

ORDINANCE 2022-49

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 21 UTILITIES, AMENDING THE REQUIREMENT FOR SEWER REGULATION AND INDUSTRIAL PRETREATMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1. Chapter 21, UTILITIES, Lake Wales Code of Ordinances is amended as shown in the highlighted areas below (strike throughs are deletions; underlines are additions):

~~21-55. Special agreements or arrangements for treatment of unusual wastes.~~

~~No statement contained in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.~~

~~(Ord. No. 96-06, § 1, 5-21-96)~~

~~21-56. Inspection and sampling.~~

~~The city shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for purposes such as inspection, sampling, records examination or any other performance of duties. The city and any approval authority 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 the premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city and any approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.~~

~~(Ord. No. 96-06, § 1, 5-21-96)~~

~~21-57. Compliance with regulatory requirements.~~

~~(a) General. The provisions of this division shall not be construed as alleviating compliance with applicable state and federal regulations. Specific user charge and industrial cost recovery requirements, promulgated pursuant to Public Law 92-500, shall be considered as a part of this division upon official adoption. All nonresidential users will be required to comply with pretreatment standards as outlined in Title 40 of the Code of Federal Regulations, Part 403.~~

~~(b) *Federal categorical pretreatment standards.* Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this division for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The appropriate approval authority shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.~~

~~(c) *Modification of federal categorical pretreatment standards.* Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the appropriate approval authority for modification of specific limits of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system for ninety-five (95) percent of the samples taken when measured according to the procedures set forth in section 403.7(C)(2) of (Title 40 of the Code of Federal Regulations, Part 403) General Pretreatment Regulations for Existing and New Sources of Pollution promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled and prior approval from the appropriate authority is obtained.~~

~~(d) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations of those in this division.~~

~~(e) *Requirements for industrial uses.* Industrial uses may be required to provide information needed to determine compliance with this article. Such requirements may include:~~

~~(1) Wastewater discharge peak rate and volume over a specified time period.~~

~~(2) Chemical analyses of wastewater.~~

~~(3) Information on raw materials, processes, and products affecting wastewater volume and quality.~~

~~(4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.~~

~~(5) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.~~

~~(6) Details of wastewater pretreatment facilities.~~

~~(7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.~~

~~(Ord. No. 96-06, § 1, 5-21-96; Ord. No. 96-22, § 1, 11-19-96)~~

Division 3. Industrial Pretreatment

21-58. General provisions.

(a) *Short title.* This Division 3 of Article II, Chapter 21, of the Code of Ordinances of the city shall be known as the "Industrial Pretreatment Ordinance" and shall herein be referred to as the or this "ordinance".

(b) *Purpose and policy.* This ordinance sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (WWTP) for the city of Lake Wales, Florida and enables the city to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (62-625 F.A.C.). The objectives of this ordinance are:

- (1) To prevent the introduction of pollutants into the WWTP that will interfere with the operation of the WWTP, including interference with its use or disposal of domestic wastewater residuals;
- (2) To prevent the introduction of pollutants into the WWTP which will pass through the WWTP, inadequately treated, into receiving waters or otherwise be incompatible with the WWTP;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect WWTP personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the WWTP;
- (6) To establish an equitable fee structure for users of the WWTP; and
- (7) To enable the city to comply with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the WWTP is subject.

This ordinance shall apply to all industrial users of the WWTP. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(c) *Administration.* Except as otherwise provided herein, the city manager shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to other city personnel.

(d) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

(1) *Act or the Act.* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(2) *Approval authority.* The appropriate regional administrator of the Department of Environmental Protection, or his/her designee.

(3) *Authorized or duly authorized representative of the user.*

a. If the user is a corporation:

1. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operation facilities; provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where 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, a general partner or proprietor, respectively.

c. If the industrial user is a federal, state or local governmental facility a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

d. The individuals described in paragraph a.—c. above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Lake Wales.

(4) *Biochemical oxygen demand (BOD).* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° Centigrade expressed in terms of mass [pounds (lbs)] or concentration [milligrams per liter (mg/l)].

(5) *Best management practices or BMPs* means schedules or activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 21-59(a) and (b) [40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of

complying with, or in place of certain established categorical pretreatment standards and effluent limits.]

