

## CHAPTER 76A. SEWAGE PRETREATMENT

---

### 76A. SEWAGE PRETREATMENT

76A.01 Definitions. Subdivision 1. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Subd. 2. "Act" means the Federal Water Pollution Control Act (also known as the Clean Water Act) as amended, 33 U.S.C. 1251 et seq.

Subd. 3. "Ammonia Nitrogen (NH<sub>3</sub>-N)" means the quantity of nitrogen present in wastewater in the form of ammonia as measured by procedures described in "Standard Methods."

Subd. 4. "Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>)" means the quantity of oxygen utilized after five days in the biochemical oxidation of organic matter present in wastewater as measured by procedures described in "Standard Methods."

Subd. 5. "City" means the City of Rochester, Minnesota or its governing body, the Common Council of the City of Rochester.

Subd. 6. "City Engineer" means the Public Works Director or his or her designee.

Subd. 7. "Cooling Water" means the water discharged from any use such as air conditioning, cooling, or refrigeration, or during which the only pollutant added to the water is heat.

Subd. 8. "Industrial Users" or "Industries" means a source that introduces pollutants into the sanitary sewer from a non-domestic source regulated under section 307(b)(c), or (d) of the Act.

Subd. 9. "Interference" means the inhibition or disruption of the City's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES permit. The term includes prevention of sewage biosolids use or disposal by the City.

Subd. 10. "Medical Waste" means isolation waste, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Subd. 11. "Person" means any individual, firm, company, association, society, corporation or group.

## CHAPTER 76A. SEWAGE PRETREATMENT

---

Subd. 12. “pH” means the reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution as measured in procedures described in “Standard Methods.”

Subd. 13. “Pretreatment” means the process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the City's wastewater disposal system. The reduction, elimination, or alteration may be obtained by physical, chemical or biological processes, process changes or other means.

Subd. 14. “Significant Industrial User” means any industrial user of the City's wastewater disposal system which:

- A. Has a discharge subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. Chapter I, subchapter N;
- B. Discharges an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewaters) to the wastewater disposal system or that contributes process waste stream which makes up five percent or more of the average dry weather hydraulic, CBOD<sub>5</sub>, TSS, NH<sub>3</sub>-N, or TP capacity of the Water Reclamation Plant; or
- C. That that is designated as such by the City Engineer on the basis that the industrial user has a reasonable potential for adversely affecting the Water Reclamation Plant's operation or for violating any pretreatment standard or requirement.

Upon finding that a noncategorical user has no reasonable potential for adversely affecting the Water Reclamation Plant's operation or for violating any pretreatment standard or requirement, the City Engineer may at any time, upon its own initiative or in response to a petition received from a noncategorical industrial user and with the consent of the MPCA, determine that such industrial user is not a significant industrial user.

Subd. 15. “Standard Methods” means the latest edition of Standard Methods for the Examination of Water and Wastewater prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation, and, if options are available for a particular characteristic, the method as chosen by the Water Reclamation Plant for analysis.

## CHAPTER 76A. SEWAGE PRETREATMENT

---

Subd. 16. "State Disposal System Permit" means a permit including any terms, conditions and requirements thereof, issued by the MPCA pursuant to Minn. Stat. §115.07 for a disposal system.

Subd. 17. "Storm Water" means any flow of water occurring during or following any form of natural precipitation or which results therefrom.

Subd. 18. "Total Phosphorus (TP)" means all forms of phosphorus present in wastewater as measured in procedures described in "Standard Method."

Subd. 19. "Total Suspended Solids (TSS)" means the non-filterable residual matter present in wastewater as measured in procedures described in "Standard Methods". If a waste has a solids concentration, which cannot be filtered using "Standard Methods" procedures, then total solids will be measured and used in lieu of TSS using procedures described in "Standard Methods."

Subd. 20. "Total Pollutants" means any listed substances, compounds, or elements identified by the United States Environmental Protection Agency pursuant to Section 307 (A)(1) of the Clean Water Act.

Subd. 21. "Total Toxic Organics" means the summation any listed substances, compounds, or elements identified by the United States Environmental Protection Agency pursuant to Section 307 (A)(1) of the Clean Water Act greater than 0.01 milligrams per liter."

