalty or an administrative order, the POTW director shall have the burden of proof.
- (ii) Failure to make written demand within the time specified herein shall bar further appeal. The Town Board shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

c. *Official record.* When a final decision is issued under subsection (8)b of this section the Town Board shall prepare an official record of the case that includes:

- (i) All notices, motions, and other like pleadings;
- (ii) A copy of all documentary evidence introduced;
- (iii) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (iv) A copy of the final decision of the Town Board.

d. *Judicial review.* Any person against whom a final order or decision of the Town Board is entered, pursuant to the hearing conducted under subsection (8)b of this section, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Orange County along with a copy to the town. Within 30 days after receipt of the copy of the petition of judicial review, the Town Board shall transmit to the reviewing court the original or a certified copy of the official record.

(9) *Permit modification.*

- a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:
 - (i) Changes in the ownership of the discharge when no other change in the permit is indicated;

- (ii) A single modification of any compliance schedule not in excess of four months;
 - (iii) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- b. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (i) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection (2) of this section the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
 - (ii) A request for a modification by the permittee shall constitute a waiver of the 60 day notice required by G.S. 143-215.1(b) for modifications.

(10) *Permit conditions.*

- a. The POTW director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this chapter and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to the following:
- (i) A statement of duration (in no case more than five years);
 - (ii) A statement of nontransferability;
 - (iii) Applicable effluent limits based on categorical standards or local limits, or both;
 - (iv) Applicable monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (v) Notification requirements for slug loads; and
 - (vi) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- b. In addition, permits may contain, but are not limited to, the following:
- (i) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - (ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (iii) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (iv) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges.
 - (v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

- (vi) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (viii) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (ix) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.
 - (x) Compliance schedules for meeting pretreatment standards and requirements.
 - (xi) Requirements for submission of periodic self-monitoring or special notification reports.
 - (xii) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in article V, section 15-54 and affording the POTW director, or his representatives, access thereto.
 - (xiii) Requirements for prior notification and approval by the POTW director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
 - (xiv) Requirements for the prior notification and approval by the POTW director of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (xv) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.
 - (xvi) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.
 - (xvii) Other conditions as deemed appropriate by the POTW director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.
- (11) *Permits duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (12) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (13) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this section a minimum of 180 days prior to the expiration of the existing permit.

(Prior Code § 15-35)

Secs. 15-36—15-41. - Reserved.

ARTICLE V. - REPORTING REQUIREMENTS

Sec. 15-42. - 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 POTW director 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 POTW director 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 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 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 POTW director/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 15-51.
 - c. Sampling must be performed in accordance with procedures set out in section 15-52.
 - (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 and M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (7) Compliance schedule. If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O and 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 15-43 of this chapter.
 - (8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with article IV, section 15-35(3) of this chapter.

(Prior Code § 15-42)

Sec. 15-43. - Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by article V, section 15-42(b) (7) of this chapter:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
- (b) No increment referred to above shall exceed nine months;
- (c) The user shall submit a progress report to the POTW director 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; and
- (d) In no event shall more than nine months elapse between such progress reports to the POTW director.

(Prior Code § 15-43)

Sec. 15-44. - 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 POTW director a report containing the information described in article V, section 15-42(b)(4)–(6). 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 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 article IV, section 15-35(3).

(Prior Code § 15-44)

Sec. 15-45. - Periodic compliance reports.

- (a) All significant industrial users shall, at a frequency determined by the POTW director 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 article IV, section 15-35(3).
- (b) All wastewater samples must be representative of 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 POTW director, using the procedures prescribed in article V, section 15-51, the results of this monitoring shall be included in the report.

(Prior Code § 15-45)

Sec. 15-46. - Reports of changed conditions.

Each user must notify the POTW director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 20 days before the change.

- (1) The POTW director may require the user to submit such information as it may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under article IV, section 15-35.
- (2) The POTW director may issue a wastewater discharge permit under article IV, section 15-35 of this chapter or modify an existing wastewater discharge permit under article IV, section 15-35 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 20 percent or greater, and the discharge of any previously unreported pollutants.

(Prior Code § 15-46)

Sec. 15-47. - Reports of potential problems.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five days following such discharge, the user shall, unless waived by the POTW director, submit 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 POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a) of this section. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(Prior Code § 15-47)

Sec. 15-48. - Reports from unpermitted users.

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

(Prior Code § 15-48)

Sec. 15-49. - Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the POTW director 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 POTW director within 30 days after becoming aware of the violation. The user is not required to resample if the POTW director monitors at the user's facility at least once a month, or if the POTW director samples between the user's initial sampling and when the user receives the results of this sampling.

(Prior Code § 15-49)

Sec. 15-50. - Discharge of hazardous waste prohibited.

All users shall be prohibited from discharging hazardous waste into the sewers. Hazardous waste shall be as defined under 40 CFR 261.

(Prior Code § 15-50)

Sec. 15-51. - Analytical requirements.