- (6) *Categorical pretreatment standard* or *categorical standard*. Any regulation containing pollutant discharge limits promulgated by the Department of Environmental Protection in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (7) *Categorical industrial user*. An industrial user subject to a categorical pretreatment standard or categorical standard.
- (8) *Chemical oxygen demand* or *COD*. A measure of the oxygen required to oxidize all compounds, both organic and inorganic in water.
- (9) *City*. The City of Lake Wales or the City Commission of Lake Wales, Florida.
- (10) *Color*. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred (100) percent transmittance is equivalent to zero (0.0) optical density.
- (11) *Composite sample*. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time (as a last resort).
- (12) *Control authority*. The city.
- (13) *Daily maximum*. The highest value of all the effluent samples collected during a calendar day.
- (14) *Daily maximum limit*. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass, discharged over the course of the day. Where daily maximum limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (15) *Department of Environmental Protection* or *DEP*. The Department of Environmental Protection, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.
- (16) *Environmental Protection Agency* or *EPA*. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- (17) *Existing source*. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(18) *Grab sample*. A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

(19) *Hazardous waste pharmaceutical* is a pharmaceutical that is a solid waste, as defined in Title 40 of the Code of Federal Regulations (40 CFR) section 261.2, and exhibits one or more characteristics identified in 40 CFR part 261 subpart C or is listed in 40 CFR part 261 subpart D.

(20) *Healthcare facility* means any person that is lawfully authorized to:

- a. Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or
- b. Distribute, sell, or dispense pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals.

Healthcare facility does not include pharmaceutical manufacturers.

(21) *Indirect discharge or discharge*. The introduction of (nondomestic) pollutants into the WWTP from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

(22) *Industrial user or user*. A source of indirect discharge.

(23) *Instantaneous maximum allowable discharge limit*. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(24) *Interference*. A discharge which alone or in conjunction with a discharge or discharges from other sources: 1) inhibits or disrupts the WWTP, its treatment processes or operations or its sludge processes, use or disposal; and 2) is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under (or more stringent state or local regulations): Section 405 of the Clean Water Act (CWA); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(25) *Local limit*. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

(26) *Medical waste.* Isolation wastes, infectious agents, human blood and blood by-products, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(27) *New source.*

- a. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publications of proposed pretreatment standards under Section 307(c) of the CWA which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, 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 process 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 section a.2. or 3., above but otherwise alters, replaces, or adds to existing process or production equipment; or
- c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 1. Begun or caused to begin as part of a continuous onsite 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 is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified

without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(28) *Noncontact cooling water*. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

(29) *Non-significant categorical user* means an industrial user that discharges one hundred (100) gallons per-day (gpd) or less of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard, and:

- a. Has consistently complied with all applicable categorical pretreatment standards and requirements;
- b. Annually submits the certification statement required in subsection 62-625.600(17), F.A.C., together with any additional information necessary to support the certification statement; and
- c. Never discharges any untreated categorical process wastewater.

(30) *Pass through*. A discharge which exits the WWTP into waters of the state, in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

(31) *Person*. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns; this definition including all Federal, State or local governmental entities.

(32) *pH*. A measure of the acidity or alkalinity of a substance, expressed in standard units.

(33) *Pharmaceutical* means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by Title 21 of the Code of Federal Regulations part 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. Pharmaceutical does not include dental amalgam or sharps.

(34) *Pollutant*. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and any material that may affect the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor].

(35) *Prescription Pharmaceuticals*. A pharmaceutical that can only be obtained by means of a physician's prescription.

(36) *Pretreatment*. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the WWTP. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(37) *Pretreatment program*. A program administered by a public utility that meets the criteria established in Rule 62-625.500, F.A.C.

(38) *Pretreatment requirements*. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

(39) *Pretreatment standards or standards*. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.

(40) *Prohibited discharge standards or prohibited discharges*. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 21-59(a) of this ordinance.

(41) *Publicly owned treatment works or WWTP*. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

(42) *Responsible corporate officer means*:

- a. A president, secretary, treasurer, or vice president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation; or
- b. The manager of one (1) or more manufacturing, production, or operation facility, provided, the manager:
 1. Is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations;
 2. Is authorized to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;
 3. Can ensure the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements;

4. Has been assigned or delegated the authority to sign documents in accordance with corporate procedures.

(43) *Reverse distributor* means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that process prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

(44) *Septic tank waste*. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(45) *Sewage*. Human excrement and gray water (household showers, dishwashing operations, etc.).

(46) *Significant industrial user (SIU)* means, except as provided in paragraphs c. and d., below, the following:

a. Categorical users; and

b. Any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWTP (excluding domestic wastewater, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWTP's operation or for violating any pretreatment standard or requirement.

c. The control authority (except where the department is acting as the control authority) may determine that an industrial user subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, is a non-significant categorical industrial user.

d. Upon a finding that an industrial user meeting the criteria in paragraph b. above has no reasonable potential for adversely affecting the WWTP's operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with paragraph 62-625.500(2)(e), F.A.C., determine that such industrial user is not a significant industrial user.

