

# REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: \_\_\_\_\_

14.

Date of Request: May 5, 2008

Date Request Received: May 5, 2008

Board Meeting Date Requested: May 19, 2008

Board Meeting Date Assigned: May 19, 2008

**Short Title:** Resolution Presenting Proposed Water And Sewer Ordinance For The Pender County Water And Sewer Districts And Asking The Board To Authorize A Public Inspection Period And Set A Public Hearing For June 16, 2008.

**Request Status:**

- Request is proceeding to Board of Commissioners
- More information is needed – see attached
- Request on hold – no further information needed
- Other:

**Background:** There is currently no formal Water and Sewer Ordinance included in the Codes of Pender County. A Water and Sewer Ordinance will establish the regulations, definitions, fees, and enforcement actions sufficient to equitably and uniformly operate and maintain a County-wide water and sewer utility system on a financially self-sustaining basis and to assure continued, uninterrupted utility service. The 14 Articles included in the Ordinance are:

(Administrative Use Only)

- 1) General Issues and Definitions
- 2) Water Service
- 3) Wastewater Service
- 4) Rates, Fees and Charges
- 5) Billing and Collections
- 6) Reductions, Interruptions and Discontinuances
- 7) Requests for Adjustment
- 8) Remedies
- 9) Miscellaneous
- 10) Water Conservation and Shortage Plan
- 11) Cross Connection Control
- 12) Utility System Extension and Cost Recovery
- 13) Fats, Oils, and Grease Control
- 14) Sewer Use.

**CONTRACT TYPE**

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
  - Federal Grantor
  - State Grantor
  - Grantor
- County as Grantor
  - County Funds
  - Other Funds:
- Revision
- For Equipment

**PURCHASING**

Date Rec'd: Budgeted Item:  Yes  No  
 Reviewed and Approved  
 Comments on Reverse

Date Sent:

Signed:

**ATTORNEY**

Date Rec'd:  Reviewed and Approved  
 Legal Problem(s)  
 Comments on Reverse

Date Sent:

Signed:

**FINANCE**

Date Rec'd: Sufficient Funds  Available  Not Available  
 Budget Amendment Necessary  
 Budgeted Amendment is Attached  
 Comments on Reverse

Date Sent:

Signed:

**CLERK**

Signature(s) Required:  
 Board Chairman/County Manager  
 Other:

Date Rec'd: Approved by Board:  Yes  No  
At meeting on

**Specific Action Requested:** The Board of Directors of the Pender County Water and Sewer Districts is requested to receive the proposed Ordinance and authorize placing the Water and Sewer Ordinance out for public comment and scheduling a Public Hearing on the matter on their June 16, 2008 Agenda.

Requested by: Michael Mack  
Department: Pender Utilities  
Title: Director  
Contact Phone: 910-259-1570  
Contact Fax: 910-259-1579

**MANAGER'S RECOMMENDATION:**

Respectfully Recommend Approval.

DM  
Initials

**RESOLUTION: NOW THEREFORE BE IT RESOLVED** by the Board of Directors of the Pender County Water and Sewer Districts that

the proposed Water and Sewer Ordinance become available for public comment and be advertised for Public Hearing at the June 16, 2008 Board of County Commissioner's Meeting at which time the Board of Director's of the Pender County Water and Sewer Districts will consider adoption of the Ordinance. The Chairman and/or District Manager are authorized to execute any documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Williams \_\_\_ Tate \_\_\_ Blanchard \_\_\_ Brown \_\_\_ Rivenbark \_\_\_

\_\_\_\_\_  
J. David Williams, Jr., Chairman      05/19/08  
Date

\_\_\_\_\_  
Attest      05/19/08  
Date

## CHAPTER 13 WATER AND SEWER ORDINANCE

**State law references:** Public enterprises, G.S. § 160A-311 et seq.

### ARTICLE I. IN GENERAL

Section 13.1. Definitions. The following words as used in this Ordinance shall have the following meanings. Additional terms are defined herein.

“Board” shall mean the Board of Directors of the Pender County Water and Sewer Districts.

“Building Sewer” shall mean the private plumbing pipes or any other plumbing facilities of an Owner pursuant to which wastewater is discharged from the Owner’s premises to County Utility Facilities.

“Bulk Meter” shall mean a meter serving a customer who resells water.

“Capacity Fee” also called an Impact or Facility Fee shall mean a charge or assessment imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development.

“Commercial Meter” shall mean a meter serving multiple units under one ownership or any person in commerce or manufacturing.

“County Utility Facilities” shall mean all parts of the six (6) Pender County Water and Sewer District’s water and sewer utility system and generally includes water lines, sewer lines, treatment facilities, pump stations, hydrants, water meters, meter boxes, cut-off valves, manholes, clean-outs, and other facilities related to providing water and wastewater utility service but excluding any Owner Service Facilities as defined below.

“Department” shall mean the Pender County Utilities Department.

“Director” shall mean the Pender County Utilities Director.

“District” shall mean one of the six (6) Water and Sewer Districts established by the Pender County Board of Commissioners to provide utility services County-wide.

“District Manager” shall mean the Pender County Manager or their designee who has Pender County Water and Sewer District Board to interpret, adjust, modify, and implement Pender County Utility Policies and Procedures.

“Master Meter” shall mean a meter serving a user to whom the District sells water for resale or a meter serving condominiums.

“Owner” shall mean the fee simple owner of real property whose premises is or can be provided utility service by the Pender County Water and Sewer District.

“Owner Service Facilities” shall mean (i) the water service facilities owned by an Owner and commencing at the connection on the Owner’s side of the District’s meter and servicing the premises of such Owner, including pipe, private cut-off valves, Backflow Prevention Device, pressure reducing valve and other components and (ii) the Building Sewer running from the Owner’s premises to the sewer tap provided by the District to which an Owner connects private plumbing.

“Person” shall mean 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.

“Rates and Fee Schedule” shall mean the Rates and Fee Schedule adopted by the Board from time to time setting forth the rates and charges imposed by the Districts. The type of rates and charges which the Districts currently imposes are defined in Article IV hereof.

Section 13.2. Administrative Pender County Water and Sewer District Board. The Pender County Utilities Director is responsible for administering, implementing and enforcing all provisions of this Ordinance and shall exercise these responsibilities in accordance with the purpose and intent expressed

herein in a fair and objective manner under the directive of the District Manager. The Director may exercise discretion when necessary to administer these provisions fairly and responsibly.

Section 13.3. Application for New Service. Any Owner desiring new water and/or sewer service must make a written application to the Pender County Utilities Department upon forms to be supplied by the Department, setting forth the type of service requested, the location of the property to be served, and such other information as the Department may require. The application must be accompanied with a copy of a valid building permit or certificate of occupancy for the premises to be served issued by Pender County having jurisdiction to issue such documents; provided, however, that such documents shall not be required for existing structures which are legally occupied. The Department may require additional information when a customer intends to use water for other than household purposes or to discharge other than domestic strength (household) wastewater or when the Department deems such additional information necessary for the proper operation of its utility systems.

Section 13.4. Initial Fees. An application for new utility service shall be accompanied by any applicable Application Fee, Security Deposit, Tap Fee, Capacity Fee, Inspection Fee and other required fees and charges.

Section 13.5. Rejection of Application. The Department may reject an application for utility service if (i) the application seeks service not within the classifications of utility service offered by the District, (ii) the providing of utility service involves excessive service costs or is otherwise not feasible, (iii) the provision of utility service may adversely affect the quality and quantity of utility service the District is able to provide to its existing customers, (iv) the application is from a prospective customer who intends to resell water, (v) the applicant is delinquent in payment of bills incurred for service previously supplied at the location for which utility service is sought or at any other location, or (vi) for any other good and sufficient reason. An application for Irrigation Service may be rejected for any reason.

Section 13.6. Transfer of Existing Service. Before transferring existing utility service from one customer to another, the Department may require that any outstanding utility bills of the new customer at another location be paid before making the transfer.

Section 13.7. Control and Maintenance of District Equipment/Damage.

(a) The County Utility Facilities shall be under its exclusive control, and no Person, other than authorized employees, agents, and contractors of the Department or authorized licensed plumbers, shall install, tap into, repair, change, tamper or interfere with them in any way. The Department will specify the location, size, kind and quality of all materials constituting the County Utility Facilities. IT IS UNLAWFUL (i) FOR ANY PERSON TO ALTER, TAMPER WITH OR BYPASS A WATER METER OR TO KNOWINGLY USE WATER PASSING THROUGH SUCH A TAMPERED METER OR WATER BYPASSING A METER, (ii) FOR ANY UNAUTHORIZED PERSON TO RECONNECT WATER CONNECTIONS OR OTHERWISE TURN ON WATER THAT HAS BEEN DISCONNECTED OR TURNED OFF BY THE DEPARTMENT, AND (iii) FOR ANY PERSON TO CONTAMINATE A PUBLIC WATER SYSTEM OR TO DAMAGE OR TAMPER WITH PUBLIC UTILITY FACILITIES WITH THE INTENT TO IMPAIR THE ABILITY OF THE FACILITIES TO PROVIDE UTILITY SERVICE.

(b) The cost of repairing any damage to any meter or County Utility Facilities by an Owner's operations, negligence or carelessness or that of any Person occupying the premises of the Owner being served by the District, shall be paid by the Owner. Such damages shall include but not be limited to the costs of investigation; expert fees, tests and analyses; labor and materials, reimbursement for lost revenues due to

water loss and reasonable attorney's fees. The cost of repairs (including lost water) shall be added to the first utility bill rendered after the amount of the cost of the repairs is ascertained by the Department. The cost of such repairs shall be determined by the actual cost of repairs invoiced to the Department. The Owner of the premises being served shall be responsible for the amount billed notwithstanding that such bill is rendered

to a customer at the premises other than the Owner.

(c) No Person shall plant shrubs, bushes, trees or other vegetation, erect any fence or other structure, or maintain any pet in a fashion that will hinder or prohibit access of the Department to its meter box or other County Utility Facilities or otherwise endanger Department personnel. The Owner of premises served by the District is responsible for keeping the meter box free of sand, trash and other debris and keeping the cap on sanitary sewer cleanouts.

(d) No Person except as authorized by the Department shall turn on or turn off water supplied by the District.

Section 13.8. Owner Service Facilities. No Person shall connect Owner Service Facilities or discharge to the County Utility Facilities without first obtaining the permission of the District. In certain instances a Person may be required to obtain a wastewater discharge permit from the District before connecting and discharging. Owner Service Facilities shall be installed and maintained in good order and repaired at no cost and expense to the District, but shall be subject to inspection and approval by the Department before service is connected. Owner Service Facilities shall be installed in accordance with the District standards and specifications, and applicable governmental building/plumbing codes. The Department does not assume responsibility for inspecting Owner Service Facilities or for any defects therein.

Section 13.9. Access. The Department, its agents, contractors and employees shall have access at all times to premises receiving utility service for the purpose of operating and maintaining the District's utility systems.

Section 13.10. Liability of the Department. The Department shall have no liability on account of interruptions in utility service, erroneous shut-offs, failure to deliver water, failure to deliver water at any particular (high or low) pressure or quality, or damage to persons or property from turn-on or use of water at any premises.

Section 13.11. Water Turn-On. It is highly recommended that a responsible person be present at the premises when a turn-on of water is scheduled. If at the time water is turned on, no one is present at the premises and it is determined by Department personnel that water is running at the premises, the Department personnel will turn off the flow of water and lock the meter. The Department personnel will then return to turn on water only when a responsible person is present and customer will be charged a Service Call Fee.

## **ARTICLE II. WATER SERVICE**

Section 13.12. Water Service Metered. Each separate residential or commercial unit shall be supplied through a separate meter. However, in some cases, a unit may be supplied at the option of the Department through a Commercial or Master Meter, such as in the case of apartments and condominiums.

Section 13.13. Backflow. Owner Service Facilities connected with County Utility Facilities shall not be connected with pipes or fixtures supplied with water from any other source and shall include a Backflow Prevention Device(s). Backflow Prevention Devices to be used shall comply with applicable State of North Carolina building codes and shall be approved by the Department. Upon the discovery of a cross-connection or the absence of a proper Backflow Prevention Device, water service shall be terminated until the violation is remedied. The provisions of the Pender County Water and Sewer District's "Cross Connection Control Program" are defined in Article XI of this Ordinance.

Section 13.14. Tests. The Department may at any time remove any meter for routine tests, repairs or replacement. The Department shall upon request of a customer, test the accuracy of the meter in use, provided the meter has not been tested by the Department within a period of three (3) months previous of such request, and that the customer will agree to abide by the results of such test in the adjustment of disputed charges. If the meter is shown to have an error as defined in this Article, the Department will replace or correct the meter at no charge. If the meter has no such error, the customer will pay the full direct cost invoiced to the Department for testing the meter.

Section 13.15. Error. Whenever a test of a meter reveals it to have an average error of more than two percent (2%), the Department shall render a bill for or make a refund of, as the case may be, such percentage of the amount reflected on bills covering the consumption indicated by the meter for the previous three (3) months, as the meter was found to be in error at the time of test, unless it can be shown to the satisfaction of the Department that the error found had existed for a greater or lesser period, in which case the adjustment shall cover such actual period.

Section 13.16. Irrigation Service. Water supplied for Irrigation Service only may not be used for potable, domestic, or any other use. No pipes or other Owner Service Facilities intended for potable domestic water service shall be connected to any meter dedicated only for Irrigation Service.

Section 13.17. Waste. An Owner shall not willfully or indifferently waste water delivered to it by the Department.

Section 13.18. Conservation. Water service shall be subject to the terms of the Pender County Water and Sewer District's "Water Conservation and Shortage Plan" included in this Ordinance under Article X.

Section 13.19. System Expansions. The construction of Pender County Water and Sewer District Service Facilities by developers or others for new utility service shall be controlled by and subject to "Pender County Water and Sewer District's Utility System Expansion and Cost Recovery Policy" included in this Ordinance under Article XII.

### **ARTICLE III WASTEWATER SERVICE**

Section 13.20. Method of Connection. Connections of Building Sewers to Pender County Water and Sewer District Utility Facilities will be made in accordance with the following requirements:

- (a) All connections shall be made in accordance with the provisions of the State of North Carolina Building Code Volume II, Plumbing, current edition;
- (b) A separate and independent Building Sewer shall be provided for every building. An exception may be granted where one building on an interior lot stands at the rear of another and it is not economically feasible for the Department to provide a tap to the rear building. In such event, the Building Sewer may be extended to the tap for the front building and the whole considered as one (1) Building Sewer. However, separate Rates, Fees and Charges shall be charged to each building.
- (c) All Building Sewers shall be brought to the building at an elevation below the lowest floor

level having sanitary facilities. In all buildings in which any building drain is below a point which will permit a minimum average slope of the Building Sewer of one (1) foot per one hundred (100) feet, wastewater carried by such Building Sewer shall be lifted by pumping units or other approved means and discharged through a Building Sewer having that minimum average slope. Costs of the pumping units, piping and power shall be borne by the Owner.

- (d) No connections that will allow inflow to enter the Pender County Water and Sewer District's system shall be permitted. Such prohibited connections shall include but not be limited to roof down spouts, exterior foundation drains, or other sources of storm water or groundwater.
- (e) The Building Sewer shall include any preliminary treatment, pretreatment, flow equalizing facilities for grease, oil, grit and sand traps or other interceptors as required by the Sewer Use Ordinance as defined in Article XIV.
- (f) Connections to Pender County Water and Sewer District Utility Facilities will be made at the tap provided for the structure to be served.

Section 13.21. Maintenance of Building Sewer/Damages. Whenever a Building Sewer connected to Pender County Water and Sewer District Utility Facilities becomes clogged, broken, out of order or detrimental to the use of Pender County Water and Sewer District Utility Facilities, or the public health and welfare, the Owner of any building or premises through which the Building Sewer collects wastewater shall, upon notification by the Director, reconstruct, alter, clean or repair the Building Sewer, as the condition of such may require, within thirty (30) days after receiving notification.

Section 13.22. Interceptors. The provisions of the Pender County Water and Sewer District's "Grease, Fat, and Oil Control" requirements are included in this Ordinance under Article XIII.

Section 13.23. Basis for Billing Sewer Use. Sewer usage will be billed based on the Fixed Facility Fee (Availability and Debt Service Recovery Charges) hereinafter defined plus volumetric flow determined by the flow of the Pender County Water and Sewer District's water meter at the premises being billed. If sewer is provided to premises to which the Pender County Water and Sewer District does not provide water, billing will be based at the option of the Pender County Water and Sewer District on one of the following:

- (i) from water meter readings at the premises for water supplied by another water provider or meter readings from a meter attached to any private well supplying the premises, which meter shall be provided and installed at the Owner's expense or
- (ii) a Flat Rate.

Section 13.24. System Expansions. The construction of Pender County Water and Sewer District Service Facilities by developers or others for new utility service shall be controlled by and subject to "Pender County Water and Sewer District's Utility System Expansion and Cost Recovery Policy" included in this Ordinance under Article XII.