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, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 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.

(Prior Code § 15-51)

Sec. 15-52. - Sample collection.

- (a) Except as indicated in section (b) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the POTW director 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.
- (b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(Prior Code § 15-52)

Sec. 15-53. - 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.

(Prior Code § 15-53)

Sec. 15-54. - Recordkeeping.

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 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 had been specifically notified of a longer retention period by the POTW director.

(Prior Code § 15-54)

Secs. 15-55—15-59. - Reserved.

ARTICLE VI. - COMPLIANCE MONITORING

Sec. 15-60. - Monitoring facilities.

- (a) The town requires the user to provide and operate, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town 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.
- (b) 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.
- (c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(Prior Code § 15-60)

Sec. 15-61. - Inspection and sampling.

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

(Prior Code § 15-61)

Sec. 15-62. - Search warrants.

If the POTW director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW director, approval authority, or EPA may seek issuance of a search warrant from the Orange County Magistrate's Office.

(Prior Code § 15-63)

Secs. 15-63—15-68. - Reserved.

ARTICLE VII. - CONFIDENTIAL INFORMATION

Sec. 15-69. - Availability of information.

- (a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.
- (b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, Nondischarge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- (c) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Prior Code, ch. 15, art. VII)

Secs. 15-69—15-74. - Reserved.

ARTICLE VIII. - ENFORCEMENT

Sec. 15-75. - Administrative remedies.

- (a) *Notification of violation.* Whenever the POTW director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- (b) *Consent orders.* The POTW director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection (d) of this section.
- (c) *Show-cause hearing.*
 - (1) The POTW director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, including any proposed civil penalty, 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 hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

- (2) The POTW director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.
 - (3) Any action or inaction taken by the POTW director under this section is subject to an administrative appeal under article IV, section 15-35(8).
- (d) *Administrative orders.* When the POTW director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement the POTW director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:
- (1) Immediately comply with all requirements;
 - (2) Comply in accordance with a compliance time schedule set forth in the order;
 - (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
 - (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.
- (e) *Emergency suspensions.*
- (1) The POTW director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or nondischarge permit.
 - (2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW director prior to the date of the above-described hearing.
- (f) *Termination of permit.* Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having its permit terminated:
- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
 - (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
or
 - (4) Violation of conditions of the permit.

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

(Prior Code § 15-75)

Sec. 15-76. - Civil penalties.

- (a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to \$25,000.00 per day, per violation.
- (b) In determining the amount of the civil penalty, the POTW director shall consider the following:
 - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;
 - (3) The effect on ground or surface water quantity or quality or on air quality;
 - (4) The cost of rectifying the damage;
 - (5) The amount of money saved by noncompliance;
 - (vi) Whether the violation was committed willfully or intentionally;
 - (6) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (7) The costs of enforcement to the town.
- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in article IV, section 15-35(8).

(Prior Code § 15-76; Ord. of 1-14-2002)

Sec. 15-77. - Other available remedies.

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

- (1) *Criminal violations.* The district attorney for the 15B Judicial District may, at the request of the town, prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.
- (2) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW director, through the town attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.
- (3) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
- (4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW director. Any person creating a public nuisance shall be subject to the provisions of chapter 11 of the Hillsborough Town Code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(Prior Code § 15-77)

Sec. 15-78. - Remedies nonexclusive.

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

(Prior Code § 15-78)

Secs. 15-79—15-84. - Reserved.

ARTICLE IX. - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

Sec. 15-85. - Published list of noncompliant users.

At least annually, the POTW director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 02H.0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Prior Code § 15-85)

Secs. 15-86—15-90. - Reserved.

ARTICLE X. - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 15-91. - Upset.

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW director within 24 hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five days:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, a prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e)

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

(Prior Code § 15-91)

Sec. 15-92. - Prohibited discharge standards defense.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in article II, section 15-9(a) of this chapter or the specific prohibitions in article II, section 15-9(b)(2),(3) and (5) through (7) and (9) through (23) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the 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.

(Prior Code § 15-92)

Sec. 15-93. - Bypass.

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (b) and (c) of this section.
- (b)
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director, as least ten days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the POTW director of an unanticipated bypass that exceeds applicable pretreatment standards within 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 POTW director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (c)
 - (1) Bypass is prohibited, and the POTW director 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 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 (b) of this section.

(2) The POTW director may approve an anticipated bypass, after considering its adverse effects, if the POTW director determines that it will meet the three conditions listed in subsection (c)(1) of this section.

(Prior Code § 15-93)

Secs. 15-94—15-98. - Reserved.

ARTICLE XI. - SEVERABILITY

Sec. 15-99. - Effect of invalid provision.

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

Prior Code, ch .15, art. XI)

Secs. 15-100—15-105. - Reserved.

ARTICLE XII. - CONFLICT

Sec. 15-106. - Inconsistent ordinances deemed repealed.

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

(Prior Code § 15-106)