(47) *Slug load*. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 21-59(a) of this ordinance or any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

(48) *Standard industrial classification (SIC) Code*. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

(49) *Stormwater*. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(50) *Superintendent*. The city manager or the person designated by the city to supervise the operation of the WWTP, and who is charged with certain duties and responsibilities by this ordinance or his/her duly authorized representative.

(51) *Suspended solids*. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(52) *Toxic pollutant*. One (1) of one hundred twenty-six (126) pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.

(53) *Treatment plant effluent*. Any discharge of pollutants from the WWTP into waters of the state.

(54) *Wastewater*. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the WWTP.

(55) *Wastewater facility or WWTP*. Any facility which discharges wastes into the waters of the State or which can reasonably be expected to be a source of water pollution and includes any or all of the following; the collection and transmission system, the wastewater treatment works, the reuse or disposal system, and the residuals management facility.

Shall is mandatory; 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.

(e) *Abbreviations*. The following abbreviations shall have the designated meanings:

• BOD—Biochemical Oxygen Demand

• CFR—Code of Federal Regulations

• COD—Chemical Oxygen Demand

• DEP—Department of Environmental Protection

• gpd—Gallons per day

• l—Liter

• mg—Milligrams

• mg/l—Milligrams per liter

• NPDES—National Pollutant Discharge Elimination System

• O& M—Operation and maintenance

- WWTP—Wastewater Facility
- RCRA—Resource Conservation and Recovery Act
- SIC—Standard Industrial Classifications
- SIU—Significant Industrial User
- SWDA—Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
- TSS—Total suspended solids
- USC—United States Code

Sec. 21-59. General sewer use requirements.

- (a) *Prohibited discharge standards.* No industrial user shall introduce or cause to be introduced into the WWTP any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the WWTP whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement.
- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the WWTP the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and WWTP, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F using test methods specified in 40 CFR 261.21;
 - (2) Any wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the WWTP or equipment, or endangering city personnel. If wastewater is less than or equal to 2.0 or greater than or equal to 12.5 then wastewater is defined as hazardous waste in accordance with 40 CFR 261.22 and all discharges must cease and desist until the pH can be adjusted into non-hazardous waste range.
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the WWTP resulting in interference, but in no case solids greater than 0.5 inches or 1.27 centimeter in any dimension.
 - (4) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the WWTP; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
 - (5) Any wastewater having a temperature greater than 150° F (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).

- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the WWTP in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 21-70(e).
- (9) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (10) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.
- (11) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Superintendent in compliance with applicable State or Federal regulations.
- (12) 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 Superintendent.
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (14) Any medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.
- (15) Any wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (16) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the WWTP.
- (17) Any hazardous waste pharmaceuticals from healthcare facilities and reverse distributors.
- (18) Limits of any discharge of fats, oils or greases of animal or vegetable origin can be found in the "industrial wastewater limitations table" incorporated by reference and adopted herein on file in the city clerk's office.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WWTP. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the WWTP.

- (c) *Federal categorical pretreatment standards.* The national categorical pretreatment standards found at 40 CFR Part 403.6, as of July 1, 2009, and 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- (d) *State requirements.* Any and all State pretreatment standards which may be adopted from time to time are hereby incorporated.
- (e) *Specific pollutant limitations.* Pollutant limits shall be established to protect against pass through and interference. No person shall discharge wastewater containing pollutants in excess of said limits. Schedules containing specific pollutant limits, as established by ordinance shall be kept on file in the office of the city clerk. Any changes to said limits will be developed with public notice as required by 62-625.400-(3) F.A.C. Local limits will be applied at the point where the wastewater enters the publically owned treatment works.
- (f) *City's right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the WWTP if deemed necessary to comply with the objectives presented in section 21-68(b) of this ordinance or the general and specific prohibitions in section 21-59(a) of this ordinance.
- (g) *Special agreement.* The city reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the WWTP. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 62-625.820 F.A.C. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that facts relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 62-625.700 F.A.C.
- (h) *Dilution.* No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

Sec. 21-60. Pretreatment of wastewater.

- (a) *Pretreatment facilities.* Industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in section 21-59(a) above within the time limitations specified by the EPA, the state, or the city whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review

of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this ordinance.

(b) Additional pretreatment measures.

(1) Whenever deemed necessary, the Superintendent may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewer, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WWTP and determine the industrial user's compliance with the requirements of this ordinance.

(2) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, 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 of type and capacity approved by the Superintendent 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 owner at his expense.

(3) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(4) At no time shall two readings on an explosion hazard meter at the point of discharge into the WWTP, or at any point in the WWTP, be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter.