#### **ARTICLE IV RATES, FEES, AND CHARGES**

Section 13.25. General. The Pender County Water and Sewer District's Board shall annually, or more frequently if financial or other conditions dictate, establish rates and charges so that revenues of the Pender County Water and Sewer District, will be sufficient at all times to pay the cost of maintaining, repairing, and operating the Pender County Water and Sewer District Utility Facilities, including reserves for such purposes, debt service on bonds and other debt obligations issued by the Pender County Water and Sewer Districts and debt service reserves, the cost of utility system development and growth, and the cost of such other matters as the Pender County Water and Sewer District's Board deems appropriate. The Pender County Water and Sewer Districts may set different rates for the different Districts (service areas)

or different types of utility service (such as for Bulk or Master Meter service) where a basis of distinction exists to establish such differentiated rates.

Section 13.26. Specific Fees and Charges. The Pender County Water and Sewer District's Board may from time to time adopt and impose the following fees and charges, the amounts of which shall be set forth in the Rates and Fee Schedule:

A. Customary Monthly Charges:

(i) Fixed Facility Fee (also known as an Availability and/or Debt Service Recovery) – a monthly charge for water and/or sewer for making utility service available the amount of which for each customer shall be based on the size of the customer's water meter. Payment of an Availability Charge does not entitle a customer to any minimum usage allowance.

(ii) Bulk Rate – a fee for water sold to others for re-sale or for service through a Master Meter.

(iii) Flat Rate – a monthly charge for wastewater service where the Pender County Water and Sewer District has no ability to or elects not to determine the volumetric usage of a customer. The Flat Rate shall include but not be limited to the estimated Availability and Debt Service Recovery Charges that would be applicable if a meter was in place.

(iv) Usage Charge – a charge based on volumetric utility usage determined from meter readings or other method acceptable to the Pender County Water and Sewer Districts whereas the amount of which increases as volumetric usage increases.

(v) Volunteer Fire and Rescue Rate – a combination of flat and volumetric rate to be charged to volunteer rescue squads and fire departments.

B. Charges Related to New Utility Service:

(i) Capacity (Impact Fee) – a fee to recover the past or future capital cost of Pender County Water and Sewer District Utility Facilities that have a system wide benefit in the amount of which shall be based on meter size or estimated gallons of demand based on North Carolina Administrative Code *T15A: 02H .0200* . Capacity Fees shall be paid at the time of application for new utility service. Persons who are required to pay Capacity Fees shall include, but not be limited to (a) any Person undertaking any initial connection to the Pender County Water and Sewer District Utility Facilities for water or sewer service without a signed Water Users Agreement on record at the Department and payment on record at the Department of the \$120 tap fee deposit available at the time of initial signup or (b) "development" (defined below) to be connected to the Pender County Water and Sewer District Utility Facilities. If a meter size on which the fee is based is not described in the Rates and Fee Schedule or if there is no meter, the amount of the Capacity Fee shall be determined by the Department based upon the anticipated water use and sewage generation rates for sizes in question. "Development" for purposes of this paragraph shall mean any construction activity requiring the issuance of a building permit under the North Carolina State Building Code. Such activity shall include, but not be limited to, (c) new construction on vacant land, and (d) redevelopment activities and additions to existing structures on previously developed land where new utility service or an increased meter size is required; provided, however, that where an existing meter is being upgraded, the Pender County Water and Sewer District shall give a credit against the Capacity Fee due in an amount equal to the Capacity Fee that would have been due for the meter being replaced.

(ii) Inspection Fee – a fee to cover the cost to the Department of inspecting and approving the work of a contractor engaged by an applicant to connect the applicant's Owner Service Facilities to Pender County Water and Sewer District Utility Facilities and the verification of the Owner's water well line being cut and capped.

(iii) Meter Fee – a charge to cover the cost of the water meter when the tap is being made

by a licensed Utility contractor and not the Department.

(iv) Tap Fee – a one time charge to cover the cost to the Department of installing a new service line and meters and other portions of Pender County Water and Sewer District Utility Facilities which benefit only the consumer being served. Tap Fees shall be paid at the time of application for new utility service.

### C. Other Fees and Charges:

(i) After Hour Fee – a fee for service calls which the consumer requests to be made after 2pm weekdays and on weekends or holidays for a leak or line break and the line or break is to the Owner's Service Facilities or to Pender County Water and Sewer District Utility Facilities resulting from the negligence of the customer at the premises or the customer's guests or agents.

(ii) Backflow Service Restoration Fees – fees to cover the cost of restoring utility service for non-compliance with the Backflow Cross Connection Control portion of this Ordinance.

(iii) Civil Penalty – a penalty for violation of the Ordinance.

(iv) Cut Lock Fee – a fee to cover the cost of replacing padlocks which have been removed from Pender County Water and Sewer District water meters without the Pender County Water and Sewer District's consent.

(v) Credit Letter Fee – a fee for preparation of letters regarding a customer's credit history with the Pender County Water and Sewer District.

(vi) Hydrant Rate – a volumetric charge for the special use of water, such as withdrawal from a fire hydrant through a hydrant meter.

(vii) Late Fee – a fee added to delinquent utility bills.

(viii) Meter Testing Charge - a charge for testing meters measuring utility service.

(ix) Miscellaneous Administrative Fees – fees for such matters as returned checks, copying, customer lists, debit bill payment by phone and such other categories as the Director deems appropriate. The amount of Miscellaneous Administrative Fees shall be set by the Director.

(x) Re-connect Fee – a fee for reconnection of service that has been suspended or terminated for failure to pay bills or for violation of the Ordinance.

(xi) Service Call Fee – a service call fee will be charged to the customer's account for the following:

- (1) Check a leak at the request of a customer (and the leak is on the customer's side)
- (2) Customer wants meter re-read because of high water usage
- (3) Customer needs angle stop/yoke turned off to make repair (Service call will include going back out and turning the meter back on)
- (4) Checking pressure (problem is on customer's side)
- (5) New service tap scheduled for installation but remains un-flagged when tap crew arrives (requiring rescheduling).

(xii) Tampering Charge – a charge for tampering with any Pender County Water and Sewer District Utility Facilities.

(xiii) Turn-on or Transfer Fee – a one time fee due when new utility is connected to Pender County Water and Sewer District's Utility Facilities, or existing service is transferred from one consumer to another.

Section 13.27. Security Deposit. Each tenant (rental property) customer shall make a Security Deposit at the time of applying for service in the amount set forth in the Rates and Fee Schedule. Security Deposits shall be used upon termination of utility service or at any other times the Pender County Water and Sewer District elects to cover a customer's delinquent utility bill. Making a Security Deposit does not relieve a customer of the obligation to pay a bill when due nor prevent the Department from terminating service for non-payment of bills.

Section 13.28. Rates and Fee Schedule. The Rate and Fee Schedule is available at the Department's main office.

## **ARTICLE V BILLING AND COLLECTION**

Section 13.29. Bills. Bills shall be sent monthly. Bills to premises shall be calculated based on the applicable Debt Service Recovery Charge, Availability Charge and the volumetric utility usage determined by meter readings. The amounts of such rates and charges are set forth in the Rates and Fee Schedule. Where premises are served by a Commercial Meter, bills shall be rendered to the Owner and shall consist of one Availability and Debt Service Recovery Charge for water and one for sewer based on the actual meter size, the incremental charges for total volumetric usage and any other applicable charges. Where units are served by a Master Meter, bills shall be rendered to the owners' association and shall consist of the applicable Availability and Debt Service Recovery Charges for each unit based on a ¾ inch meter, the applicable fixed charge for the total volumetric usage and any other applicable charges. Where premises are served by a Bulk Meter, bills shall be rendered to the Owner and shall consist of the applicable Availability and Debt Service Recovery Charge based on the actual meter size, the applicable fixed charge for the total volumetric usage and any other applicable charges. In certain cases when metering is not available, the Pender County Water and Sewer District may with the customer's consent, bill for services at a Flat Rate. All bills shall be sent to the street address for the premises being served unless the Pender County Water and Sewer District is notified in writing of some other address to which bills are to be mailed. Failure to receive bills will not be considered justification for nonpayment of amounts due or permit an extension of the date when the account would be considered delinquent.

Section 13.30. Payment. Utility bills are due when rendered. A utility bill for any billing period shall be considered delinquent if not paid on or before the 15th day of the month following billing. If a bill is not paid in full within 45 days of the statement date, utility service will be terminated on the Tuesday following the 15<sup>th</sup> of each month at which time a Reconnect Fee will be added. Water service terminated for non-payment will be restored only after the account balance and all fees are paid in full. If reconnection is requested after office hours, an additional \$25.00 fee will apply and must be paid prior to service being restored. At any time after a second bad check has been presented for the payment of utility bills to a customer, the Department may require that payment be made only in cash, by money order, or by certified check.

Section 13.31. Broken Seals/Padlocks, Meter Failures. If a meter seal or padlock is removed other than by Department personnel or if a meter fails to register correctly or is stopped for any cause, the applicable utility bill shall be based on the average water usage for the immediately preceding 12-month period, or such shorter period of actual use.

Section 13.32. Adjustments for Leaks. Any customer requesting an adjustment for a leak shall notify the Department of the existence of the leak and provide evidence of its repair. Upon determining that the leak existed and the duration of the period of the leak, the Department will, to the extent that during the period of the leak the usage in any month was twice as high as any monthly usage for the past 12 months, give a credit for one half of the amount of the highest bill rendered during the period of the leak; provided, however, the amount of the adjusted bill shall not be less than the minimum Availability and Debt Service Recovery Charges for both water and sewer, and, provided further, there shall be no adjustment for sewer billed at a flat rate. No more than one adjustment shall be made in any 12month period. Notwithstanding the foregoing, the Department reserves the right (i) to require that a licensed plumber at the customer's expense verify the existence of a leak and (ii) to deny any adjustment without the approval of the Pender County Water and Sewer District's Board of Directors.

## ARTICLE VI REDUCTIONS, INTERRUPTIONS, AND DISCONTINUANCES

Section 13.33. Temporary Interruptions. The Department may at any time shut off or cease utility service in case of an accident or for the purpose of making connections, alterations, repairs, changes or for any other lawful reasons. It is not the obligation of the Department to protect Owner Service Facilities connected to Pender County Water and Sewer District Utility Facilities from damage in the event utility service is shut off. Notwithstanding any language in this Ordinance or the Service Agreement or any representations made by any person, the Pender County Water and Sewer Districts, and their respective Board, officers, employees, and agents, shall not be liable for any damages, claims, or causes of action resulting directly from an interruption of service, fluctuation in pressure or any other cause related to the provision of service, including installation or maintenance of any components of the Pender County Water and Sewer Districts.

Section 13.34. Shut Off for Default. If a utility bill is not paid within 45 days of the statement date, utility service may without notice be suspended by the Department. The Department may also discontinue service after 30 days notice when a customer violates any Article of this Ordinance or of these Rules and Regulations and fails to remedy or cure such violation within the 30-day notice period.

Section 13.35. Other Interruptions. In addition to other rights and remedies afforded to the Department herein, the Department may without notice discontinue or curtail service to prevent fraud or abuse, to protect the public health, legal process, direction of public authorities, or for strike, riot, fire, flood, accident or any other unavoidable cause.

Section 13.36. Irrigation Service. The Pender County Water and Sewer Districts may curtail or terminate any Irrigation Service at anytime for any reason.

Section 13.37. Restoration of Service. When utility service has been suspended for nonpayment of utility bills, utility service will be restored upon payment in full of all delinquent bills, any current bill which is due but not delinquent, and the payment of a Turn On and other applicable fees. Reconnections will be made at reasonable times and as rapidly as conditions permit.

Section 13.38. Voluntary Termination of Service. The Department will terminate utility service within 5 days of receiving a request to terminate.

## ARTICLE VII REQUESTS FOR ADJUSTMENT

Section 13.39. Owner Requests. A customer considering his utility bill in error shall, before the bill becomes delinquent, deliver to the Department's office a written statement of the reasons he considers the bill to be in error. Upon receiving such notice, the Department will hold the disputed bill in abeyance until the matter is resolved by the Director. The Owner shall pay the bill in full within 10 days after the Director makes the final decision concerning the matter.

Section 13.40. Late Notice. If a customer presents to the Department a written notice required by Section 13.39 above after the bill has become delinquent but before service is discontinued for nonpayment of the bill, the matter may nevertheless be considered provided that the bill in question is paid in full at the time of giving the notice. If the Director makes an adjustment in the bill, a refund or account credit will be made within 10 days after the Director's final decision.

## ARTICLE VIII REMEDIES

In addition to any other remedies provided for herein, the following remedies shall be available to the Pender County Water and Sewer Districts for the violation of this Ordinance or the Rules and Regulations, any wastewater discharge permit issued hereunder, any pretreatment standard or other requirement hereof:

A Civil Penalty of not more than \$1,000 per violation. The amounts of Civil Penalties for various violations are set forth in the Rates and Fee Schedule. Each day's continuing violation shall constitute and be a separate and distinct offence. Any Person against whom a Civil Penalty is assessed shall be notified of the Civil Penalty and the reasons therefore by registered or certified mail. If the Person does not pay the Civil Penalty within 45 days of receipt of the notice, the Pender County Water and Sewer District's Board may institute a civil action to recover the amount due. The issuance of appropriate equitable relief by a court of competent jurisdiction.

## ARTICLE IX MISCELLANEOUS

Section 13.41 Severability. If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall, not be affected and shall continue in full force and effect.

Section 13.42 Conflict. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

## ARTICLE X WATER CONSERVATION AND SHORTAGE PLAN

### Introduction

Pender County Water and Sewer Districts in its mission to provide Pender County Customers potable quality water has developed the following Water Conservation and Shortage Plan. This plan has been developed to ensure and preserve one of our most precious natural resources. The Plan addresses water shortage measures to include voluntary conservation and mandatory conservation, water loss and accountability and the responsibilities of Pender County Water and Sewer Districts, the consumer, contractors and volunteer fire departments in the effort to conserve water.

### Water Shortage

#### 1. Declaration of water shortage.

If it appears that water demand on the Pender County Water and Sewer District's water system may exceed supply and transmission capabilities, the Director may recommend to the Pender County Water and Sewer District's Board that voluntary water conservation measures be implemented. The Pender County Water and Sewer District's Board may declare a Stage I water shortage condition advisory requesting voluntary water conservation by consumers. If voluntary conservation measures fail to relieve the demand on the system, the Pender County Water and Sewer Districts may advance to a Stage II or Stage III water shortage condition. The Pender County Water and Sewer District's Board may declare that a Stage II or Stage III water shortage condition exists and implement all or part of any stage.

#### 2. Stage I water shortage condition

If a stage I water shortage condition is declared, the following guidelines shall apply:

- (1) An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending or existing water shortage.
- (2) Conservation measures will be encouraged and recommended.

The public shall be encouraged to adhere to the following:

- (1) Limit car washing to a minimum.
- (2) Limit lawn and garden watering to that which is necessary only for plants to survive.
- (3) Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, etc.
- (4) Do not leave faucets running while shaving or rinsing dishes.
- (5) Water shrubbery to the minimum required reusing household water when possible.
- (6) Limit use of clothes washers and dishwashers and when used, operate fully loaded.
- (7) Use of showers for bathing, rather than bathtub and limit showers to no more than five (5) minutes.
- (8) Limit flushing of toilets by multiple usages.
- (9) The use of disposable and biodegradable dishes is encouraged.
- (10) The use of flow-restrictive and water-saving devices.
- (11) Limit hours of operation of water-cooled air conditioners.
- (12) All residents, businesses and institutions are requested to temporarily delay new landscape work until the water shortage has ended.

### **3. Stage II water shortage condition**

If the Pender County Water and Sewer Districts issues a declaration of a Stage II water shortage condition, it shall be unlawful for any person to use or permit the use of water from the Pender County Water and Sewer District's water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the Pender County Water and Sewer Districts need for declaring a water shortage condition, consideration shall be given to water shortage levels and available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

If a Stage I water shortage condition is in effect and the Pender County Water and Sewer Districts reach a point where continued or increased water consumption will equal or exceed the system supply capacity such that customers cannot be supplied with water to protect their health and safety without substantially curtailing the water demand then a Stage II water shortage may be proclaimed. In addition to the voluntary guidelines already in effect, it shall be become unlawful to use water supplied by the Pender County Water and Sewer District's water system in the following manner:

- (1) To water lawns, grass, shrubbery, trees, flowers and vegetable gardens except in accordance with the following schedule set forth below for all areas of the county. Such watering shall be done by hand-held hose with a nozzle or trigger device, container, drip irrigation, or residential automatic sprinkler system only.
  - a) Properties with ODD numbered addresses (ending in one, three, five, seven, or nine) may water on SATURDAY and TUESDAY mornings between the hours of 6:00 a.m. to 9:00 a.m.
  - b) Properties with EVEN numbered addresses (ending in zero, two, four, six and eight) may water on SUNDAY and THURSDAY mornings between the hours of 6:00 a.m. to 9:00 a.m.
  - c) Persons regularly engaged in the sale of plants shall be permitted to use water for such purposes on MONDAY, WEDNESDAY, and FRIDAY mornings between the hours of 6:00

a.m. to 9:00 a.m. All such watering is to be done by hand-held hose with a nozzle or trigger device, container or drip irrigation only.