Subd. 22. "User" means a person who discharges, or causes or permits the discharge of, wastewater into the City's wastewater disposal system.

Subd. 23. "Wastewater" means the spent water of a community and includes liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, and surface water that may be present, whether treated or untreated, which is discharged into or permitted to enter the City's wastewater disposal system.

Subd. 24. "Wastewater Disposal System" or "System" means any devices, facilities, structures, equipment or works owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastewater or necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection system, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or

## CHAPTER 76A. SEWAGE PRETREATMENT

---

is used for ultimate disposal of residues resulting from such treatment.

Subd. 25. "Waters of the State" are streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

76A.02. Control by the City Engineer. The City Engineer shall have control and general supervision of all public sewers and service connections in the City, and shall be responsible for administering the provisions of this chapter to the end that a proper and efficient public sewer system is maintained. Where this ordinance refers to the responsibilities or duties of the City Engineer, the City Engineer is empowered to delegate an authorized representative.

76A.03. General Discharge Prohibitions. No user shall discharge or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or to any public sewer.

- A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. At no time shall pollutants with a closed cup flashpoint of less than 140°F be discharged to the sewer. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than five percent nor any single reading over ten percent of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
- B. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than 1/2" in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, personal hygiene wipes or cleaning paper products that do not readily dissolve within two minutes, spent grains, spent hops, waste paper, wood, plastic, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating

## CHAPTER 76A. SEWAGE PRETREATMENT

---

oil, mud or glass grinding or polishing wastes. Exceptions for some wastes, pursuant to section 76A.03 (p) of this ordinance are allowed.

- C. Any wastewater having a pH less than 5.0 or greater than 11.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
- D. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters or the wastewater disposal system.
- E. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- F. Any substance which may cause the wastewater disposal system's effluent or any other product of the wastewater treatment process such as residues, biosolids, 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 wastewater disposal system cause the system to be in noncompliance with biosolids use or disposal criteria of the State.
- G. Any substance which will cause the wastewater disposal system to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.
- H. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- I. Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute or any rule, regulation or ordinance of any public agency or state or federal regulatory body.
- J. Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104°F.
- K. Any slug load, which shall mean any pollutant, including but not limited to CBOD<sub>5</sub>, TSS, NH<sub>3</sub>N, TP, high or low pH, etc., released in a discharge of such

## CHAPTER 76A. SEWAGE PRETREATMENT

---

- volume or strength as to cause interference in the wastewater disposal system. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24 hour concentration, quantities, or flow. The Water Reclamation Plant must be notified immediately in the event of any slug load accidentally discharged or any other discharge that has the potential, either singly or in combination with other wastewater, to cause interference with the wastewater disposal system's process.
- L. Any wastewater containing fats, oils or grease, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65.6°C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 25 mg/l, whether emulsified or not.
  - M. Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that they would cause interference with the wastewater disposal system.
  - N. Wastewater containing hexavalent chromium. Any industrial discharger producing waste containing hexavalent chromium shall provide pretreatment facilities which will effectively reduce the chromium to the trivalent state. Dischargers will also be subject to appropriate limitations on total chromium discharges to the municipal wastewater collection system.
  - O. Any trucked or liquid hauled waste except as designated by the City Engineer.
  - P. Any medical wastes, except as provided for in an acceptable infectious waste management plan in compliance with the Minnesota Pollution control Agency, pursuant to Minnesota Statutes.
  - Q. Any discharge, which if otherwise disposed of would be considered a listed or characteristic hazardous waste under 40 CFR part 261, unless approved by the Water Reclamation Plant. Notification of such discharges must be made in writing and receive approval prior to discharge.