(c) Accidental discharge/slug control plans. The Superintendent may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two (2) years. The Superintendent shall evaluate whether each significant industrial user needs such a plan. New significant industrial users must be evaluated within one (1) year of being designated as a significant industrial user. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges.

(2) Description of stored chemicals and containment areas.

(3) Procedures for immediately notifying the WWTP of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in section 21-59(a) of this ordinance.

(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 run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents, and/or measures and equipment for emergency response).

(d) *Tenant responsibility.* Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

(e) *Hauled wastewater.*

(1) Septic tank waste may be accepted into the WWTP at a designated receiving structure within the treatment plant area, and at such times as are established by the Superintendent, provided such wastes do not violate section 21-59 of this ordinance or any other requirements established or adopted by the city. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the Superintendent.

(2) The discharge of hauled industrial wastes as "industrial septage" requires prior approval and a wastewater discharge permit from the city. The Superintendent shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other sections of this ordinance.

Sec. 21-61. Wastewater discharge permit eligibility.

(a) *Wastewater survey.* When required by the Superintendent all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Superintendent is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating services to the industrial user and shall be considered a violation of the ordinance.

(b) *Wastewater discharge permit requirement.*

(1) It shall be unlawful for any significant industrial user to discharge wastewater into the city's WWTP without first obtaining a wastewater discharge permit from the Superintendent. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 21-67 through 21-69. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local law.

(2) The Superintendent may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(c) *Wastewater discharge permitting existing connections.* Any significant industrial user which discharges industrial waste into the WWTP prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall within ninety (90) days after said date, apply to the city for a wastewater discharge permit in accordance with section 21-61(f) below and shall not cause or allow discharges to the WWTP to continue

after one hundred eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Superintendent.

(d) *Wastewater discharge permitting new connection.* Any significant industrial user proposing to begin or recommence discharging industrial wastes into the WWTP must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin.

(e) *Wastewater discharge permitting extra-jurisdictional industrial users.*

(1) Any existing significant industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with section 21-61(f) below, within ninety (90) days of the effective date of this ordinance. New significant industrial users located beyond the city limits shall submit such applications to the Superintendent ninety (90) days prior to any proposed discharge into the WWTP.

(2) Alternately, the Superintendent may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

(f) *Wastewater discharge permit.* In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by section 21-63(a)(1) of this ordinance. The city commission shall approve a form to be used as a permit application. In addition, the following information may be required:

(1) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WWTP.

(2) Number and type of employees, hours of operation, and proposed or actual hours of operation of the pretreatment system.

(3) Each product produced by type, amount, process or processes, and rate of production.

(4) Type and amount of raw materials processed (average and maximum per day).

(5) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by location, and elevation, and all points of discharge.

(6) Time and duration of the discharge.

(7) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(g) *Application signatories and certification.* All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

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

(h) *Wastewater discharge permit decisions.* The Superintendent will evaluate the data furnished by the industrial user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The Superintendent may deny any application for a wastewater discharge permit.

Sec. 21-62. Wastewater discharge permit issuance process.

(a) *Wastewater discharge permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period of less than five (5) years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the WWTP.

(1) Wastewater discharge permits must contain the following conditions:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- c. Effluent limits, including best management practices, based on applicable pretreatment standards;
- d. Self 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.

- e. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
- b. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- c. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- d. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
- e. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WWTP.
- f. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the WWTP.
- g. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- h. A statement that compliance with the wastewater discharge 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 term of the wastewater discharge permit.
- i. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(c) *Wastewater discharge permit appeals.* Any person including the industrial user, may petition the city manager to reconsider the terms of a wastewater discharge permit within ten (10) days of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the Superintendent fails to act within ten (10) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
 - (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing an action with the Circuit Court in and for Polk County, Florida within thirty (30) days from the date of said decision.
- (d) *Wastewater discharge permit modification.* The Superintendent may modify the wastewater discharge permit for good cause including, but not limited to, the following:
- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
 - (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
 - (3) A change in the WWTP that requires either temporary or permanent reduction or elimination of the authorized discharge.
 - (4) Information indicating that the permitted discharge poses a threat to the city's WWTP, city personnel, or the receiving waters.
 - (5) Violation of any terms or conditions of the wastewater discharge permit.
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
 - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 62-625.700 F.A.C.
 - (8) To correct typographical or other errors in the wastewater discharge permit.
 - (9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

This filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

- (e) *Wastewater discharge permit transfer.* Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least ninety (90) days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner and/or operator which:
- (1) States that the new owners and/or operator has no immediate intent to change the facility's operations and processes.