- (2) To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools which have been drained.
- (3) To wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile equipment, including commercial washing establishments that do not contain a recycling capability.
- (4) To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks or patios, or to use water for other similar purposes.
- (5) To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency.
- (6) To operate or induce water into any ornamental fountain, pool or pond or other structure making similar use of water.
- (7) To serve drinking water in restaurants, cafeterias or other food establishments, except upon request.
- (8) To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected.
- (9) To use water for any unnecessary purpose or to intentionally waste water.

#### **4. Stage III water shortage condition**

If the Pender County Water and Sewer Districts issue a declaration of Stage III water shortage condition, it shall be unlawful for any person to use or permit the use of water from the Pender County Water and Sewer District's water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the Pender County Water and Sewer District's need for declaring a water shortage condition, consideration shall be given to water storage levels and available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns and availability of water from other sources.

If a Stage II water shortage condition exists and any two (2) elevated storage tanks drop to less than one-half full over a twenty four (24) hour period, then a Stage III water shortage may be declared. In addition to the restrictions for Stage I and Stage II water shortage conditions the following stringent mandatory restrictions shall be in effect. It shall be unlawful:

- (1) To water lawns, grass, shrubbery, trees, flowers and vegetable gardens or to use any method of irrigation and any time..
- (2) Use water outside a structure for any use other than an emergency involving a fire.
- (3) To operate an evaporative air conditioner that recycles water except during operating hours of business.

Fire protection is to be maintained by drafting of ponds, rivers, etc. wherever possible.

#### **5. Lifting of restrictions imposed during shortage**

Water shortage conditions will expire when the Pender County Water and Sewer District's Board deems that the condition which caused the alert has abated. The expiration or cancellation of a water shortage declaration shall be promptly and extensively publicized.

## 6. Violations and Penalties

Any person who violates the provisions of this article, who fails to carry out the duties and responsibilities imposed by this article or who impedes or interferes with any action undertaken or ordered pursuant to this article shall be subject to enforcement actions, civil penalties, and/or legal action. The Director shall be responsible for monitoring and enforcement of the article. Enforcement actions may include, but are not limited to, the following:

- (1) *Written Warning.* Whenever the Director finds that any user has violated or is violating this article or any prohibition, limitation, or requirement contained herein, or policy issued pursuant thereto, a written warning shall be issued to such offender by the Director. The written warning shall notify the violator of the nature of the violation and the need to take corrective action and that failure to do so will result in the issuance of a written Notice of Violation.
- (2) *Notice of Violation.* If, after a written warning, the violation continues, the Director shall serve upon such offender a written Notice of Violation stating the nature of the violation. The written Notice of Violation shall be affixed to the property where the violation occurred and/or mailed certified with return receipt requested to the customer of record and to any other person known to the Department to be responsible for the violation or its correction. When a customer of record refuses to accept a Notice of Violation by certified mail, hand delivery of the written notice of violation to the customer of record or to the person in charge of the premises where the violation occurred, the duly authorized agent shall inform the user of violation, their responsibility to discontinue the activity within a specified period of time, and possible recriminations including civil penalties and termination of service if the violation continues.
- (3) *Civil penalties.* The Director may assess a civil penalty of one hundred dollars (\$100.00) per day to any offender who shall continue any violation beyond the time limit provided for the aforementioned Notice of Violation. Each day in which a violation of any provision of this article shall occur or continue shall constitute a separate and distinct offense.
- (4) *Suspension of service.* If after issuance of a civil penalty, the penalty is not paid within thirty (30) days, the Director may immediately terminate or restrict service to the premise where such violation has occurred and may in addition thereto, or in the alternative, take such other appropriate legal action as provided by law. At such time the Director is satisfied that the offender(s) are no longer in violation of any treated water use restrictions, the Department may reinstate water service to the premise following the payment of all civil penalties assessed as well as any applicable suspension/reconnection fees.
- (5) *Injunctive Remedy.* Any violation of the provisions of this section may constitute a misdemeanor, punishable upon conviction in addition to being enforced by injunction or order of abatement issued by the general court of justice.

## 7. Responsibility

### Consumer:

Each consumer has the responsibility to prevent unnecessary loss of water from the system by repairing leaks in the consumer's water system which is defined as, the point of delivery to the consumer from the public water system.

### Contractors:

Each contractor has the responsibility to record and report water usage associated with line construction and testing to the Department. Contractors shall adhere to Code Enforcement for Low Flow Requirements for new construction.

### Volunteer Fire Departments:

Each volunteer fire department shall flush hydrants between October 15th and April 30th only, and a minimum of 2 days (48 hours) notice must be given to the Department along with a copy of all flow data.

**Pender County Utilities Department:**

The Department shall be responsible to repair all leaks detected in the stem in a timely manner to minimize water loss. In addition, the Department shall record and report water usage for water quality flushing, tank maintenance, and water production and minimize the usage of such water. The Department shall provide public education in the instruction of water conservation procedures and methods and maintain accurate records of water production and usage.

**ARTICLE XI CROSS CONNECTION CONTROL PROGRAM**

These regulations are enacted in accordance with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 8C), and the North Carolina State Plumbing Code (Volume II) as they pertain to cross connections with the public water supply.

**A. Objectives of Program**

The specific objectives of the Cross-Connection Control Program for Pender County Water and Sewer Districts are as follows:

- a. To eliminate all cross connections within the Pender County Water and Sewer District's public potable water supply.
- b. To protect the public potable water supply of the Pender County Water and Sewer Districts against actual or potential contamination by isolating within each consumer's water system, contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross connections into the public water system.
- c. To eliminate or control existing cross connections, actual or potential, between the potable water system(s) of consumers and non-potable or industrial piping system(s).
- d. To enforce a continuing inspection program of cross connection control which will systematically and effectively control all actual or potential cross connections which may be installed in the future.

**B. Responsibilities**

- 1) State of North Carolina  
The North Carolina Department of Environment, and Natural Resources (NCDENR) Division of Environmental Health has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed in carrying out an effective Cross Connection Control Program.
- 2) The N.C. Division of Environmental Health  
Has the primary responsibility of insuring the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections. They have the further responsibility of insuring that the Pender County Water and Sewer Districts provide an approved water supply at the service connection to the consumer's water system and, further require the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.
- 3) The Pender County Utilities Department  
Except as otherwise provided herein, the Pender County Utilities Department's responsibility is to ensure a safe water supply beginning at the source and continuing throughout all of the public water distribution system, including the service connections, and ending at the point of delivery to the water system(s) of consumers. In addition, the Department shall exercise reasonable vigilance to insure that the consumer has taken the proper steps to protect the public potable water system. To insure proper precautions are taken, the Department is required to determine the degree of hazard or potential hazard to the public potable water system, to determine the degree of protection required, and to ensure proper containment

protection through an on-going inspection program. When it is determined that a backflow prevention assembly is required for the protection of the public system, the Department shall require the consumer, at the consumers expense, to install an approved backflow prevention assembly at each service connection, to test immediately upon installation and thereafter at a frequency determined by the Department, to properly repair and maintain such assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

4) Pender County Plumbing Inspections

The code enforcement department of Pender County has the responsibility to not only review building plans and inspect plumbing as it is installed, but also to prevent cross connections from being designed and built into plumbing systems. Where the review of building plans suggests or detects the potential for cross connection being made an integral part of the plumbing system, the plumbing inspector has the responsibility, under the North Carolina Plumbing Code, for requiring that such cross connections be either eliminated or provided with backflow prevention equipment approved by the N.C. Building Code. The plumbing inspector's responsibility begins at the point of delivery or where the service line approaches private property and continues throughout the entire length of the consumer's water system. The plan inspector should inquire about the intended use of water at any point where it is suspected that a cross connection might be made or where one is actually called for by the plans. When such is discovered it shall be mandatory that a suitable, approved backflow prevention assembly approved by the North Carolina Plumbing Code be required by the plans and be properly installed. The

primary protection assembly for containment purposes only shall have approval from the Pender County Utilities Department, the North Carolina Plumbing Code, and the NCDENR.

5) Consumer

Each consumer has the primary responsibility of preventing pollutants and contaminants from entering his potable water system(s) and the Pender County Water and Sewer District's public potable water system. The responsibility of each consumers starts at the point of delivery to the consumer from the public potable water system and includes all of the consumer's water system(s). Each consumer, at the consumer's own expense, shall install, operate, test, and maintain approved backflow prevention assemblies as directed by the Pender County Utilities Department. Each consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three (3) years. The records shall be on forms approved by the Pender County Utilities Department and shall include the list of materials or replacement parts used, and the dates of all tests and repairs and the identity of the contractor, if such work is not performed by the consumer. Following any repair, overhaul, re-piping, or relocation of a consumer's backflow prevention assembly, the consumer shall have it tested to insure that it is in good operating condition and will prevent backflow. Tests, maintenance and repairs of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester.

6) Certified Backflow Prevention Assembly Tester

When employed by the consumer to test, repair, overhaul, or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities:

The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and responsible authorities on forms approved by the Pender County Utilities Department. The tester shall be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment necessary to properly test, repair, and maintain backflow prevention assemblies.

It will be the tester's responsibility to insure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material, or operational characteristics of an assembly during repair or maintenance without prior approval of the Pender County Utilities Department. A certified tester shall provide a copy of all test and repair reports to the consumer and to the Pender County Utilities Department within ten (10) business days of any completed test or repair work. A certified tester shall maintain such records for a minimum period of three (3) years. All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment, which has been evaluated and/or approved by the Pender County Utilities Department. All test equipment shall be registered with the Pender County Utilities Department and checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to the Pender County Utilities Department as to such calibration, employing an accuracy/calibration method acceptable to the Department. All backflow prevention assembly testers must become certified or re-certified every two (2) years through a North Carolina AWWA/WEA approved backflow prevention certification program.

### C. Definitions

1. Air Gap Separation - shall mean a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap separation" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the receiving vessel- in no case less than 1 inch (2.54 cm).
2. Approved - used in reference to water supply shall mean a water supply that has been approved by the NCDENR and by the Pender County Water and Sewer Districts.
3. Backflow - shall mean the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the consumer or public potable water system from any source or sources.
4. Backflow Prevention Assembly Approved - shall mean an assembly used for containment and/or isolation purposes that has been investigated and approved by the Pender County Utilities Department and has been shown to meet the design and performance standards of the American Water Works Association (AWWA), or the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California. The Pender County Utilities Department will provide a list of such Assemblies upon request.
5. Backflow Prevention Device Approved - shall mean a device used for isolation purposes that has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE) and the AWWA. The types are:
  - a) Hose Bibb Atmospheric Vacuum Breaker (HBVB).
  - b) Atmospheric Vacuum Breaker (AVB).
6. Backflow Prevention Assembly Unapproved - shall mean an assembly that has been investigated by the Pender County Utilities Department and has been determined to be unacceptable for installation within the Pender County Water and Sewer District's water system. Consideration for disapproval and removal from the approved list shall be based on, but not limited to, the following criteria: a) poor performance standards; b) lack of or unavailability of repair parts; and/or c) poor service or response from assembly's factory representative.
7. Backflow Prevention Assembly Type - shall mean an assembly used to prevent backflow into a consumer or public potable water system. The type of assembly used should be based on the degree of hazard either existing or potential. The types are:
  - a. Double Check Valve Assembly (DCVA)
  - b. Double Check Detector Assembly (Fire System)(DCDA)
  - c. Pressure Vacuum Breaker (PVB)

- d. Reduced Pressure Principle Assembly (RP)
- e. Reduced Pressure Principle-Detector Assembly (Fire System) (RPDA)
8. Backflow Prevention Assembly Tester Certified - shall mean a person who has proven their competency to the satisfaction of the Pender County Utilities Department. Each person who is certified to make competent test, or to repair, overhaul, and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules, and regulations, shall be a licensed plumber or plumbing contractor, or have equivalent qualifications acceptable to the Pender County Utilities Department, and must hold a certificate of completion from a North Carolina AWWA/WEA approved training program. Only a licensed plumber or licensed utility contractor may install or replace backflow prevention assemblies.
  9. Back-Pressure Backflow - shall mean an elevation in the consumer water system above the supply pressure at the point of delivery which would cause – or tend to cause a reversal of the normal direction of flow.
  10. Back Siphonage Backflow - shall mean a reversal of the normal direction of flow in the pipeline due to negative pressure being created in the supply line with the backflow source subject to atmospheric pressure.
  11. Check Valve Approved - shall mean a check valve that is drip tight in the normal direction of flow when the inlet pressure is at least one (1) psi and the outlet pressure is zero. The closure element shall be internally loaded to promote rapid and positive closure.
  12. Consumer - shall mean any person, firm, or corporation using or receiving water from the Pender County Water and Sewer District's water system.
  13. Consumer's Water System - shall include any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system, located on the consumer's premises, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.
  14. Consumer's Potable Water System - shall mean that portion of the privately owned potable water system lying between the point of delivery and point of use and/ or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or use potable water.
  15. Containment - shall mean preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.
  16. Contamination - shall mean an impairment of the quality of the water which creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or through the spread of disease by sewage, industrial fluids, or waste.
  17. Cross Connection - shall mean any unprotected actual or potential connection or structural arrangement between a public or a consumer's water system and any other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable water with the system is supplied. By-pass arrangements, jumper connections, removable sections, swivels or change over devices, and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross connections.
  18. Double Check Valve Assembly - shall mean an assembly composed of two (2) independently acting approved check valves, including tightly closing shut off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall be used to protect against a non-health hazard.
  19. Double Check Detector Assembly - shall mean a specifically designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. This assembly shall only be used to protect against a non-health hazard.

20. Enclosure - Any structure to prevent a backflow preventer from freezing and is ASSE 1060 approved.
21. Hazard-Degree Of - shall mean an actual or potential threat of contamination of a physical, hazardous or toxic nature to the public or consumer's potable water system to such degree or intensity that there would be a danger to health.
22. Hazard-Health - shall mean an actual or potential threat of contamination of a physical, hazardous or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health.
23. Hazard-Non Health - shall mean an actual or potential threat to the quality of the public or the consumer's potable water system. A non-health hazard is one that, if introduced into the public water supply system could be a nuisance to water customers, but would not adversely affect human health.
24. Hazard-Pollutional - shall mean an actual or potential threat to the quality or the potability of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.
25. Health Agency - the term "health agency" shall mean the NCDEHNR Section of Health Services.
26. Industrial Fluids - the term "industrial fluids" shall mean any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters; chemicals in fluid form; acids and alkalis; oils, cases; etc.
27. Industrial Piping System – Consumer's - the term "consumer's industrial piping system" shall mean any system used by the consumer for transmission of or to confine or store any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey or store substances, which are or may be polluted or contaminated.
28. Isolation - is the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer; Pender County Water and Sewer Districts may make recommendations, upon facility inspection, as to the usage's of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.
29. Point Of Delivery - "Point of delivery" shall generally be at the property line of the customer, adjacent to the public street where the Pender County Water and Sewer District's mains are located or at a point on the customer's property where the meter is located. The customer shall be responsible for all water piping and control devices located on the customer's side of the point of delivery.
30. Pollution - the term "pollution" shall mean an impairment of the quality of water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.
31. Potable Water - shall mean water from any source which has been investigated by the NCDENR Division of Health Services and which has been approved for human consumption.
32. Public Potable Water System - shall mean any publicly or privately owned water system operated as a public utility, under a current NCDENR permit, to supply water for public consumption or use. To include all sources, facilities, and appurtenances, between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, treat, or store potable water for public consumption or use.
33. Reduced Pressure Principle Backflow Prevention Assembly - shall mean an assembly containing within its structure a minimum of two (2) independently acting, approved check valves, together

with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly is designed to protect against a health hazard.

34. Reduced Pressure Principle Detector Assembly - shall mean a specially designed assembly composed of a line size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter sized approved reduced pressure principle backflow prevention assembly. This assembly shall be used to protect against health hazard.
35. Service Connections - shall mean the terminal end of a service connection from the public potable water system, where Pender County Water and Sewer Districts loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's water system.
36. Vacuum Breaker Atmospheric Type - shall mean a device containing a float check, a check seat, and an air inlet port. An atmospheric vacuum breaker is designed to protect against a non-health hazard under a back siphonage condition only.
37. Vacuum Breaker Pressure Type - shall mean an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. This assembly is designed to protect against a health hazard under a back siphonage condition only.
38. Water Purveyor - shall mean the owner or operator of a public potable water system, providing an approved water supply to the public.
39. Water Supply-Approved - shall mean any public potable water supply which has been investigated and approved by the NCDENR. The system must be operating under a valid health permit.
40. Water Supply-Auxiliary - shall mean any water supply on or available to the premises other than the purveyor's approved public potable water supply.
41. Water Supply-Unapproved - shall mean a water supply, which has not been approved, for human consumption by the NCDENR.
42. Water-Used - shall mean any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

#### **D. Right of Entry**

Authorized representatives from the Pender County Utilities Department shall have the right to enter, upon presentation of proper credentials and identification, any building, structure, or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by these regulations. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make all necessary arrangements

with the security guards so that upon presentation of suitable identification, Pender County Utilities Department employees will be permitted to enter, without delay, for the purposes of performing their specific duties. Refusal to allow entry for these purposes may result in the obtaining of an administrative warrant to do an inspection and possible discontinuance of water service if a violation of this Ordinance is found. On request, the consumer shall furnish Pender County Utilities Department employees any pertinent information regarding the water supply system on such property where cross connections and backflow are deemed possible.