76A.04. Limitations on Wastewater Strength. Subdivision 1. Federal Pretreatment Standards. National Categorical Pretreatment Standards promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all users which are subject to such standards in any instance where they are more stringent than the

CHAPTER 76A. SEWAGE PRETREATMENT

---

limitations in this Chapter unless the City Engineer has applied for, and obtained from the MPCA approval to modify the specific limits in the National Categorical Pretreatment Standards. When requested, an application for modification of the National Categorical Pretreatment Standards will be considered for submittal by the City Engineer when the wastewater treatment system achieves consistent removal of the pollutants. "Consistent removal" for purposes of this section shall mean reduction in the amount of pollutant or alteration of the nature of a pollutant which is in the influent to the wastewater treatment system to a less toxic or harmless state by the time it is discharged in the effluent. The reduction or alteration must be achieved in 95% of the samples taken when measured according to the procedures set forth in 40 CFR § 403.7(c)(2) of the "General Pretreatment Regulations for Existing and New Sources of Pollution."

Subd. 2. State Requirements. State requirements and limitations on discharges shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this chapter.

76A.05. City's Right of Revision. The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system.

76A.06. Dilution. No user shall 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 herein, contained in the National Categorical Pretreatment Standards, or contained in any state requirements.

76A.07. Local Limitations. No person shall discharge wastewater containing the following described elements or compounds in excess of the following concentrations:

Arsenic -----	0.14 mg/l
Cadmium -----	0.26 mg/l
Copper -----	1.0 mg/l
Cyanide -----	0.65 mg/l
Lead -----	0.43 mg/l
Mercury -----	0.009 mg/l
Molybdenum -----	1.43 mg/l
Nickel -----	2.38 mg/l
Silver -----	0.24 mg/l
Chromium -----	1.71 mg/l
Zinc -----	1.48 mg/l
Selenium -----	0.44 mg/l
Methylene Chloride ---	1.00 mg/l
Total Toxic Organics --	2.13 mg/l

## CHAPTER 76A. SEWAGE PRETREATMENT

---

76A.08. Accidental Discharges. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City Engineer for review and shall be approved by the City Engineer before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

76A.09. Charges and Fees. Subdivision 1. It is the purpose of this ordinance to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's Schedule of Charges and Fees which will be adopted by Resolution and modified from time to time.

Subd. 2. Charges and fees may include:

- A. Fees for monitoring, sampling, inspections and surveillance procedures;
- B. Fees for permit applications;
- C. Appeal fees; and,
- D. Such other fees as the City may deem necessary to carry out the requirements contained herein.

76A.10. User Reports. Subdivision 1. The City Engineer may require that any person discharging or proposing to discharge wastewater to the wastewater disposal system file a periodic discharge report. The required information contained in the discharge report may include, but not be limited to, nature of process, rates of flow, mass discharge rate, raw material and production quantities, hours of operation, number and classification of employees, compliance status with any state or federal pretreatment standards, or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site, even though they may not normally be discharged. At a minimum, a summary of such data indicating each industrial user's compliance with this chapter shall be prepared semi-annually and submitted to the City Engineer. In cases where the WRP collects most of the industrial user data the reporting requirement may be waived. In addition to discharge reports, the City Engineer may require



## CHAPTER 76A. SEWAGE PRETREATMENT

---

information in the form of Wastewater Discharge Permit applications, self-monitoring reports, and compliance schedules.

Subd. 2. Report on compliance with Categorical Pretreatment Standards. Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards or in the case of a new source following commencement of the introduction of wastewater into the municipal sewer system, any industrial user subject to Categorical Pretreatment Standards shall submit to the City Engineer a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Categorical Pretreatment Standards and the average and maximum daily flow for those process units. Users must achieve compliance by this 90 day deadline.

Subd. 3. Subsequent to the filing of the initial compliance report, all significant industrial users shall submit to the City Engineer a report showing the results of effluent monitoring for parameters as instructed by the City Engineer.

Subd. 4. Baseline Monitoring Report. Current users who are or become subject to National Categorical Pretreatment Standards and new users shall be required to submit a Baseline Monitoring Report (BMR). The report shall be submitted at least 90 days prior to commencement of discharge for new users and within 180 days of promulgation of the applicable National Categorical Pretreatment Standard for existing users. The BMR shall contain the following information:

- A. The name and address of facility including the names and addresses of owners and operators;
- B. A list of any environmental control permits held by or for the facility;
- C. A brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of discharge to the wastewater treatment facility from the regulated processes;
- D. Information showing the measured average daily and maximum daily flow, in gallons per day;
- E. The results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge. Both daily maximum and average concentration shall be reported. The sample shall be representative of daily operations;

## CHAPTER 76A. SEWAGE PRETREATMENT

---

- F. A statement indicating whether or not Pretreatment Standards are being met on a consistent basis, and if not what changes will be made to gain compliance;
- G. If additional measures are required a schedule showing when compliance will be achieved;

76A.11. Hazardous Waste Discharges. Industrial users must notify the WRP, MPCA, and EPA of any discharge into the sanitary sewer which if otherwise disposed of would be considered a listed or characteristic RCRA hazardous waste under 40 CFR part 261 hazardous waste. Notifications must be made and approved prior to discharge.