- (2) Identifies the specific date on which the transfer is to occur.
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.
- (f) Wastewater discharge permit revocation. Wastewater discharge permits may be revoked for the following reasons:
 - (1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge.
 - (2) Failure to provide prior notification to the city of changed condition pursuant to section 21-63(e).
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
 - (4) Falsifying self-monitoring reports.
 - (5) Tampering with monitoring reports.
 - (6) Refusing to allow the city timely access to the facility premises and records.
 - (7) Failure to meet effluent limitations.
 - (8) Failure to pay fines.
 - (9) Failure to pay sewer charges.
 - (10) Failure to meet compliance schedules.
 - (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
 - (12) Failure to provide advance notice of the transfer of a permitted facility.
 - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.
- Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.
- (g) Wastewater discharge permit reissuance. A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with section 21-61(f) a minimum of ninety (90) days prior to the expiration of the industrial user's existing wastewater discharge permit.
- (h) Municipal wastewater discharge permits. In the event another municipality contributes all or a portion of its wastewater to the WWTP, the WWTP may require such municipality to apply for and obtain a municipal wastewater discharge permit.
 - (1) A municipal wastewater discharge permit application shall include:

a. A description of the quality and volume of the wastewater at the point(s) where it enters the WWTP.

b. Any inventory of all industrial users discharging to the municipality.

c. Such other information as may be required by the Superintendent.

(2) A municipal wastewater discharge permit shall contain the following conditions:

a. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in section 21-59(d).

b. A requirement for the municipal user to submit a revised industrial user inventory on at least an annual basis.

c. A requirement for the municipal user to a) conduct pretreatment implementation activities including industrial user permit issuance, inspection and sampling, and enforcement; or b) authorize the WWTP to take or conduct such activities on its behalf.

d. A requirement for the municipal user to provide the city with access to all information that the municipal user obtains as part of its pretreatment activities.

e. Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the WWTP.

f. Requirements for monitoring the municipal user's discharge.

(3) Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in section 21-67 through 21-69.

Sec. 21-63. Reporting requirements.

(a) *Baseline monitoring reports.*

(1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 62-625.410(2)(d) F.A.C., whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the WWTP, shall be required to submit to the city a report which contains the information listed in paragraph (2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in paragraph (2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2) The industrial user shall submit the information required by this section including:

- a. *Identifying information.* The name and address of the facility including the name and operator and owners.
- b. *Wastewater discharge permit.* A list of any environmental control wastewater discharge permits held by or for the facility.
- c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the WWTP from the regulated process.
- d. *Flow management.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the WWTP from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 62-625.410(6) F.A.C.
- e. *Measurement of pollutants.*
 - 1. Identify the categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - 2. Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) 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 21-63(l).
 - 3. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported.
 - 4. The sample shall be representative of the daily operations and shall be analyzed in accordance with the procedures set out in section 21-63(l) of this ordinance. Where the standard requires compliance with a bmp or pollution prevention alternative, the user shall submit documentation as required by the Superintendent or applicable standards to determine compliance with the standard.
 - 5. Sampling must be performed in accordance with procedures set out in section 21-63(k).
- f. *Certification.* A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user

will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

h. Signed and certified reports. All baseline monitoring reports must be signed and certified in accordance with section 21-61(g).

(b) Compliance schedule progress report. The following conditions shall apply to the schedule required by 21-63(a)(2)g. 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 hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(c) Report on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWTP, any industrial user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 21-63(a)(2)d.—f. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 62-625.410(4) F.A.C., this report shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production during the appropriate sampling period. All compliance reports must be signed in accordance with section 21-61(g).

(d) Periodic compliance reports.

(1) Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management plan (BMP) or pollution prevention alternative, the user must submit documentation required by the Superintendent or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with section 21-61(g).

(2) All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(3) If an industrial user subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the WWTP, using the procedures prescribed in section 21-63(m) of this ordinance the results of this monitoring shall be included in the report.

(e) *Report of changed conditions.* Each industrial user is required to notify the Superintendent of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least ninety (90) days before the change.

(1) The Superintendent may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 21-61(f).

(2) The Superintendent may issue a wastewater discharge permit under section 21-61(i) or modify an existing wastewater discharge permit under section 21-62(d).

(3) No industrial user shall implement the planned changed conditions(s) until and unless the Superintendent has responded to the industrial user's notice.

(4) For purposes of this requirement flow increases of ten (10) percent or greater, and the discharge of any previously unreported pollutants shall be deemed significant.

(f) *Reports of potential problems.*

(1) 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 which may cause potential problems for the WWTP (including a violation of the prohibited discharge standards in section 21-59(a) of this ordinance), it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

(2) Within five (5) days following such discharge, the industrial user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWTP, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

(3) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this ordinance.

- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.
- (g) *Reports from nonsignificant industrial users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the Superintendent may require.
- (h) *Signatory requirements for industrial user reports.* All required reports shall have a signed certification statement as required in section 21-61(g). Reports shall be signed as follows:
- (1) By a responsible corporate officer, if the industry is a corporation.
 - (2) By a general partner or proprietor, if the industry is a partnership or sole proprietorship respectively.
 - (3) By a duly authorized representative of the individual designated in paragraph (1) or (2) above.
 - (4) The authorization is made in writing by the individual described in paragraph (1) or (2) above.
- (i) *Notice of violation/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the industrial user must notify the city within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation. Where the city has performed the sampling and analysis in lieu of the industrial user, the city must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Re-sampling is not required if:
- (1) The city performs sampling at the industrial user at a frequency of at least once per month; or
 - (2) The city performs sampling at the industrial user between the time when the initial sampling was conducted and the time when the industrial user or the city receives the results of the sampling.
- (j) *Notification of the discharge of hazardous waste.*
- (1) Any industrial user who commences the discharge of hazardous waste shall notify the WWTP, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the WWTP of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 Subpart C. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261 Subpart C, the EPA hazardous waste number, and the type of discharge {continuous batch, or other}. If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the WWTP, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents

contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharge during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under section 21-63(e) above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of sections 21-63(a), 21-63(c) and 21-63(d), above.

(2) Dischargers are exempt from the requirements of paragraph (1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in Chapter 62-730, F.A.C. Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in Chapter 62-730, F.A.C. requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new department regulations identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the industrial user must notify the city and the department's hazardous waste and pretreatment authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this subsection, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(k) *Annual certification by non-significant categorical industrial users.* An industrial user determined to be a non-significant categorical industrial user in accordance with section 21-58(d)(21), must annually submit the following certification statement, signed in accordance with the signatory requirements in (h) above. The certification must accompany any alternative report required by the city: "Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR [specify applicable national pretreatment standard part(s)]. I certify that, to the best of my knowledge and belief that during the period from [month, day, year] to [month, day, year]:

(1) The facility described as [industrial user name] met the definition of a non-significant categorical industrial user as described in section 21-58(d)(21).

(2) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and

(3) The facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period. This compliance

certification is based upon the following information: [documentation of basis to continue exemption]."

- (l) *Analytical requirements.* All pollutant analysis, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

(m) *Sample collection.*

- (1) Except as indicated in section (2) below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is unfeasible, the Superintendent may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits. For industrial users where historical sampling data do not exist, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. All sampling activities shall be performed according to the procedures specified in "The Department of Environmental Protection Standard Operating Procedures for Field Activities," DEP-SOP-001/01, March 31, 2008.

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

- (n) *Determination of noncompliance.* The Superintendent may use a grab sample(s) to determine noncompliance with pretreatment standards.

- (o) *Recordkeeping.* Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for the term of the permit plus a period of three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the Superintendent.

Sec. 21-64. Compliance monitoring.

- (a) *Inspection and sampling.* The city shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the Superintendent, or his representatives, ready access

to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where an industrial user has security measures in force which require the proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(2) The city, state, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The city may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated [periodically] to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing access shall be borne by the industrial user.

(5) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this ordinance.

(b) *Inspection warrants.* If the Superintendent has been refused access to a building, structure or property or any part thereof, and if the Superintendent has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as a part of a routine inspection program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may make application through the city attorney, to the Circuit Court in and for Polk County, Florida, for the issuance of an inspection warrant requesting the inspection of the specific location. The warrant, if issued by the circuit judge, shall specify what, if anything may be searched on the property described. Such warrant shall be served at reasonable hours by the Superintendent in the company of a uniform police officer of the city. In the event of an emergency affecting public health and safety, inspection shall be made without the issuance of a warrant.

Sec. 21-65. Confidential information.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial user furnishing a report that such information should be held

confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 21-66. Publication of industrial users in significant noncompliance.

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWTP, a list of users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d) or (h) of this section) and shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a pretreatment standard or requirement, including instantaneous maximum allowable discharge limits as defined in section 21-58(d);
- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameters during month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous maximum allowable discharge limits as defined in section 21-58(d) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous maximum allowable discharge limit, or narrative standard) that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWTP personnel or the general public);
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance;
- (g) Failure to accurately report noncompliance; or

- (h) Any other violation(s) which may include a violation of best management practices which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 21-67. Administrative enforcement remedies.