#### **E. Elimination of Cross Connections: Degree of Hazard**

When cross connections are found to exist, the owner, his agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the Pender County Utilities

Department. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. The maximum time limits are as follows:

- a. Cross Connections with private wells or other auxiliary water supplies – immediate disconnection.
- b. All facilities which pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.
- c. All industrial and commercial facilities not identified as a “health hazard” shall be considered non-health hazard facilities. All non-health hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days.
- d. If, in the judgment of Pender County Utilities Department, an imminent health hazard exists, water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated.
- e. Based upon the recommendation from Pender County Utilities Department, the consumer is responsible for installing sufficient internal isolation backflow prevention assemblies and/or methods (air gap, pressure vacuum breakers, reduced principle backflow prevention assemblies, double check valve assembly).
- f. Water mains served by Pender County Water and Sewer Districts but not maintained by Pender County Utilities Department should be considered cross connections, with the degree of hazard to be determined by Pender County Utilities Department. The degree of protection shall be based upon the degree of hazard, as determined by Pender County Utilities Department.
- g. In the event that a Pender County Water and Sewer District’s Cross Connection Control Inspector does not have sufficient access to every portion of a private water system to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.
- h. No person shall fill special tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.
- i. All backflow assemblies that are not installed to the specifications set forth in the installation specifications shall be brought to code upon notification. Assemblies previously installed below ground without the proper drain size shall be considered cross connections and should be brought to date with present standards. (Drain sizes shall be two times the fire service supply or two times the fire service connection. Drain shall follow by gravity to sunlight.)
- j. All services outlined by this regulation that do not have containment assemblies installed shall install assemblies by the restrictions outlined.
- k. THERE ARE NO GRANDFATHER CLAUSES THAT EXIST FOR BACKFLOW ASSEMBLY INSTALLATIONS.

#### **F. Approved Backflow Prevention Assemblies**

*(The guidelines listed below should be considered prior to installation of any backflow prevention assembly. Local plumbing laws and regulations shall be followed.)*

1. Pender County Utilities Department should be contacted for the assistance in selection an assembly due to the different pressure zones in the country.
2. For a list or approved backflow assemblies please refer to the latest edition of the Southern California’s Foundation for Cross Connection Control and Hydraulic Research list of approved backflow assemblies or contact Pender County Utilities Department.

3. Pender County Utilities Department reserves the right to add or remove from the approved list any Reduced pressure principle assembly, double check valve assembly, or pressure vacuum breaker.
4. It is a requirement that all backflow prevention assemblies be tested immediately after installation and at least once a year thereafter by a certified backflow tester authorized by Pender County Utilities Department.
5. Pender County Utilities Department will conduct random testing of backflow prevention assemblies to ensure that the assemblies are operating properly. The owner will be given adequate notice prior to the test date.
6. When cross connections are found to exist, the owner, his agent, occupant, or tenant will be notified in writing to disconnect the cross connection within the time limit established by Pender County Utilities Department. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water system.

Maximum time limits are as follows:

- a. Cross connections with private wells or other unapproved source require immediate disconnection.
- b. Cross connection requiring correction through 1) elimination; 2) air gap separation; 3) reduced Pressure Principle assembly, double check valve assembly, or pressure vacuum breaker for sizes ¾" through 2" up to ninety days.
- c. Cross connections requiring correction through Reduced Pressure Principle assembly or double check valve assembly for sizes 2 ½" and larger up to ninety days.

#### **G. Installation of Assemblies**

1. All backflow prevention assemblies shall be installed in accordance with the specifications furnished by Pender County Utilities Department and/or the manufacturer's installation instructions and /or in the latest edition of the North Carolina Building Code, whichever is most restrictive.
2. All backflow installations will require a plumbing permit within the inspections and/or code enforcement jurisdiction of Pender County. A copy of this permit will be required by the Pender County Inspections/Code Enforcement Department and Pender County Utilities Department before the installation process is started.
3. All new construction plans and specifications, when required by the North Carolina Building Code and the NCDENR shall be made available to Pender County Utilities Department for review and approval, and to determine the degree of hazard.
4. Ownership, testing, and maintenance of the assembly shall be the responsibility of the customer.
5. The backflow preventer must be installed a maximum distance of five (5) feet from the meter service or before any wyes, tees, or bypasses. Installation of backflow preventers within the NCDOT right-of-way will not be accepted, it must be installed on the customers property.
6. Bypass piping is not permitted unless the by-pass piping is equipped with an approved backflow prevention assembly of the same type and brand as the main line assembly. In many instances it will be necessary to install two approved backflow prevention assemblies to ensure continuous water service.
7. All "testable" backflow preventers must be installed above ground including double check valves except in single-family residential applications. Backflow preventers installed inside must be a minimum of twelve (12) inches above the floor, and no higher than four (4) feet above floor. Customer must maintain adequate clearance around the assembly for testing, and/or repair of the assembly. Wherever a reduced pressure principle backflow preventer is installed inside a building, an air gap drain of adequate size must be installed.
8. Backflow prevention assemblies installed outside must be protected with an ASSE 1060 approved enclosure. The assembly must maintain a minimum distance of twelve (12") inches and a maximum of distance of thirty (30") inches above ground. Landscaping is allowed around any assembly provided it does not interfere with the testing and/or repairing of the assembly.

9. Protective enclosures must be used to prevent from freezing or vandalism for backflow prevention assemblies installed outside above ground. Freeze proof enclosures that meet or exceed North Carolina Plumbing Code Standards are acceptable provided the insulation is at least 7.05 R factor, and have the 1060 ASSE approval plate. Adequate drainage shall be provided by hinged door drain or ports along the bottom walls of the protective enclosure. The enclosure will require to be mounted to the ground or existing grade. If the structure is not removable it must be accessible by doors large enough for entrance and repair.
10. Backflow prevention assemblies two and one half (2 ½") inches or larger must be supported to allow for the weight of the backflow prevention assembly. Support construction can consist of cinder block, brick or steel. Supports must have proper footing to rest on. Supports should be spaced so they do not cause interference with the testing and/or repair of the assemblies.
11. All piping must be of ductile iron, cast iron, steel, or other approved equal.
12. In order to prevent obstruction during the testing or repair of the assembly, additional piping and/or valves shall not be located within and/or under the enclosure.
13. All backflow prevention assembly installations shall be inspected by Pender County Utilities Department prior to initial connection to the potable water system.
14. Before installation of any backflow preventer, contact Pender County Utilities Department at (910) 259-1570 to assist in the proper selection and installation.
15. All Reduced pressure (RP) principle assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstances (pit and/or below grade installations are prohibited). Double check valve assemblies may be installed in a vertical position with prior approval from Pender County Utilities Department provided the flow of water is in an upward direction or assembly has been approved by the Southern California's Foundation for Cross Connection Control and Hydraulic Research approval for this intended use.
  - a) All existing commercial or high hazard commercial water services that are renewed shall have containment assemblies installed at the service connection raised above ground in a freeze proof enclosure.
  - b) All facilities that change the intended use of the water supply shall install containment assemblies.
  - c) All existing facilities that change the name or are sold to new owners, are required to install a containment backflow assembly at the service connection on existing water services.
  - d) All outdoor above ground backflow assemblies are required to have an ASSE 1060 approved protective enclosure. (In accordance with NC State plumbing code section 608.14.1)
16. All assemblies below ground that fail the annual test and are considered in a nuisance installation and are considered probable cause of a potential cross connection shall be raised above ground and placed in a freeze proof enclosure.
17. Assembly owners are responsible for the environment where assemblies are installed. Assembly owners are responsible for supplemental heat when assemblies are endangered of freezing.
18. Installation drawings shall be submitted to the Pender County Utilities Department, before installation for upgrades to be approved by the Department.
19. Assemblies below ground installed, that do not have working gravity drains and drains that are not two times the supply size of the water service supplying assemblies shall be raised and placed in a freeze proof enclosure.
20. The installation of a backflow prevention assembly, which is not approved, must be replaced with an approved backflow prevention assembly.
21. The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Pender County Utilities Department within fifteen (15) days after a reduced pressure principle backflow preventer (RP), double check valve assembly (DCVA), pressure vacuum breaker (PVB), double check detector assembly(DCDA), or reduced pressure principle detector assembly (RPDA) is installed:

- a) Service address where assembly is located
  - b) Owner's name and mailing address
  - c) Description of assembly's location
  - d) Date of installation
  - e) Installer information (including name, company, license number, and project permit number)
  - f) Type of assembly, size of assembly
  - g) Manufacturer, model number and serial number
  - h) Test results/report
22. When it is not possible to interrupt water service, provisions shall be made for a parallel installation of backflow prevention assemblies. Pender County Utilities Department will not accept an unapproved bypass around a backflow prevention device when the assembly is in need of testing, repair, or replacement.
23. The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:
- a) Health hazard----- 60 days
  - b) Non-health Hazard-----90 days
24. Following installation, all RP, DCVA, PVB, DCDA, and RPDA are required to be tested by a certified backflow prevention assembly tester that is registered with the Pender County Utilities Department within ten (10) days.

**H. Testing and Repair of Assemblies**

1. Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester at the customer's expense. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by Pender County Water and Sewer District regulations. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Pender County Utilities Department within ten (10) business days after the completion of any testing or repair work.
2. Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by the Pender County Utilities Department, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:
  - a. Health Hazard Facilities – 14 days
  - b. Non-Health Hazard Facilities – 21 days
3. All backflow prevention assemblies with test cocks are required to be tested annually or as frequently required by the Pender County Utilities Department. Testing requires water shut down usually lasting five (5) to twenty (20) minutes. For facilities, that requires an uninterrupted supply of water, and when it is not possible to provide water service from two separate meters, provisions shall be made for a parallel installation of backflow prevention assemblies.
4. All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment, which has been evaluated and/or approved by Pender County Utilities Department. All test equipment shall be registered with the Department and will be checked annually for accuracy. All test equipment shall be checked for accuracy annually, calibrated, if necessary, and certified to the Department as to such accuracy/calibration, employing a calibration method acceptable to the Department.
5. It shall be unlawful for any customer or certified tester to submit any record to the Department which is false or incomplete in material in any respect. It shall be unlawful for any customer or certified tester to fail to submit to the Department any record, which is required by this program. Such violations may result in any of the enforcement actions outlined in Section L of this program in its entirety.

## I. Facilities Requiring Protection

Approved backflow prevention assemblies shall be installed on the service line to any premises that the Pender County Utilities Department has identified as a potential for backflow. The types of facilities or services listed below have been identified by the Department as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the Department. As a minimum requirement, all residential and commercial services will be required to install a Double Check Valve Assembly unless otherwise listed below.

DCVA= Double Check Valve Assembly

RP= Reduced Pressure Principle Assembly

DCDA= Double Check Detector Assembly

RPDA= Reduced Pressure Detector Assembly

AG= Air Gap

PVB= Pressure Vacuum Breaker

1. Aircraft and Missile Plants: RP
2. Automotive Services Stations, Dealerships, etc.
  - a. No Health Hazard: DCVA
  - b. Health Hazard: RP
3. Automotive Plants: RP
4. Auxiliary Water Systems:
  - a. Approved Public/Private Water Supply: DCVA
  - b. Unapproved Public/Private Water Supply: AG
  - c. Used Water and Industrial Fluids: RP
5. Bakeries:
  - a. No Health Hazards: DCVA
  - b. Health Hazard: RP
6. Beauty Shops/Barber Shops:
  - a. No Health Hazards: DCVA
  - b. Health Hazards: RP
7. Beverage Bottling Plants: RP
8. Breweries: RP
9. Buildings- Hotels, apartment houses, public and private buildings, or other structures having unprotected cross connections:
  - a. (Under five stories) NO Health hazards: DCVA
  - b. (Under five stories) Health Hazards: RP
  - c. (Over five stories) All: RP
10. Canneries, packing houses, and rendering plants: RP
11. Chemical plants- Manufacturing, processing, compounding or treatment: RP
12. Chemically contaminated water systems: RP
13. Commercial car wash facilities: RP
14. Commercial greenhouses: RP
15. Commercial sales establishments (department stores, malls, etc.)
  - a. No Health Hazard: DCVA
  - b. Health Hazard: RP

16. Concrete/asphalt plants: RP
17. Dairies and cold storage plants: RP
18. Dye works: RP
19. Farms: RP
20. Film laboratories: RP
21. Fire Systems:
  - a. Systems  $\frac{3}{4}$ " (inch) to 2" (inch)
    - 1.) No health hazard: DCVA
    - 2.) Health Hazard: (Booster pumps, foam, antifreeze solution, etc.): RP
  - b. Systems 2  $\frac{1}{2}$ " (inch) to 10" (inch) or larger
    - 1.) No health hazard: DCDA
    - 2.) Health hazard: (Booster pumps, foam, antifreeze solution, etc.): RPDA
22. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
23. Industrial facilities:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
24. Laundries:
  - a. No health hazard: DCVA
  - b. Health hazard: (i.e., Dry cleaners): RP
24. Lawn irrigation systems: RP
25. Metal Manufacturing, cleaning, processing, and fabricating plants: RP
26. Mobile Home Parks:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
27. Oil and Gas production, storage, or transmission properties: RP
28. Paper and paper products: RP
29. Pest control: RP
30. Plating plants: RP
31. Power plants: RP
32. Radioactive materials or substances: RP
33. Restaurants:
  - a. No health hazard: DCVA
  - b. Health hazard: RP
34. Restricted, classified, or other closed facilities: RP
35. Rubber plants: RP
36. Sand and gravel plants: RP
37. Schools and colleges: RP
38. Sewage and storm drain facilities: RP
39. Swimming pools: RP
40. Waterfront facilities and industries: RP

All assemblies and installations shall be subject to inspection and approval by the Pender County Utilities Department.

#### **J. Connections with Unapproved Sources of Supply**

No person shall connect or cause to be connected any supply of water not approved by the NCDENR to the water system supplied by Pender County Water and Sewer Districts. Any such connections allowed by the Pender County Water and Sewer Districts must be in conformance with the backflow prevention

requirements of this program. In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify Pender County Utilities Department immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

#### **K. Fire Protection Systems**

1. All connections for fire protection systems connected with the public water system, two (2) inches or smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.
2. All existing backflow prevention assemblies two and one-half (2 1/2) inches and larger installed on fire protection systems in operation at the time these regulations become effective shall be allowed to remain on the premises, as long as they are being properly maintained, tested, and repaired as required by this program. If, however, the existing assembly must be replaced, or in the event of proven water theft through an un-metered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by this provision.
3. All backflow preventers for fire protection should also meet the requirements of the building and fire codes of Pender County Code Enforcement.

#### **L. Enforcement**

1. The owner, manager, supervisor, or person in charge of any installation found not to be in compliance with the provisions of this program shall be notified in writing with regard to the corrective action (s) to be taken. The time for compliance shall be in accordance with Section E.
2. The owner, manager, supervisor, or person in charge of any installation which remains in noncompliance after the time prescribed in the initial notification, as outlined in Section E shall be considered in violation of these regulations, and may be issued a civil citation by Pender County Utilities Department. Said citation shall specify the nature of the violation and the provisions of this program violated, and further notify the offender that the civil penalty for said violation is as set forth in paragraph (3) below and is to be paid to Pender County Utilities Department within thirty (30) days. If the penalty prescribed herein is not paid within the time allowed, Pender County Utilities Department may initiate a civil action in the nature of a debt and recover the sums set forth in paragraph (3) below plus the cost of the action.
3. Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to a civil penalty of up to \$1,000.00 per violation. Each day in which a violation of any provision of this program shall occur or continue shall constitute a separate and distinct offense.
4. If, in the judgment of Pender County Utilities Department, any owner, manager, supervisor, or person in charge of any installation found to be in non-compliance with the provisions of this program, neglects their responsibility to correct any violation, a discontinuance of water service may be directed until compliance is achieved.
5. Failure of a customer or certified tester to submit any record required by this program, or the submission of falsified reports/records may result in a civil penalty of up to \$1,000.00 per violation. If a certified backflow prevention assembly tester submits falsified records to Pender County Utilities Department, the Department shall take the necessary actions to revoke certification to test backflow prevention assemblies within the potable water system for a time period not to exceed one (1) year. The tester will then be required to complete an approved certification course to acquire a new certification. Falsification made to records/reports after becoming re-certified shall result in the permanent revocation of backflow testing certification, in addition to a civil penalty (as stated herein).