- (a) *Notification of violation.* Whenever the Superintendent finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the Superintendent or his agent may serve upon said user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (b) *Consent orders.* The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as the administrative orders issued pursuant to sections 21-67(d) and 21-67(e) below and shall be judicially enforceable.
- (c) *Show cause hearing.* The Superintendent may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.
- (d) *Compliance orders.* When the Superintendent finds that a user has violated or continues to violate the ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a reasonable period of time, depending on the severity of the violation. If the user does not come into compliance within the time ordered, the utility service may be discontinued until such time as the user is in compliance. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation,

including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(e) *Cease and desist orders.* When the Superintendent finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements and standards.

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(f) *Emergency suspensions.* The Superintendent may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the WWTP, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTP, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in section 21-67(g) are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent, prior to the date of any show cause or termination hearing under sections 21-67(c) and 21-67(g).

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

(g) *Termination of discharge.* In addition to those provisions in section 21-62(f) of this ordinance, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

(1) Violation of wastewater discharge permit conditions.

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(5) Violation of the pretreatment standards in section 21-59 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 21-67(c) of this ordinance why the proposed action should not be taken.

Sec. 21-68. Judicial enforcement remedies.

(a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the Superintendent may petition the Circuit Court in and for Polk County, Florida, through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(b) *Civil penalties.*

(1) The city shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The city shall have the authority to seek or assess civil penalties in at least the amount of one thousand dollars (\$1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violations.

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

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

(4) Filing a suit for a civil penalty shall not be a prerequisite for taking any other action against a user.

(c) *Criminal prosecution.*

(1) Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than sixty (60) days or both.

(2) Any user that willfully or negligently introduces any substance into the WWTP which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000.00) per violation per day and/or imprisonment for not more than sixty (60) days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(3) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than sixty (60) days or both.

(d) *Remedies nonexclusive.* The provisions in sections 21-66 through 21-68 are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

Sec. 21-59. Affirmative defenses to discharge violations.

(a) *Upset.*

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

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

(3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the industrial user can identify the cause(s) or the upset.
- b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
- c. The industrial user has submitted the following information to the WWTP and treatment plant operator within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (i) A description of the indirect discharge and cause of noncompliance.

(ii) The period of noncompliance, including exact dates and items or, if not corrected, the anticipated time the noncompliance is expected to continue.

(iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

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

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

(6) The industrial user 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.

(b) *General/specific prohibitions.* An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 21-59 (a) of this ordinance if it can prove that it does not know or have reason to know that its discharge, along 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 industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge uses or disposal requirements.

(c) *Bypass.*

(1) For the purpose of this section.

(i) "Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

(ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) An industrial 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 or assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this [sub]section.

(3) Bypass notifications.

(i) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass if possible.

(ii) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the WWTP within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial 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 WWTP Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Bypass is prohibited, and the WWTP may take action against an industrial user for bypass, unless;

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- c. The industrial user submitted notices as required under paragraph (2) of this [sub)section.
 1. The Superintendent may approve and anticipate bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in paragraph (4)a.—c. of this [sub)section.

Sec. 21-70. Charges, fees and billing procedure.

- (a) The city shall establish a uniform schedule of charges and fees to provide for the reimbursement of costs to the city for the treatment of industrial wastewater. This schedule of charges and fees shall be enacted and modified by ordinance adopted by the city commissioners of the City of Winter Haven, Florida. This schedule shall not be codified, but shall be on file in the city clerk's office.
- (b) Where the premises are served by city utilities, any fees and charges pursuant to this ordinance shall be added to and made a part of a consolidated utility billing.
- (c) Where city utilities are not used, said fees and charges shall be charged to and collected from the user. Bills rendered pursuant to this provision shall be considered delinquent if not paid by the date specified on this bill. Said delinquency shall be considered as a violation of the provisions of this ordinance and the wastewater permit and may be considered for enforcement proceedings pursuant to the applicable enforcement provisions of this ordinance. For purposes of such delinquencies, the city may avail itself of the remedies set forth in Part I of Chapter 159, Florida Statutes, the "Revenue Bond Act of 2153" (the "Act"), which provides that the city has a lien on all lands or premises served by any water and/or sewer system for service charges for such facilities until paid, which liens are prior to all other liens on such lands or premises except the lien of state, county, and municipal taxes; and such lien(s) are on a parity with the lien of state, county and municipal taxes. Pursuant

to the Act and the city's home rule power(s), the city imposes liens on all properties served by the utility system for unpaid utility service fees and/or user charges, the enforcement of such service charges (including the assessment of the city's legal costs in enforcing any such liens).

- (d) The provisions set forth in this section 21-70 are not exclusive remedies. The city reserves the right to take any, all, or a combination of legal and/or equitable action(s) against a noncompliant and/or delinquent user which may include, but shall not be limited to, the city's right and ability to discontinue utility service(s) for nonpayment and requiring all charges, fees (including attorneys' fees and costs), interest and penalties be paid-in-full prior to restoring such utility service(s); and the city's right and ability to foreclose any lien(s) created by and/or arising out of the Act in the manner provided by the Laws of Florida for the foreclosure of mortgages on real property

Sec. 21-71. Requirements for dental facilities that remove or replace amalgam fillings.

- (a) Definitions. For the purpose of this section the following words and phrases shall be as defined herein.

(1) *Amalgam separator* is a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.

(2) *Amalgam waste* means and includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.

(3) *ANSI/ADA Standard No. 108* is the American National Standards Institute and American Dentistry association standard for amalgam separators.

(4) *Existing source* is any facility subject to this section whose first discharge to the sewer collection system occurred on or before July 14, 2017.

(5) *ISO 11143* is the International Organization for Standardization's standard for amalgam separators.

(6) *New source* is any facility subject to this section whose first discharge to the sewer system occurs after July 14, 2017 and must comply immediately upon commencement of discharge.

- (b) All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following reporting and waste management practices:

(1) For existing sources, the One-Time Compliance Report is due no later than ninety (90) days after receipt of notification from the city to comply with the requirements of this Ordinance or no later than ninety (90) days after transfer of ownership.

(2) For new sources, the One-Time Compliance Report is due within ninety (90) days of the start of discharge to the sewer collection system.

(3) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.

(4) Owners and operators of dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management and disposal of mercury-containing material and fixer-containing solutions and shall maintain training records that shall be available for inspection by the superintendent or designee during normal business hours.

(5) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.

(6) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line system.

(7) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.

(c) All owners and operators of dental vacuum suction systems, except as set forth in subsections (d) and (e) of this section, shall comply with the following:

(1) An ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator or equivalent device shall be installed for each dental vacuum suction system on or before July 14, 2020; provided, however, that all dental facilities that are newly constructed on and after the effective date of this ordinance shall include an installed ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator device. The installed device must be ISO 11143 or ANSI/ADA Standard No. 108 certified as capable of removing a minimum of ninety-five (95) percent of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted provided that smaller units from the same manufacturer and the same technology are ISO-certified.

(2) Proof of certification and installation records shall be submitted to the superintendent within thirty (30) days of installation.

(3) Amalgam separators shall be maintained in accordance with manufacturer's recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request therefor by the superintendent or designee during normal business hours. Records shall be maintained for a minimum of three (3) years.

(d) Facilities with vacuum suction systems that meet all the following conditions may apply to the superintendent for an exemption to the requirements of subsection (c) of this section:

(1) The system is a dry vacuum pump system with an air-water separator.

(2) The sedimentation tank is non-bottom draining, with the drain above the anticipated maximum level of accumulated sludge.

(3) Evidence of regular pump outs by a licensed hauler (a minimum of one (1) year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the superintendent during normal business hours.

(4) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

An owner or operator whose facility meets conditions (1) through (4) may apply for this exemption by written letter to the superintendent. The superintendent or designee will review the system, and if the exemption is approved, shall provide a written letter of exemption.

An exemption obtained pursuant to this subsection (d) shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with subsection (c) of this section before commencing further operation.

(e) Dental dischargers that exclusively practice one or more of the following specialties are not subject to the requirements of this section: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prosthodontistry.

(f) Dental practices that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, are exempt from the requirements of this part, provided the dental practice:

(1) Submits the following statement to the city, signed by a responsible corporate officer, general partner, proprietor, or a duly authorized representative by the applicable compliance identified in section 21-71(b):

"This facility is a dental discharger subject to this rule and does not place or remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances. I am a responsible corporate officer, a general partner or proprietor (if the facility is a partnership or sole proprietorship), or a duly authorized representative in accordance with the requirements of § 403.12 (1) of the above named dental facility, and certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.";

(2) Removes dental amalgam for limited emergency or unplanned, unanticipated circumstances, less than ten (10) times per year and no more than 1% of dental procedures; and

(3) The dental practice notifies the (city/county/utility/authority) of any changes affecting the applicability of this certification.

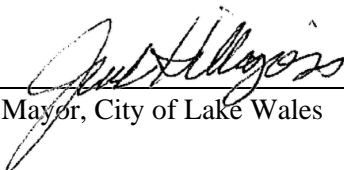
(g) Disposal of hauled wastewater from dental facilities to the sanitary sewer must be in accordance with section 21-60(e) and section 21-59, and may be subject to industrial pretreatment requirements.

SECTION 2. SEVERABILITY. If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not

been incorporated herein.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE THIS 2nd day of November 2022.



Mayor/Deputy Mayor, City of Lake Wales

Attest:

Jennifer Nanek, City Clerk