6. Enforcement of this program shall be administered by the Pender County Utilities Department Director on behalf of the Pender County Water and Sewer Districts.
7. Request for extension of time shall be made in writing to the Pender County Utilities Department Director. All other appeals shall be made in accordance with the following procedure:
  - a. Hearings: A customer assessed a civil penalty under this section shall have the right to a hearing before the Pender County Water and Sewer District's District Manager upon making written demand, identifying the specific issues to be contended, to the Pender County Manager within thirty (30) days following notice of final decision to assess a civil penalty. Unless such demand is made within the time specified herein, the decision on the civil penalty assessment shall be final and binding.
  - b. Official Record: When a final decision is issued under Section (a) above, Pender County shall prepare an official record of the case that includes:
    - All notices, motions, and other like pleadings;
    - A copy of all documentary evidence introduced;
    - A certified transcript of all testimony taken if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
    - A copy of the final decision of the Pender County Water and Sewer District's District Manager.
  - d. Any consumer against whom a final decision of Pender County Water and Sewer District's District Manager is entered, pursuant to the hearing procedure under Section (a) above, may appeal the order or decision by filing a written petition for judicial review within thirty (30) days after receipt of notice by certified mail of the order or decision to the General Court of Justice of Pender County or the county where the order or decision is effective, along with a copy to Pender County Manager's Office.  
 Within thirty (30) days, after receipt of the copy of the petition of judicial review, Pender County shall transmit to the reviewing court the original or a certified copy of the official record, as outlined in Section (c) above.

## ARTICLE XII UTILITY SYSTEM EXTENSION AND COST RECOVERY

### I. Extension of Water and/or Sewer Lines (new development)

1. Project Approval. An Applicant proposing to extend utility lines and/or to make other improvements to become a part of the Pender County Water and Sewer District Utility Facilities shall first meet with the Pender County Utilities Department to discuss if the proposal is feasible to the District. If preliminary discussions find the project satisfactory, the applicant shall employ at applicant's expense a Professional Engineer registered in the State of North Carolina to prepare plans for the project. In conjunction with such approval, the applicant shall submit to the Public Utilities Department the following:
  - a. Four copies of an application for approval on forms supplied by Pender County Utilities Department with a check made payable to Pender County Utilities Department for the current Application Fee.
  - b. Four copies of the plans, specifications and engineer's report for the proposed work prepared in compliance with Pender County Water and Sewer Standard Specifications which shall have the seal of the engineer along with the engineer's name, address, and phone number as well as the name, address, and phone number of the applicant. If the applicant is a corporation, partnership, etc., the name, address and telephone number of the applicant's project manager or other representative responsible for the project shall be included. If plans are submitted on multiple sheets, an overall site plan of the proposed work must be included. If the project is being built in phases or sections, the submission of a master plan will be required by the

Department. Approval of plans and specifications by the Pender County Utilities Department does not relieve the applicant from obtaining any and all other approvals necessary for the construction of the project. However, applications to other agencies shall be submitted in the name of the applicable Pender County Water and Sewer District. All application fees will be paid by the applicant.

- c. Any documentation required by North Carolina Department of Transportation and the Department of Environment and Natural Resource (DENR), Public Water Supply (“PWS”).

The foregoing documentation shall be reviewed by the Pender County Utilities Department and if complete shall be placed on the Pender County Water and Sewer District’s Board of Directors agenda for the meeting following the month in which such items were received. The applicant or an appointed representative shall be present at the Board Meeting to answer questions that may be presented by the Board.

2. Construction. The applicant shall engage a North Carolina licensed Utility contractor acceptable to and approved by the Pender County Utilities Department to construct the project. Prior to commencing construction, the Department shall be furnished the name, address and phone number of the contractor along with a copy of the contractor’s current North Carolina utility contracting license. The Department shall be given a minimum 48 hours notice before any work is commenced by the contractor. No Persons other than the contractor (or the contractor’s sub-contractors) shall make a tap or connection into any Pender County Water and Sewer District’s owned infrastructure or perform any other portion of the work. All communications concerning the work, both oral and in writing, shall be directed to the applicant’s engineer.
3. Inspections. The Pender County Utilities Department shall inspect materials prior to construction as well as make periodical inspections while the project is under construction. All thrust blocking and rodding must be inspected prior to filling trench excavation. The Pender County Utilities Department must witness road borings, pressure and allowable leakage tests, initial and residual chlorinating tests, and withdrawal of bacteriological samples. The Department shall be notified at least 24 hours in advance of such tests. Permission from the Pender County Utilities Department is required for the operation of any valves located on the water system. North Carolina Administrative Code Title 15A, Department of Environmental Health Subchapter 18C, Sections .0100 through .2000 titled Rules Governing Public Water Supplies sets forth provisions intended to protect public water supplies such as that of Pender County.
4. Project Completion. Upon completion of construction, the applicant shall provide from a Professional Engineer licensed in the State of North Carolina (i) a certification in writing to the PWS, with copy to the Pender County Utilities Department, that construction has been completed according to plans and specifications previously submitted and approved by the State and (ii) As-built drawings of the project in the form of hard-copy, reproducible Mylar(s) sealed by the engineer, and digital format (ACADR14.dwg or .dxf).
5. Commencement of Utility Service. Pender County Utilities Department will authorize commencement of potable water and/or sewer service when the work has been completed according to the approved plans and specifications and the following requirements have been met:
  - a) Submission to Pender County Utilities Department of two copies of the recorded subdivision final plat for the property, if applicable, and such deeds of dedication, bills of sale, easements, lien waivers and other documents as are necessary in Pender County’s sole opinion to transfer title to Pender County free of liens and encumbrances of all utility facilities to become a part of the Pender County Water and Sewer District’s utility system.

- b) Submission by Owner of a 12-month warranty in form satisfactory to Pender County Utilities Department of material and workmanship against defects plus an indemnify agreement indemnifying the Pender County Water and Sewer District from any damages or injury to persons or property by reason the construction of the project.
- c) All applicable fees and charges for the entire project or phase have been received.

**II. Cost Recovery For Water And/Or Sewer**

As used herein "Cost Recovery Facilities" shall mean the water supply works, storage, water supply and trunk (generally 12" and larger) water mains, trunk and interceptor (generally 12" and larger) sewer mains, sewage pumping stations having a capacity greater than 250 gpm, and wastewater treatment facilities.

To promote orderly and systematic growth of its utility systems, Pender County Water and Sewer Districts may require an applicant to construct Cost Recovery Facilities of a size greater than that needed only to serve the applicant's needs. In such case, the applicant shall be entitled to recover a portion of the cost and the Cost Recovery Facilities based on the following formula:

$$\text{COST REIMBURSEMENT TO OWNER} = \frac{\text{CONSTRUCTION COST}}{\text{FC}} \times \frac{(\text{ADF} \times \text{PF})}{\text{FC}}$$

CONSTRUCTION COST = actual construction cost excluding design and permit fees.

ADF (AVERAGE DAILY FLOW) = Average day flow rate for the project or as determined from a minimum of 12 months of actual water consumption data.

PF (PEAK FACTOR) = Peak Factor shall be equal to 2.5 unless substantiating evidence is submitted indicating otherwise.

FC (FACILITY CAPACITY) = Total design capacity based upon an engineering analysis of the facility for which recovery applies.

The amount that the applicant is entitled to recover based on the foregoing formula shall be paid, at the option of the Pender County Water and Sewer District by assignment of the Pender County Water and Sewer District to the applicant of a portion of the Pender County Water and Sewer District's rights to future Capacity Fees from Owners served by the subject Cost Recovery Facilities. The refund will be paid as Capacity Fees are received until the cost recovery is paid, or until 10 years from the date of acceptance by the Pender County Water and Sewer District of the Cost Recovery Facilities, whichever comes first. An Owner is not assured of complete cost recovery.

Notwithstanding the foregoing, the construction cost utilized in the foregoing formula shall not exceed, without the Pender County Water and Sewer District's written consent, the construction price approved by ONWASA before work commences.

The following procedures and documentation must be obtained for the Owner to be eligible for cost recovery:

- a) Bidding Procedures: Solicitation of bids for the improvements shall comply with the formal bidding provisions of North Carolina General Statute 143-129, with the exception the successful bidder shall not be required to furnish a performance and payment bond. Bids shall

be received and opened at the offices of the Pender County Water and Sewer District in the presence of Pender County staff. A contract shall not be awarded prior to review and approval by Pender County Water and Sewer District Board of Directors. Certification of proper advertisement and certified bid tabulation shall be proved to Pender County Utilities Department.

- b) Pender County Utilities Department shall be provided with copies of invoices by and payments to the contractor sufficient for Pender County to verify the actual construction cost allowable for recovery. All change orders resulting in an increase in construction cost must receive the approval of Pender County in order to be eligible for recovery. All legitimate change orders due to unforeseen site conditions, errors and/or omissions in the plans, specifications, etc. will receive favorable consideration. Deductive change orders, if any, will reduce the amount eligible for recovery.
- c) In the case of disagreement between Pender County Water and Sewer District and the Owner, the Owner shall provide an audit of the project by a Certified Public Accountant. The audit shall reflect the total cost of the project which is subject to cost recovery. Project administration and audit costs are not eligible for recovery by the Owner.

Term of Recovery and Interest: The term of an Agreement shall be for the shortest practicable time, but shall apply for a period no longer than ten years. Project costs being reimbursed shall not bear interest.

Upon approval of the request for recovery by the Pender County Water and Sewer District Board of Directors, Pender County will prepare a Cost Recovery Agreement based upon the standard Cost Recovery Agreement format included herein. All Cost Recovery Agreements shall contain, at a minimum, the following items:

- a. Description of facilities for which recovery applies.
- b. Estimate of construction cost of facilities for which recovery applies.
- c. The Engineer's estimate of project cost.
- d. Agreement that to provide water and/or sewer service to the development, the Owner will finance and construct the proposed water and/or sewer system additions.
- e. The improvements, when complete and accepted by Pender County Water and Sewer District, will be owned and operated by the appropriate Pender County Water and Sewer District.
- f. The improvements shall be constructed in accordance with the plans and specifications approved by Pender County Utilities Department and under the periodic inspection and to the satisfaction of Pender County Utilities Department.
- g. The proposed improvements will have a capacity in excess of that required by the needs of development. This excess capacity, if made available to other parties by Pender County, will be eligible for cost recovery by the developer in accordance with Pender County's standard cost recovery procedure.
- h. Pender County Water and Sewer District will have the right to make this excess capacity available to other parties in the service area. Other parties provided water and/or sewer service via the improvements shall be required to pay Pender County Utilities Department's a one-time special assessment charge which will be established by a pro-rationing of cost as established herein. The special assessment charge collected by Pender County will in turn be disbursed to the Owner in the form of a reimbursement in accordance with the provisions outline herein.
- i. The allocation of funding portions to users or potential users of the facility, percentage of potential equivalent residential meters to be allocated to the Owner, other unserved properties within the service area of the facility, and the applicable Pender County Water and Sewer District's service area, and the proportion of the estimated cost to be allocated to each.
- j. A schedule of the method by which funds are to be recovered listing the estimated proportion of recovery to be obtained from facilities charges within the development, capacity charges from adjoining potential development, Pender County's contributions and schedule, etc.

- k. The proposed schedule for project construction.
- l. The improvements constructed under this agreement are hereby dedicated to the applicable Pender County Water and Sewer District upon completion and acceptance.  
Prior to acceptance of the facilities, the Owner shall provide certification to Pender County that all due and just claims for damages and all just accounts for labor performed and materials furnished in connection with the construction of the improvements have been paid in full and the project free of all claims and liens.
- m. The Owner warrants proper construction of the facilities for twelve (12) months after acceptance by Pender County. The Owner agrees to provide to Pender County a warranty bond in the amount of 15% of the actual construction costs for the duration of the warranty period. Said warranty bond shall be held by and payable to Pender County.
- n. The Owner agrees to pay all applicable fees and service charges (e.g., capacity charges, new account charges, etc.) for initiation of new accounts.

All Cost Recovery Agreements must be submitted to and approved by the Pender County Water and Sewer District Board of Directors prior to execution.

### **III. Extension of Utility Service to Existing Structures (no new development)**

Pender County Utilities Department may at its own cost extend utility service to an existing structure when requested by the Owner if the extension can be made in accordance with the Pender County Water and Sewer District's policies relating thereto and the District finds that such extension is financially feasible and excess capacity exists. Pender County Water and Sewer Districts shall be under no obligation to make such extensions except upon terms and conditions deemed reasonable to it.

## **ARTICLE XIII FATS, OILS, AND GREASE CONTROL**

### **Prevention of Sewer Blockages**

In 2007, the North Carolina Department of Environment and Natural Resources – Division of Water Quality informed all Sewer Collection System permittees that as of December 1, 2007, DWQ intends to issue Notices of Violation (NOVs) for all Sanitary Sewer Overflows (SSOs) within their system. The intent was to make sanitary sewer system owners and operators aware that each SSO will be evaluated on a case-by-case basis to determine if a NOV is warranted. In addition, each system was notified that Civil Penalties will be issued based on case-specific factors that include, but are not limited to, volume, volume reaching surface waters, duration, gravity, impacts to public health, fish kills, or recreational area closures. This Ordinance is designed to aid in the prevention of sanitary sewer blockages and obstructions from contributions and accumulation of fats, oils, and grease discharged to the sanitary sewer system from industrial or commercial establishments, particularly food preparation and serving facilities.

### **2. Operate and Maintain Grease Trap or Interceptor**

Greasy wastewater can be discharged to the sewer system from several sources, including food service operations. In order to reduce sewer blockages, customers in the Pender County Water and Sewer Districts service areas that discharge wastewater that contains grease must install and properly operate and maintain a grease trap or interceptor. Grease, oil and sand interceptors shall be provided when, in the opinion of the Department, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not normally be required for residential users. All interception units shall be of type and capacity which is certified by a qualified professional, such as accessible for cleaning, testing, and inspection.

### 3. Definitions

- a) Fats, Oils, and Greases: Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR136, as may be amended from time to time. All are sometimes referred to herein as "Grease" or "Greases".
- b) Food Preparation or Serving Facility: Any commercial or industrial facility that prepares or serves food, including but not limited to a restaurant, café, cafeteria, snack bar, grill, deli, catering service, bakery, grocery store, butcher shop, or similar establishment that discharges wastewater to the Pender County Water and Sewer Districts system.
- c) Cooking Establishments: Those establishments primarily engaged in activities of preparing, serving, or otherwise making available food for consumption and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching and which discharge wastewater to the Pender County Water and Sewer Districts system. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.
- d) Grease Trap or Interceptor: A device for separating and retaining water borne Grease and Grease complexes prior to the wastewater exiting the trap and entering the Pender County Water and Sewer District's sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. Grease Traps and Interceptors are sometimes referred to herein as "Grease Interceptors".
- e) Minimum Design Capability: The design features of a Grease Interceptor and its ability or volume required to effectively intercept and retain Greases from grease-laden wastewaters discharged to the District's sanitary sewer.
- f) Non-Cooking Establishments: Those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.
- g) User: Any person, including those located outside the jurisdictional limits of the District, who contributes, causes, or permits the contribution or discharge of wastewater into the District's sewer collections system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.
- h) Vehicle Maintenance Facility: Any commercial or industrial facility where automobiles, trucks, or equipment are serviced or maintained, including garages, service stations, repair shops, oil and lubrication shops, or similar establishments.

### 4. Applicability

- a) The following types of facilities will be required to have grease interceptors: restaurants, schools, hospitals, service stations, car washes, vehicle repair and lubrication facilities, nursing homes, and any other facility that handles grease and which discharges wastewater containing grease into the District's sewer collection system. All such establishments are required to have a properly sized and functioning grease interceptor, which a qualified professional certifies to the District, is designed to meet the District's Sewer Use Ordinance as included in this Ordinance under Article XIV.
- b) All vehicle maintenance facilities are required to have a properly sized grease, oil and sand interceptor.
- c) Facilities other than those noted may require the installation of grease and oil interceptor. The Director shall determine the need and applicability of such device.

### 5. Design

- a) No externally located grease interceptor shall be of a capacity less than 1,000 gallons. Access manholes, with a minimum diameter of 24 inches, shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.
- b) All interceptors shall be located outside of the building in such a manner that personnel from the Department can inspect the interceptors at any time.
- c) The Department shall be notified of any changes of operation or process at the permitted establishment. The establishment may be required to upgrade their grease interceptor to meet current requirements and standards.
- d) The following documents shall be submitted to the Department for review and approval prior to issuance of a permit for installation of an interceptor. Any changes to the approved plan shall be re-approved by the Department, prior to implementation.
  - A site plan showing the location of the interceptor, lines and cleanout or manhole;
  - Details of the interceptor, lines and cleanout or manhole;
  - Formula and calculations used to determine the interceptor capacity.
- e) Every interceptor shall have sufficient capacity to perform the service for which it is provided. Interceptors shall be designed to provide for a minimum hydraulic retention time of 24 minutes at actual peak flow or 12 minutes at the calculated theoretical peak flow rate as predicted by the Uniform Plumbing Code fixture criteria, between the influent and effluent baffles with 20 percent of the total volume of the grease interceptor being allowed for sludge to settle and accumulate.
- f) All grease traps and interceptors must be designed using standard engineering principles for sedimentation and floatation in gravity separators. Baffles and good inlet design are required to deflect the flow across the surface areas of the units and sufficient grease and solids storage capacity is required. Grease traps and interceptors shall be rated for the designed flow-through rate of the unit in gallons/minute.
- g) Grease interceptors shall be installed by users as required by the Department. Grease interceptors shall be installed at the user's expense. All grease interceptors shall be of a type, design, and capacity approved by the Department and shall be readily and easily accessible for cleaning and inspection. All such grease interceptors shall be serviced and emptied of accumulated waste contents as required in order to maintain minimum design capabilities or effective volume of the grease interceptor, but not less than once every 60 days.

## **6. Existing Establishments**

- a) Businesses and other locations subject to this regulation which were in operation before the effective date of this Ordinance ("Existing businesses") and do not have grease interception systems are generally required to install such a system within one year of the effective date of this regulation if directed to do so by the Department. Such businesses may receive approval from the Director, to install a system under alternate standards taking into account the circumstances of the business's operation, production of waste grease and the practicality of installation under normal requirements.
- b) Existing businesses with an existing grease interception system that does not meet the Department's standards may be required to upgrade the system or may be allowed to continue use of the present system subject to requirements such as a clean-out frequency less than 60 days.

## **7. Servicing and Records**

- a) Servicing and maintenance is essential for the efficient operation of grease traps and interceptors. All grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain the minimum design capability or effective volume of the grease interceptor. Servicing

frequency is site-specific and is dependent on the amount of oil and grease and suspended solids generated at each operation and the size of the grease trap or interceptor. In no case shall the frequency of cleaning be less than once every 60 days or as otherwise specified by the Department. The volumes of greases and solids in grease traps and interceptors must not exceed the designed grease and solids storage capacity of the unit.

- b) All grease interceptors shall be cleaned by a properly licensed cleaning and disposal operation.
- c) All users, including food preparation or serving facilities and vehicle maintenance facilities shall maintain a written record of maintenance performed on the interceptor for a minimum of three years. All such records will be available for inspection by the Department upon request.

#### **8. Variance/Appeal**

- a) Under certain circumstances, the interceptor size and location may need special exceptions to the policy. If an exception to these regulations is requested, the user must demonstrate that the size and location will not cause the facility any problems in meeting the discharge requirements of the Department.
- b) The Director reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site building plan review and to require repairs to, or modification or replacement of such traps.

#### **9. Enforcement**

If, an obstruction of a District sewer main(s) occurs that causes a sewer overflow and such overflow can be attributed in part or in whole to an accumulation of grease in the District's sewer main(s), the Department will take appropriate enforcement actions, as stipulated in the Sewer Use Ordinance, against the generator or contributor or such grease. These actions may include fines, civil penalties or a discontinuance of sewer service.

### **ARTICLE XIV SEWER USE**

At the time of adoption of this Ordinance, all wastewater collected by the Pender County Water and Sewer Districts is conveyed to the New Hanover County Sewer Collection System and thenceforth, conveyed to the City of Wilmington Northside Wastewater Treatment Plant for treatment and disposal. On July 1, 2008, the Northside Wastewater Treatment Plant will come under the control and operations of the Cape Fear Public Utilities Authority, hereto, necessitating the Pender County Water and Sewer District Sewer Use Ordinance reflect the requirements of the Cape Fear Public Utilities Authority's Sewer Use Ordinance as incorporated.

#### **A. Definitions.**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated:

*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.

*Approval Authority*: The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources, his successor or his designee.

*Authority*. Cape Fear Public Utility Authority (CFPUA).

*Authorized representative* [of] the industrial user.

- (i) If the industrial user is a corporation, *authorized representative* shall mean:
  - a) The president, secretary, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
  - b) The manager of one or more manufacturing, production, or operation facilities, authorized to make management decisions which govern the operation of the regulated facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Management decisions include the explicit or implicit duty of making major capital investment recommendations, initiating and directing comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations and ensuring that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements.
- (ii) The industrial user is a partnership or sole proprietorship, an *authorized representative* shall mean a general partner or the proprietor, respectively.
- (iii) If the industrial user is a federal, state or local government facility, an *authorized representative* shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (iv) The individuals described in paragraphs (i)--(iii) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Authority.
- (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the Authority prior to or together with any reports to be signed by an authorized representative.

*Average flow.* The total flow of wastewater in gallons during a normal operating calendar day of twenty-four (24) hours, as can be measured over a period of time of not less than three (3) months.

*BAT (Best Available Technology).* A level of technology based on the very best (state of the art) control and treatment measures that have been developed or are capable of being developed and that are economically achievable within the appropriate industrial/commercial category. For discharges of silver bearing waste BAT shall mean treatment to a level of below the 5.0 mg/L hazardous waste limit established by EPA.

*Biochemical Oxygen Demand (BOD).* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Centigrade, usually expressed as a concentration (e.g. mg/l).

*Building sewer.* A sewer conveying wastewater from the premises of a user to the POTW.

*Bypass.* The intentional diversion of wastestreams from any portion of a user's treatment facility.

*Categorical standards.* National categorical pretreatment standards or pretreatment standards.

*CFPUA.* Shall mean Cape Fear Public Utility Authority or (Authority)

*COD (Chemical Oxygen Demand).* The total quantity of oxygen required for the chemical oxidation of decomposable matter under standard laboratory conditions. *COD* shall be determined by the standard methods currently approved by EPA/DWQ

*Combined sewer.* Sewers that are designed to collect rainwater runoff, domestic sewage, and industrial wastewater in the same pipe.

*Composite sample.* The makeup of a number of individual samples, so taken as to represent the nature of wastewater or industrial wastes.

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

*Connection or tap.* The attachment of the building sewer to the Authority's provided access point to the public sanitary sewer.

*Constituents.* The combination of pArticles, chemicals or measurable environmental or chemical conditions (such as temperature, pH and BOD-5) which exist in the subject wastes.

*Cross-connection.* Any physical connection or structural arrangement between a public or a private potable water system and any nonpotable source or system through which an unsafe quality of water could flow or siphon from the nonpotable source to the potable source.

*Debris screens or debris traps.* Any device or structure constructed in accordance with pretreatment requirements operated by a user or customer of the Authority's wastewater system for the purpose of removing pArticles and undissolved materials from the wastewater to be contributed to the public sanitary sewer.

*Department of Environment and Natural Resources NCDENR.* The North Carolina Department of Environment and Natural Resources, Division of Water Quality or its successor. For the purposes of this Section references to the Division of Water Quality or DWQ shall be deemed to be DENR.

*Domestic user.* A person who discharges domestic wastewater to the public sanitary sewer.

*Domestic wastewater.* The wastewater generated from normal human living processes which have constituent strength within the range defined for standard strength wastewater, and which contains no constituents of a quantity or concentrations exceeding the limits stated in Division 4 of this Article. Normal human living processes include wastewater from bathroom and toilets, noncommercial kitchens and non industrial and noncommercial laundries. The discharge rate shall not exceed twenty-five thousand (25,000) gallons per day.

*Effluent.* The sewage, water or other liquid flowing out of any basin, pretreatment device or facility, and subsequently entering a public sewer, unless the context specifically refers to the flow from some other facility.

*Environmental Protection Agency, or EPA.* The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

*Flammable.* The nature of material, materials or substances which provides the capability to burn spontaneously or to burn upon exposure to fire, sparks or high temperature or to burn under conditions found in the Authority wastewater collection and treatment system. The combustible nature of materials and related combustible conditions shall be determined by standard methods currently approved by the North Carolina Fire Prevention Code.

*Flashpoint.* Any pollutants with a closed cup flashpoint of less than 140 degrees Fahrenheit, as per 40 CFR Part 403.5(b).

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

*Grease interceptor.* Any device constructed in conformity with the plumbing code, operated by the customer of the wastewater system for removing oil and grease before contributing liquid wastes to the wastewater system.

*Hauled wastewater.* Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, grease/grit interceptors, and vacuum-pump tank trucks.

*Indirect discharge* or *Discharge.* The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

*Industrial user* or *User.* Any person which is a source of indirect discharge.

*Industrial wastewater.* The wastewater generated from activities, operations or processes which require water and which add to the wastewater pollutant constituents at a strength or at a quantity or concentration exceeding allowable limits defined in Division 4 of this Article.

*Industrial wastewater surcharge.* The additional charge for service provided to any user of the Authority's wastewater system service area which has effluent characteristics exceeding those of standard strength wastewater.

*Infiltration.* Groundwater that enters sanitary sewer systems through cracks and/or leaks in the sanitary sewer pipes.

*Inflow.* Water other than wastewater that enters a sanitary sewer system (including water entering through a building sewer) from sources such as roof leaders, collar drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage.

*Influent.* The wastewater arriving at the public wastewater treatment facility(ies) for treatment.

*Interference.* The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act

(SWDA)(42 U.S.C. 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

*Medical waste.* Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

*Metered water.* The amounts of water used by the wastewater system user during the Authority's utility service billing periods, as measured by water or sewer meters required and approved by the Authority

*Milligrams per liter or mg/l.* The ratio of weight to volume, interchangeable with ppm.

*National categorical pretreatment standard or categorical standard.* Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

*National prohibitive discharge standard or prohibitive discharge standard.* Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 3-19 of this Article and are developed under the Authority of 307(b) of the Act and 40 CFR, section 403.5.

*Natural outlet.* Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

*New source.*

- (i) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:
  - a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge pollutants at an existing source; or
  - c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (ii) 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 (i) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (iii) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
  - a) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
  2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

*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.

*National Pollutant Discharge Elimination System, or NPDES, permit.* A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342), or pursuant to N.C.G.S. 143-215.1 by the state under delegation from EPA.

*Non-discharge permit.* A disposal system permit issued by the state pursuant to N.C.G.S. 143-215.1.

*North American Industry Classification System (NAICS).* A classification pursuant to the North American Industry Classification System Manual issued by the Executive Office of the President, Office of Management and Budget, 1997, or current revisions.

*Owner or user.* Any property owner, or occupant or tenant who is a customer of public sanitary sewer services.

*Parts per million or PPM.* The ratio of weight to volume, interchangeable with mg/l.

*Pass through.* A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or non-discharge permit, or a downstream water quality standard.

*Person.* Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

*pH.* A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

*Plumbing code.* 2006 International Plumbing Code, or current edition

*Pollutant.* Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, residential, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Portable toilet waste.* Domestic wastes from toilets which are not connected to a water source, and therefore, can not be regularly flushed. Generally high BOD and solids concentrations, and generally found within transportation or recreation vehicles, or are fully enclosed but constructed in a manner as to be portable for movement between mass outdoor gatherings and construction sites.

*POTW Director.* The CFPWA General Manager his successor or designee.

*POTW Treatment Plant.* That portion of the POTW designed to provide treatment to wastewater.

*Pretreatment or Treatment.* The reduction for the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment program.* The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the Authority in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S 143-215.3(a)(14) in accordance with 40 CFR 403.11.

*Pretreatment requirements.* Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

*Pretreatment standards.* Prohibited discharge standards, categorical standards, and local limits.

*Publicly owned treatment works (POTW) or wastewater system.* A treatment works as defined by section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this Article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Authority's service area who are, by contract or agreement with the Authority, or in any other way, users of the Authority's POTW.

*Public sanitary sewer.* A wastewater collection pipe or sewer conduit which services all abutting private and public properties and is owned, controlled, operated and maintained by the Authority; it shall include all appurtenances connected and used in the wastewater collection system.

*Recreational water vessel.* Recreational water vessel means a vessel, including cruise ships, which are (a) manufactured for operation, or operated, primarily for pleasure; or (b) leased, rented, or chartered to another for the latter's pleasure.

*Receiving waters.* Those waters into which wastes are discharged.

*Sampling structure or control structure.* An appropriately located structure with easy access by a pickup truck with trailer from which the effluent discharged by a wastewater system customer can be effectively measured for flow and strength by the Authority, using standard sampling methods.

*Sanitary sewer (or sewer).* A pipe or conduit for carrying wastewater and from which storm, surface and groundwater are excluded.

*Septic tank waste or septage.* The liquid and partially digested solid domestic waste that results from the emptying of septic tanks, for which disposal is regulated by 15 NCAC, 18A. 1900.

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

*Sewer connection fee.* The initial charge levied against a wastewater system user or customer for connection to the publicly provided access point to the public sewer. Such fee is levied in order to recover capital cost incurred by the Authority to provide connection.

*Sewer reconnection fee.* The charge levied against a wastewater system user or customer for reconnection to the publicly provided access point to the public sewer.

*Significant industrial user.* Any industrial user of the wastewater disposal system who:

- (i) Has an average daily process wastewater flow of twenty-five thousand (25,000) gallons or more.
- (ii) Contributes more than five (5) percent of any design treatment capacity-(i.e., allowable pollutant load of the wastewater treatment plant receiving the indirect discharge), or
- (iii) Is required to meet a national categorical pretreatment standard, or
- (iv) Is found by the Authority, the Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, system's effluent quality, or compliance with any pretreatment standards or requirements.

*Significant noncompliance or reportable noncompliance ("SNC").* A status of noncompliance defined as follows:

- (i) Violations of wastewater discharge limits.
  - a) Chronic violations. Sixty-six (66) percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.
  - b) Technical review criteria (TRC) violations. Thirty-three (33) percent or more of the measurements are equal to or greater than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs: for BOD, TSS, fats, oil and grease TRC = 1.4; For all other pollutants TRC = 1.2.
  - c) Any other violation(s) of an effluent limit (average or daily maximum) that the control Authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.
  - d) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
  - e) For continuous pH monitoring, SNC shall be defined as set forth in 40 CFR, 401.17.
- (ii) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.
- (iii) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, ninety (90) day compliance reports, and periodic compliance reports within thirty (30) days from the due date.

- (iv) Failure to accurately report noncompliance.
- (v) Any other violation or group of violations that the control Authority considers to be significant.

*"Slug load" or discharge.* Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 3-19 of this Article.

*Standard Industrial Classification (SIC).* A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, or current revisions.

*Standard methods* (for testing and measuring). Those procedures or methods established and/or currently approved by EPA/DWQ.

*Standard sampling method.* The method of collecting and storing individual samples or composite samples of wastewater for the purpose of laboratory analysis to determine its nature. The methods employed will be those established and currently approved by EPA/DWQ.

*Standard strength wastes.* Wastes of any origin having a strength of two hundred (200) mg/l or less of BOD-5, six hundred (600) mg/l or less of COD and/or containing two hundred (200) mg/l or less of suspended solids.

*Storm water.* Any flow occurring during or following any form of natural precipitation and resulting there from.

*Superintendent.* The person designated by the Authority to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this Article, or his duly authorized representative.

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

*Total solids (TS).* Total weight measured in mg/l of all solids: Dissolved, undissolved, organic or inorganic.

*Upset.* An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

*User.* Any person who contributes causes or permits the contribution of wastewater into the Authority's POTW.

*Wastewater.* The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any

groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

*Wastewater permit.* As set forth in section 3-8 of this Article.

*Wastewater treatment facilities.* Any arrangement of devices and structures used for treating wastewater to an acceptable quality.

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

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

This Article is gender neutral and the masculine gender shall include the feminine and vice-versa. 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. Terms in this Article not otherwise defined shall have the meanings prescribed within the regulations of EPA/DWQ

B. The following abbreviations when used in this Article shall have the designated meanings:

TABLE INSET:

BOD-5	-Biochemical Oxygen Demand
CFR	-Code of Federal Regulations
COD	-Chemical Oxygen Demand
EPA	-Environmental Protection Agency
gpd	-Gallons per day
l	-Liter
mg	-Milligrams
mg/l	-Milligrams per liter
N.C.G.S.	-North Carolina General Statutes
NPDES	-National Pollution Discharge Elimination System
O&M	-Operation and Maintenance
POTW	-Publicly-Owned Treatment Works
RCRA	-Resource Conservation and Recovery Act
SIC	-Standard Industrial Classification
SWDA	-Solid Waste Disposal Act
TSS	-Total Suspended Solids

TKN	-Total Kjeldahl Nitrogen
U.S.C.	-United States Code

**2. Intent of regulation of sewer use.**

This Article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the CFPWA, hereafter referred to as the Authority, and enables the Authority to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this Article are:

- A. To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- B. To prevent the introduction of pollutants into the wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
- C. To promote refuse and recycling of industrial wastewater and sludges from the system;
- D. To protect personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the environment and the general public;
- E. To provide for equitable distribution of the cost of operation, maintenance and improvement of the wastewater system; and
- F. To ensure that the Authority complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the wastewater system is subject.

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

**3. Applicability of sewer use provisions.**

This Article shall apply to all users of the Authority's wastewater system. By discharging wastewater into the wastewater system, industrial users within the Authority service area agree to comply with the terms and conditions established in this Article as well as any permits, enforcement actions, or orders issued hereunder.

**4. Administrative authority.**

The POTW director is hereby assigned the responsibility of administering all provisions of this Article, and shall exercise these responsibilities in accordance with the intent of this Article in a fair and objective manner. The director may exercise discretion when necessary to administer these provisions fairly and responsibly. Any powers or responsibilities granted to or imposed on the POTW director may be delegated by the POTW director to other Authority personnel.

**5. Sewer use required.**

- A. When the owner of a property inside the Authority service area shall use such property in any manner which results in the generation of wastewater, and pursuant to sections 3-3 of this Article such wastewater shall be discharged into a public sanitary sewer, the owner shall install, at his expense, a suitable building sewer and any other facilities necessary to connect the building sewer directly to the public sewer at an access point provided by the Authority.
- B. When the Authority is unable to serve single-family residential property through the gravity sanitary sewer system, as determined by the POTW director, the Authority may, upon written notification, approve the owner of the property to purchase and install a motor, lines, and pump so that wastewater can be pumped to the public sewer at the provided access point. It will be the responsibility of the property owner to complete the sewer connection with the purchased equipment and to maintain the pump, lines and motor to the property line at his own expense.
- C. Whenever a building sewer connected to the public sanitary sewer becomes clogged, broken, out of order or detrimental to the use of the public sewer, the owner having charge of any building or premises through which the building sewer collects wastewater shall, upon notification of the POTW director, reconstruct, alter, clean or repair the building sewer as the condition of such may require within thirty (30) days after receiving notification.

**6. User fees.**

- A. Purpose. It is the purpose of this Article to provide through the recovery of costs from users the Authority's wastewater disposal system for the implementation of the program established herein. The applicable fees shall be set forth in the Authority's fee schedule.
- B. User Charges. A user charge shall be levied on all users including, but not limited to persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage in the POTW.
  - (i.) All customers will be notified annually on a normal water and sewer bill of the rate for the user fee which is attributable to wastewater treatment service.
- C. Surcharges. All users of the POTW are subject to extra strength waste surcharges on discharges which exceed the following levels:

TABLE INSET:

BOD-5	200 mg/l
COD	600 mg/l
Suspended Solids	200 mg/l

- (i.) The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharge above the levels listed above. The amount charged per pound of excess will be set forth in the fee schedule.
- (ii.) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
  - a. Metered water consumption as shown in the records of meter readings maintained by the Authority; or
  - b. If required by the Authority or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the Authority. The metering

system shall be installed and maintained at the users expense according to arrangements that may be made with the Authority.

- c. Where any user procures all or part of his water supply from sources other than the Authority, the user shall install and maintain at his own expense a flow measuring device of a type approved by the Authority.
  - (iii.) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the user and any samples collected and analyzed by the Authority. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
  - (iv.) The determination of the character and concentration of the constituents of the wastewater discharge by the Director or his duly appointed representatives shall be binding as a basis for charges.
- D. *Pretreatment program administration charge.* The fee schedule adopted by the Authority may include charges and fees for:
- (i.) Reimbursement of costs of setting up and operating the pretreatment program;
  - (ii.) Monitoring, inspections and surveillance procedures;
  - (iii.) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
  - (iv.) Permitting; and
  - (v.) Other fees as the Authority may deem necessary to carry out the requirements of the pretreatment program.

## **7. Wastewater dischargers.**

It shall be a violation of this ordinance for any person to connect or discharge to the POTW without first obtaining the permission of the CFPUA. When requested by the POTW director, a user must submit information on the nature and characteristics of its wastewater within sixty (60) days of the request. The POTW director is authorized to prepare a form for this purpose and may periodically require users to update this information.

## **8. Wastewater permits.**

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

The POTW director shall, from time to time, have tests made to determine the quality of waste being discharged into the public sewer from individual users of the wastewater system or from connections of building sewers carrying composite waste from domestic users and/or industrial users and from connections including the premises of industrial waste discharge permit holders under the provisions hereof. If at any time, such waste becomes of such quality and/or quantity that requires pretreatment, then the POTW director shall have the Authority to require that proper permits be obtained and proper pretreatment facilities be installed by the permit holder at his expense.

- A. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-

domestic wastewater shall request from the POTW director a significant industrial user determination. If the POTW director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

B. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the Authority, an application in the form prescribed by the POTW director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within ninety (90) days after notification of the POTW director's determination in section 3-8(A) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (i.) Name, address, and location, (if different from the address);
- (ii.) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (iii.) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Division 4 of this Article, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a certified analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in sections 3-9 (J and K).
- (iv.) Time and duration of the indirect discharge;
- (v.) Average daily and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (vi.) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- (vii.) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- (viii.) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (ix.) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:
  - a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
  - b. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the POTW director.
- (x.) Each product produced by type amount, process or processes and rate of production;

- (xi.) Type and amount of raw materials processed (average and maximum per day);
  - (xii.) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
  - (xiii.) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) AND 15A NCAC 2H. 0908(a), as outlined in section 3-9 of this Article.
  - (xiv.) Any other information as may be deemed by the POTW director to be necessary to evaluate the permit application.
- C. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user (as defined in Section 3-1(A)) on file with the CFPWA and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- D. *Application review and evaluation.* The POTW director will evaluate the data furnished by the user and may require additional information.
- (i.) The POTW director is authorized to accept applications for the Authority and shall refer all applications to the POTW staff for review and evaluation.
  - (ii.) Within thirty (30) days of receipt the POTW director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
- E. *Tentative determination and draft permit.*
- (i.) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
  - (ii.) If the staff's tentative determination in paragraph (i) above is to issue the permit, the following additional determinations shall be made in writing:
    - a. Proposed discharge limitations for those pollutants proposed to be limited;
    - b. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
    - c. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
  - (iii.) The staff shall organize the determinations made pursuant to paragraphs (i) and (ii) above and the Authority's general permit conditions into a significant industrial user permit.
- F. *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval Authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:
- (i.) A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
  - (ii.) A quantitative description of the discharge described in the application which includes at least the following:
    - a. The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

- b. The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
- c. The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

G. *Final action on significant industrial user permit applications.*

- (i.) The POTW director shall take final action on all applications not later than ninety (90) days following receipt of a complete application.
- (ii.) The POTW director is authorized to:
  - a. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this Article and N.C.G.S. 143-215.1;
  - b. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
  - c. Modify any permit upon not less than sixty (60) days notice and pursuant to section 3-8(I) of this Article.
  - d. Revoke any permit pursuant to section 3-19 of this Article.
  - e. Suspend a permit pursuant to section 3-19 of this Article; or
  - f. Deny a permit application when in the opinion of the POTW director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

H. *Hearings.*

- (i.) *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section 3-20, or one issued an administrative order under section 3-19 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW director upon making written demand, identifying the specific issues to be contested, to the POTW director within thirty (30) days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or within forty-five (45) days of the receipt of the written demand for a hearing. The POTW director shall transmit a copy of the hearing officer's decision by registered or certified mail.
  - a. *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
  - b. *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (ii.) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under section 3-8(H)(i) above may be appealed, to the Authority upon filing a written demand within ten (10) days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with the Authority's procedures for quasi-judicial hearings. Failure to make written demand within the time specified herein shall bar further appeal. The Authority's shall make a final decision on the appeal within ninety (90) days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
- (iii.) *Official record.* When a final decision is issued under section 3-8(H)(ii) above, the Authority shall prepare an official record of the case that includes:
  - a. All notices, motions, and other like pleadings;

- b. A copy of all documentary evidence introduced;
  - c. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
  - d. A copy of the final decision of the Authority.
- (iv.) *Judicial review.* Any person against whom a final order or decision of the Authority is entered, pursuant to the hearing conducted under section 3-8 (H)(ii) above, may seek judicial review of the order or decision by filing a written petition within thirty (30) days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of New Hanover County along with a copy to the Authority. Within thirty (30) days after receipt of the copy of the petition for judicial review, the Authority shall transmit to the reviewing court the original or a certified copy of the official record.

I. *Permit modification.*

- (i.) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
  - a. Changes in the ownership of the discharge when no other change in the permit is indicated,
  - b. A single modification of any compliance schedule not in excess of four (4) months, and/or
  - c. Modifications of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- (ii.) Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 3-8(B), the user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard.
- (iii.) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

J. *Permit conditions.*

- (i.) The POTW director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this Article and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
  - a. A statement of duration (up to five (5) years);
  - b. A statement of non-transferability;
  - c. Applicable effluent limits based on categorical standards or local limits or both;
  - d. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
  - e. Requirements for notifying the POTW in the event of an accidental discharge or slug loads as defined in 3-1(A) if determined by the Director to be necessary for the User; and,
  - f. Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in 3-1, if determined by the Director to be necessary for the User;

- g. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug loads as defined in 3-1(A); and
  - h. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (ii.) In addition, permits may contain, but are not limited to, the following:
- a. Limits on the average and/or maximum rate 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 or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the wastewater system.
  - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
  - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
  - g. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
  - h. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  - i. Compliance schedules for meeting pretreatment standards and requirements.
  - j. Requirements for submission of periodic self-monitoring or special notification reports.
  - k. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in Section 3-3 and affording the POTW director, or his representatives, access thereto.
  - l. Requirements for prior notification and approval by the POTW director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
  - m. Requirements for the prior notification and approval by the POTW director of any change in the manufacturing and/or pretreatment process used by the permittee.
  - n. Requirements for immediate notification of excessive, accidental, or slug discharges or any discharge which could cause any problems to the system.
  - o. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.
  - p. Other conditions as deemed appropriate by the POTW director to ensure compliance with this Article, and state and federal laws, rules, and regulations.
- K. *Permits duration.* Permits shall be issued for a specified time period not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- L. *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- M. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with Section 3-8 a minimum of one hundred eighty (180) days prior to the expiration of the existing permit.

## 9. Reporting requirements.

### A. *Baseline monitoring reports.* (BMR)

- (i.) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW director a report which contains the information listed in paragraph 9(A)(ii), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW director a report which contains the information listed in paragraph 9(A)(ii), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (ii.) Users described above shall submit the information set forth below.
  - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
  - b. *Environmental permits.* A list of any environmental control 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 user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
  - e. *Measurement of pollutants.*
    1. The categorical pretreatment standards applicable to each regulated process.
    2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 3-9(J) of this Article.
    3. Sampling must be performed in accordance with procedures set out in Section 3-9(K) of this Article and 40 CFR 403.12 (b) and (g), including 40 CFR 403.12 (g)(4).
  - f. *Certification.* A statement, reviewed by the user's current representative as defined in Section 3-1(A) 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 user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 3-9(B) of this Article.

- h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 3-8(C) of this Article.
- B. *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by section 3-9(A)(ii)(g) of this Article:
- (i.) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
  - (ii.) No increment referred to above shall exceed nine (9) months;
  - (iii.) The user shall submit a progress report to the POTW director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
  - (iv.) In no event shall more than nine (9) months elapse between such progress reports to the POTW director.
- C. *Reports on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW director a report containing the information described in section 9(A)(ii)(d-f) of this Article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 3-8(C) of this Article.
- D. *Periodic compliance reports.*
- (i.) All significant industrial users shall, at a frequency determined by the POTW director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in sections 9(J and K) of this Article. All periodic compliance reports must be signed and certified in accordance with section 8(C) of this Appendix.
  - (ii.) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
  - (iii.) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW director, using the procedures prescribed in sections 9(J and K) of this Article, the results of this monitoring shall be included in the report.
- E. *Reports of changed conditions.* Each user must notify the POTW director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. See section 9(F)(iv) for other reporting requirements.

- (i.) The POTW director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 8 of this Article.
- (ii.) The POTW may issue a wastewater discharge permit under section 8 of this Article or modify an existing wastewater discharge permit under section 8 of this Article in response to changed conditions or anticipated changed conditions.
- (iii.) For purposes of this requirement, significant changes include, but are not limited to, the discharge of any previously unreported pollutants, or a change of twenty (20) percent or more in strength and/or volume of wastes, based on the average flow.

F. *Reports of potential problems.*

- (i.) 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 as defined in section 1(A), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (ii.) Within five (5) days following such discharge, the user shall, unless waived by the POTW director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this Article.
- (iii.) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (iv.) All significant industrial users are required to notify the POTW immediately of any changes at a facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in section 3-1(A).

G. *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW director or as the POTW director may require.

H. *Notice of violation--Repeat sampling and reporting.*

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

- c. The POTW director requires the user to perform sampling and submit the results to the POTW director within the thirty (30) days of the POTW becoming aware of the violation.
- I. *Discharge of hazardous waste.* The discharge of hazardous waste into the sanitary sewer system is prohibited.
- J. *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- K. *Grab and composite sample collection.*
  - (i.) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
  - (ii.) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90-day compliance reports. Additionally, the POTW director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.
  - (iii.) Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time proportional composite sampling or grab sampling is authorized by the POTW director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.
- L. *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- M. *Record keeping.* Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the CFPWA or where the user has been specifically notified of a longer retention period by the POTW director.
- N. *Electronic reporting:* The POTW director may develop procedures for receipt of electronic reports for any reporting requirements of this Article. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under division 5 of this Article.

## 10. Quality determination--Effluent sampling.

- A. Periodic measurements of flow, suspended solids, BOD and other appropriate waste characteristics for surcharge determination and other purpose shall be made by those permittee specifically designated

by the POTW director. The POTW director shall determine the number of twenty-four-hour flow measurements and samples required. Continuous monitoring may be required by the director in cases involving large fluctuations in quantity or quality of wastes, or if the wastewater appears to have characteristics which may damage the receiving system.

- B. All public sanitary sewer users whose total average sewage discharge is greater than twenty-five thousand (25,000) gallons per day, or whose total average discharge has a flow or pollutant loading requiring utilization of greater than five (5) percent of the design capacity of the Authority's treatment works, shall unless exempted by the POTW director, install and maintain, at the user's expense, facilities for continuously measuring and sampling the total waste discharge. This requirement may be waived for a particular user only when the quantity, flow rate and characteristics of the wastewater can be adequately determined without such structures; when the physical arrangements of industrial plant facilities with respect to sewer facilities makes such arrangements unusually costly and other means of ascertaining the quantity, flow rate and characteristics can be devised; or when previous sampling facilities have been built by either the Authority or a prior owner. When the POTW director shall determine for such facilities discharging less than twenty-five thousand (25,000) gallons per day that the nature of the discharge and/or conditions of the permit warrant continuous monitoring and sampling, the POTW director may require such user to install and maintain sampling facilities as stated heretofore.
- C. All flow measurements, sampling and analysis shall be performed by qualified personnel; all laboratory analyses of industrial wastewater samples shall be performed by an EPA/DWQ certified laboratory in accordance with current standard chemical analysis methods for wastewater established by EPA/DWQ. All samples shall represent the normal wastewater flow from the premises over a twenty-four-hour period. The samples shall be composited according to the flow either manually with at least one sample collected hourly, or by automatic integrated sampling equipment.
- D. Unless otherwise prescribed by the POTW Director, self-monitoring reports of all the sampling shall be submitted to the Authority by the 10th; day of the month following the sampling event.
- E. Where a permittee operates as an integrated complex involving varying processes and having separate industrial waste sewer connections within the same contributory area, such permittee may be considered as one (1) unit with multiple connections. An analysis for each connection may be combined in proportion to the flow from the connection and the weighted average of the results thus obtained may be used as the measure of the total flow and concentration of the wastewater discharged into the public sanitary sewer.

#### **11. Quantity determination.**

- A. All domestic and industrial users served by the Authority wastewater system shall pay a sewer user charge to the Authority in accordance with section 3-6 of this Article.
- B. In the case of industrial users, the quantity of wastewater discharged shall not exceed one hundred twenty (120) percent of permitted value.

#### **12. Confidential information.**

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Article the National Pollutant Discharge Elimination System (NPDES) permit, nondischarge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be regarded as confidential information. All records relating to compliance with pretreatment standards shall be made available to officials of the approval Authority and EPA upon request.

### **13. Prohibited Connections.**

No connection shall be permitted that will allow inflow other than sanitary waste to enter the Authority's wastewater collection and treatment system. Said prohibited connections shall include but not be limited to the connection of roof downspouts, exterior foundation drains or other sources of storm waters or groundwater to a building sewer which is connected directly or indirectly to a public sanitary sewer.

### **14. Grease removal.**

- A. Grease traps or other interceptors shall be provided at the user's expense, when such user operates an establishment preparing, processing or serving food and/or food products. Grease interceptors are required for the proper handling of liquid wastes containing oil and/or grease to ensure concentrations do not exceed one hundred sixty (160) mg/l by weight (hexane extractable). All such traps, tanks, chambers or other interceptors shall be of a type and capacity approved by the director and as outlined in the Authority's Technical Standards and Specifications Manual and the Fats, oils, and grease policy. The interceptor shall be readily and easily accessible for cleaning and inspection. No more than twenty (20) percent of the interceptor's total volume will be used for a sludge pocket. The interceptor shall be kept free of materials including kitchen utensils, paper or plastic products, and rags which may settle into the required sludge pocket, and all other floating material shall be skimmed from the trap or basin tank at intervals of a frequency sufficient to avoid accumulation of scum covering the surface of the liquid. All such interceptors shall be serviced and emptied of the waste content as required, but not less often than every thirty (30) days, in order to maintain their minimum design capability to intercept oils and greases from the wastewater discharged to the public sanitary sewer.
- B. No waste removed from the interceptor shall be reintroduced into the sanitary sewer or back into the interceptor which will cause the interceptor's discharge to exceed sewer use ordinance limits. The owner shall be responsible for sanitary disposal of such waste.
- C. The owner shall maintain a written record of trap maintenance for three (3) years. A copy of this record shall be sent to the Authority on the 15th day of the month following service.

### **15. Sand, grit and oil removal.**

- A. Sand, grit, and oil traps or other interceptors shall be provided at the owner's expense when they are necessary for the proper handling and control of liquid wastes containing sand, grit, oil, or flammable waste in excessive amounts. All such interceptors shall be of a type and capacity approved by the director and shall be readily and easily accessible for cleaning and inspection. All such interceptors shall be serviced and emptied of their contents as required, in order to maintain their minimum design capability to intercept grit, sand, oil, and flammable waste prior to the discharge of wastewater to the public sanitary sewer.

- B. Wastes removed from sand, grit and oil interceptors shall not be discharged into the public sanitary sewer. The owner shall be responsible for the sanitary disposal of such wastes.
- C. The owner shall maintain a written record of trap maintenance for three (3) years. A copy of this record shall be sent to the Authority on the 15th day of the month following service.

**16. Preliminary treatment devices.**

Where preliminary treatment, pretreatment, flow-equalization facilities or grease, oil, grit and sand traps or other interceptors are provided for any wastewater, they shall be continuously maintained in satisfactory condition and effective operation by the owner at his expense.

**17. Monitoring facilities.**

The Authority may require the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises.

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

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

**18. Pretreatment of wastewater.**

A. *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this Article and wastewater permits issued under section 3-8 of this Article and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in section 3-19 of this Article within the time limitations as specified by EPA, the state, or the POTW director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Authority for review, and shall be approved by the POTW director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Authority under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW director prior to the user's initiation of the changes.

B. *Additional pretreatment measures.*

- (i.) Whenever deemed necessary, the POTW director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Article.
- (ii.) The POTW director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility

to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

- (iii.) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

## 19. Variance request.

Variances to required pumping frequencies for grease/grit interceptors may be granted as deemed necessary by the General Manager based on established criteria.

## 20. General discharge prohibitions.

A. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

B. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

- (i.) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
- (ii.) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, this includes but is not limited to any ashes, cinders, sand, mud, straw, shavings, metal, glass, tars, plastics, wood, rags and other fibrous solids, feathers, offal, whole blood, paunch contents, manure, hair and fleshings, entrails, lime slurry and lime residues, beer or distillery slops, chemical residues, fiberglass, paint, paint thinners, latex, lacquers or ink residues, cannery waste, unshredded bulk solids with particles greater than one-half inch in any dimension, and discharges from photographic laboratories or X-ray equipment, which do not meet BAT limits.
- (iii.) Nonbiodegradable cutting oil or products of mineral oil origin, unless authorized by a permit. All petroleum based oil and/or grease is prohibited.
- (iv.) Any wastewater having a pH less than 6.0 or more than 10 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment, unless authorized by a permit.
- (v.) Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD, etc), in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to cause interference with the POTW.
- (vi.) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW pretreatment 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).
- (vii.) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (viii.) Any trucked or hauled pollutants, except at discharge points designated by the POTW director in accordance with section 3-28 of this Article.
- (ix.) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (x.) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to

interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

- (xi.) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
  - (xii.) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW director in compliance with applicable state or federal regulations.
  - (xiii.) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW director.
  - (xiv.) Fats, oils, or greases of animal or vegetable origin in concentrations greater than ninety-one (91) mg/l.
  - (xv.) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
  - (xvi.) Any medical wastes, except as specifically authorized by the POTW director in a wastewater discharge permit.
  - (xvii.) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the wastewater system.
  - (xviii.) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW director.
  - (xix.) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B .0200.
  - (xx.) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity-test.
  - (xxi.) Recognizable portions of the human or animal anatomy.
  - (xxii.) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the wastewater system.
  - (xxiii.) At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter.
  - (xxiv.) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- C. When the POTW director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the POTW director shall:
- (i.) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with section 3-33; and
  - (ii.) Take appropriate actions in accordance with Division 2 of this Article for such user to protect the POTW from interference or pass through.

## 21. National categorical pretreatment standards.

Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this Article for sources in that subcategory, shall immediately supersede the limitations imposed under this Article. The POTW Director, or designee, shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

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

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

**22. Local limits.**

An industrial waste survey is required prior to a User discharging wastewater in excess of the average discharge limits listed below.

TABLE INSET:

Parameter:	Value mg/l:
Aluminum	2.0
Ammonia-Nitrogen	17.0
Arsenic	0.003
Barium	0.15
Beryllium	0.2
BOD	200
Boron	1.0
Cadmium	0.003
CBOD	200
Chlorides	343
Chromium	0.002
COD	600
Copper	0.041

Cyanide	0.015
Iron	2.9
Lead	0.049
Manganese	60
Mercury	0.0003
Methylene Chloride	0.1
Nickel	0.021
Oil and Grease (Hexane Extraction)	73
Organic Nitrogen	18
Phosphorus Ortho	3
Phosphorus Total	6.1
Selenium	0.2
Silver	0.005
Sulfates	250
Sulfides	8.0
Tetrachloroethylene	0.5
TKN	35
Total Solids	831
Total Suspended Solids	200
Trichloroethylene	0.5
Zinc	0.165

Domestic sewage concentrations for pollutants not listed above shall be determined by the director and shall be based on either actually measured domestic sewage levels or EPA literature values.

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum headworks loadings are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW director may impose mass limits in addition to, or in place of, the concentration-based limits above.

### **23. Biochemical oxygen demand limit.**

The admission into the public sewers of any water or waste having a five-day biochemical oxygen demand (BOD-5) in excess of two hundred (200) mg/l, by weight, on a twenty-four-hour composite sample basis, will be subject to an excess strength surcharge as stated in section 3-6(C). Any sample taken with a five-day biochemical oxygen demand (BOD-5) in excess of one thousand (1,000) mg/l, by weight, may subject the discharger to the requirements prescribed in section 3-8(B)(ix).

**24. Chemical oxygen demand.**

The admission into the public sewers of any water or waste having a chemical oxygen demand (COD) in excess of six hundred (600) mg/l, by weight, on a twenty-four-hour composite sample basis, will be subject to an excess strength surcharge as stated in section 3-6(C) Any sample taken with a chemical oxygen demand (COD) in excess of two thousand five hundred (2,500) mg/l, by weight, may subject the discharger to the requirements prescribed in section 3-8(B)(ix).

**25. Suspended solids.**

The admission into the public sewers of any water or waste having a suspended solids in excess of two hundred (200) mg/l, by weight, on a twenty-four hour composite sample basis, will be subject to an excess strength surcharge as stated in section 6(C). Any sample taken with a suspended solids in excess of two hundred (200) mg/l, by weight, may subject the discharger to the requirements prescribed in section 8(B)(ix).

**26. Flow equalization.**

- A. The admission into the public sewers of any wastewater in volumes, or with constituents, such that the transportation of such wastewater through the public sewer to the treatment facility will not sufficiently dilute such wastewater to prevent interference with treatment or to prevent endangerment of public health and safety at the treatment facility shall be prohibited.
- B. Where necessary, facilities for varying the rate of discharge may be required as part of the building sewer in order to bring constituents or volume of flow discharged within the limits previously prescribed or to an otherwise acceptable level, and/or to hold or equalize flows such that no peak flow conditions may hamper the operation of any units of the public sewer or treatment facility. Such equalization unit shall have a capacity suitable to serve its intended purpose, and be equipped with acceptable outlet control facilities to control facilities to provide flexibility in operation and accommodate changing conditions in the waste flow. Equalizing facilities shall be provided to prevent flows from exceeding the following limits:

TABLE INSET:

Average Flow (Gallons per Day)	Allowable Ratio of Peak to Average Flow
10,000 to 100,000	3
100,000 to 500,000	2
More than 500,000	1.5

**27. Deleterious discharge.**

- A. If any wastewater is discharged, or is proposed to be discharged to the public sewers, which contains the constituents or possesses the characteristics enumerated in the preceding sections of this Article, and which may have a deleterious effect upon the wastewater collection system, wastewater treatment processes, equipment or receiving waters, or which otherwise creates a hazard to life or constitutes a public nuisance, the POTW director may, as a condition to the waste discharge permit:
  - (i.) Reject the wastes;

- (ii.) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (iii.) Require control over the quantities, concentration and/or rates of discharge; and/or
  - (iv.) Require payment to cover the added cost of receiving, handling and treating the wastes not covered by current charges of fees for wastewater service.
- B. If the POTW director permits or requires the pretreatment or equalization of waste flows, the design, installation of the plants and equipment and their effective operation shall be subject to the prior review and approval of the director and the local, state, and federal agencies having jurisdiction, and shall be subject to the requirements of all other applicable rules, regulations, ordinances and laws.
- C. In the event a spill or loss into the building sewer of any deleterious materials is threatened or occurs, the owner shall promptly notify the director of the nature of the spill or threatened spill, the quantity and if it has occurred, the time of the spill. The cause of such spills and losses of deleterious material shall be corrected, and the costs of such correction, together with all resulting damages, shall be borne by the owner.

## **28. Accidental discharge/slug control plans.**

- A. The POTW director shall evaluate whether each significant industrial user (SIU) needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in section 3-1(A). All SIUs must be evaluated within one year of being designated a SIU. The POTW Director may require any user to develop and submit for approval, and implement such a plan or other specific action. Alternatively, the POTW director may develop such a plan for any user.
- B. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or slug load. Also see sections 3-9(E and F).
- C. An accidental discharge/slug control plan shall address, at a minimum, the following:
- (i.) Description of discharge practices, including nonroutine batch discharges;
  - (ii.) Description of stored chemicals;
  - (iii.) Procedures for immediately notifying the POTW director of any accidental or slug discharge, as required by section 3-9(F) of this Article; and
  - (iv.) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

## **29. Hauled wastewater.**

Discharge of hauled wastewater is prohibited by the CFPWA, except as expressly authorized herein.

- A. Any commercial pump-out station which services recreational water vessels up to three hundred (300) feet in length may discharge into a designated connection into a system which is serviced by the Authority's collection system and treatment plant(s).
- (i.) The discharge shall be subject to approval by the Authority pursuant to the conditions of section 3-7 and 3-8 of this Article.
  - (ii.) Upon approval of discharge as outlined in the information provided in section 3-7 and 3-8 of this Article, the following sections may apply to the facility: section 3-15 "Preliminary Treatment Devices;" section 3-16 "Monitoring Facilities;" section 3-17 "Pretreatment of Wastewater;" and section 3-26 "Deleterious Discharge."

- (iii.) The discharge shall meet all requirements of section 3-19 "General Prohibitions;" and section 3-21 "Local Limits" of the Authority Code.
- (iv.) The owner will be responsible for the installation, operation, and maintenance of said connection. These expenses shall be borne by the owner.
- (v.) The discharge shall be subject to all applicable fees.
- (vi.) Should the owner decide to discontinue discharging into the Authority's collection system, the connection shall be permanently severed with an Authority representative present to verify that a physical severance has been made.

B. Pump and haul activities operating under a valid significant industrial user permit issued by the Authority

### **30. State requirements.**

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

### **31. Right of revision.**

The Authority reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the intent presented in section 3-2 of this Article or the general and specific prohibitions in section 3-19 of this Article, as is allowed by 40 CFR 403.4.

### **32. Dilution.**

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

### **33. Discharge of unpolluted waters.**

No person shall cause to be discharged inflow, groundwater, uncontaminated cooling water or uncontaminated process water to any public sanitary sewer. Such water and other unpolluted water may be discharged to a sewer designated specifically as a storm sewer, or to a natural outlet, provided such discharge is approved by the local, state or federal jurisdiction having Authority.

### **34. Administrative remedies.**

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

B. *Consent orders.* The POTW director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent

orders shall have the same force and effect as an administrative order issued pursuant to section 3-33 below.

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

The POTW director shall be present at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 34 nor is any action or inaction taken by the POTW director under this section subject to an administrative appeal under section 8(H).

- D. *Administrative orders.* When the POTW director finds that an industrial user has violated or continues to violate this Article, permits or orders issued hereunder, or any other pretreatment requirement, the POTW director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:
- (i.) Immediately comply with all requirements;
  - (ii.) Comply in accordance with a compliance time schedule set forth in the order;
  - (iii.) Take appropriate remedial or preventive action in the event of a continuing or threatened violation; and/or
  - (iv.) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

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

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

- F. *Termination of permit or permission to discharge.* The POTW director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to the following reasons:

- (i.) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (ii.) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (iii.) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (iv.) Violation of conditions of the permit or permission to discharge, conditions of this Article or any applicable state or federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section 3-33 of this Article why the proposed action should not be taken.

### 35. Civil penalties.

- A. Any user who is found to have failed to comply with any provision of this Article, or the orders, rules, regulations and permits issued hereunder, is subject to a civil penalty of up to twenty-five thousand dollars (\$25,000.00) per day per violation.
  - (i.) Penalties between ten thousand dollars (\$10,000.00) and twenty-five thousand dollars (\$25,000.00) per day per violation may be assessed against a violator only if:
    - a. For any class of violation, only if a civil penalty has been imposed against the violator within the five (5) years preceding the violation, or
    - b. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this Article, or the orders, rules, regulations and permits issued hereunder, only if the POTW director determines that the violator was intentional and a civil penalty has been imposed against the violator within the five (5) years preceding the violation.
- B. In determining the amount of the civil penalty, the POTW director shall consider the following:
  - (i.) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
  - (ii.) The duration and gravity of the violation;
  - (iii.) The effect on ground or surface water quantity or quality or on air quality;
  - (iv.) The cost of rectifying the damage;
  - (v.) The amount of money saved by noncompliance;
  - (vi.) Whether the violation was committed willfully or intentionally;
  - (vii.) The prior record of the violator in complying or failing to comply with the pretreatment program; and
  - (viii.) The costs of enforcement to the Authority
- C. Appeals of civil penalties assessed in accordance with this section shall be as provided in section 3-8(H).

### 36. Other available remedies.

Additional remedies available for use by the POTW director include, but are not limited to:

- (i.) *Criminal violations.* The District Attorney for the New Hanover Judicial District may, at the request of the Authority, prosecute noncompliant users who violate the provisions of this Article or N.C.G.S. 143-215.6B.
- (ii.) *Injunctive relief.* Whenever a user is in violation of the provisions of this Article or an order or permit issued hereunder, the POTW director, through the Authority attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a

- preliminary and permanent injunction which restrains or compels the activities in question.
- (iii.) *Water supply severance.* Whenever user is in violation of the provisions of this Article or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
  - (iv.) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this Article or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW director.
  - (v.) *Remedies nonexclusive.* The remedies provided for in this Article are not exclusive. The POTW director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Authority's enforcement response plan. However, the POTW director may take other action against any user when the circumstances warrant. Further, the POTW director is empowered to take more than one (1) enforcement action against any noncompliant user.

### **37. Annual publication of significant noncompliance.**

At least annually, the POTW director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H.0903(b)(10), with applicable pretreatment standards and requirements during the previous twelve (12) months.

### **38. Inspections and search warrants.**

- A. The POTW director and other duly authorized agents and employees of the Authority may 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 Authority, approval Authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of meter reading, inspection, sampling, records examination and copying or in the performance of any of their duties. The POTW director, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security personnel so that upon presentation of suitable identification, personnel from the POTW director, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW director's, the approval authority's, or EPA's access to the user's premises shall be a violation of this Article. Unreasonable delays may constitute denial of access.
- B. While performing the necessary work on private properties referred to above, the POTW director or duly authorized employees and agents of the Authority shall observe all safety rules applicable to the premises established by the owner.
- C. The property owner shall not be released from liability to any extent in the event that an Authority agent or employee is injured while making inspections which are pursuant to this Article on privately-owned property as a result of negligence on the part of the private property owner or any of his agent or employees.

D. If the POTW director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Authority designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW director, approval authority, or EPA may seek issuance of a search warrant from the Superior Court of Justice of New Hanover County.

### 39. Affirmative defenses to discharge violations.

#### A. *Upset.*

- (i.) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (ii), below, are met.
- (ii.) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and the user can identify the cause(s) of the upset;
  - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - c. The user has submitted the following information to the POTW director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
    - 1) A description of the indirect discharge and cause of noncompliance;
    - 2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - 3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (iii.) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (iv.) 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.
- (v.) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. *Prohibited discharge standards defense.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 19(A) of this Article or the specific prohibitions in sections 19(B)(ii), (iii), (v-vii) and (ix-xxiii) of this Article if it can prove that its discharge, alone or in conjunction with discharges from other sources, would not cause pass through or interference and that either:

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

#### C. *Bypass.*

- (i.) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (ii) and (iii) of this section.
- (ii.)
  - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director at least ten (10) days before the date of the bypass, if possible.
  - b. A user shall submit oral notice to the POTW director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (iii.)
  - a. Bypass is prohibited, and the POTW director may take an enforcement action against a user for a bypass, unless:
    - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - 3. The user submitted notices as required under paragraph (2) of this section.
  - b. The POTW director may approve an anticipated bypass, after considering its adverse effects, if the POTW director determines that it will meet the three (3) conditions listed in paragraph (3)(a) of this section.