76A.12. Wastewater Discharge Permits. Subdivision 1. Mandatory Permits. All significant industrial users proposing to connect or to commence a new discharge to the wastewater disposal system shall obtain a Wastewater Discharge Permit before connecting to or discharging into the wastewater system. All existing significant industrial users or industrial users subject to National Categorical Pretreatment Standards connected to or discharging into the wastewater disposal system shall obtain a Wastewater Discharge Permit within 90 days after the effective date of this Ordinance.

Subd. 2. Permit Application. Users required to obtain a Wastewater Discharge Permit shall complete and file with the WRP Manager, an application in the form prescribed by the WRP Manager, and accompanied by a fee of \$100. New users shall apply prior to connecting or discharging to the wastewater disposal system. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- A. Name, address, and location, (if different from the address).
- B. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- C. Wastewater constituents and characteristics including but not limited to those limited by the "Limitations on Wastewater Strength" section of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 13b, as amended.
- D. Time and duration of discharge.
- E. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

## CHAPTER 76A. SEWAGE PRETREATMENT

---

- F. Site plans floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.
- G. Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged.
- H. Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, state or National Categorical Pretreatment Standards, and (for an existing discharge) a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards. If additional operation and maintenance and/or pretreatment will be required, the proposed schedule by which the changes will be completed shall be submitted. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The schedule shall contain increments of progress 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 use to meet the applicable pretreatment standard. No increment shall exceed nine months in length, and progress reports concerning each increment shall be submitted within 14 days following each increment date.
- I. Each product produced by type, amount, and rate of production.
- J. Type and amount of raw materials processed (average and maximum per day).
- K. Number of full and part time employees, and hours of work.
- L. Any other information as may be deemed by the WRP Manager to be necessary to evaluate the permit application.

Subd. 3. The WRP Manager will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the WRP Manager may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

Subd. 4. Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of this Chapter and all other applicable regulations, user charges and

## CHAPTER 76A. SEWAGE PRETREATMENT

---

fees established by the City. Permits may contain the following:

- A. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system.
- B. Limits on the average and maximum wastewater constituents and characteristics.
- C. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- D. Requirements for installation and maintenance of inspection and sampling facilities.
- E. Requirements for installation, operation, and maintenance of pretreatment facilities.
- F. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule.
- G. Compliance schedules.
- H. Requirements for submission of technical reports or discharge reports.
- I. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City Engineer, and affording the City Engineer access thereto.
- J. Requirements for notification to the City Engineer of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- K. Requirements for notification of slug discharges.
- L. Other conditions as deemed appropriate by the City to ensure compliance with this chapter.

Subd. 5. Permit Duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than a year or may be stated

to expire on a specific date. The user shall apply for permit reissuance a minimum of 60 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the WRP Manager during the term of the permit as limitations or requirements are modified or other just cause existing. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standard 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 chapter 77, the user shall apply for a Wastewater Discharge Permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing Wastewater Discharge Permit shall submit to the WRP Manager within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard the information required by this chapter. If the information previously submitted in an application is still current and adequate, only a letter from the user certifying such is required.

Subd. 6. Permit Transfer. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the WRP Manager. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

76A.13. Monitoring Facilities. Subdivision 1. When required by the WRP Manager, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems shall be provided and operated by industrial users. The monitoring facility should normally be situated on the user's premises, but the WRP Manager may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

Subd. 2. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and compositing 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.

Subd. 3. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the WRP Manager's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the WRP Manager.

## CHAPTER 76A. SEWAGE PRETREATMENT

---

76A.14. Inspection and Sampling. The WRP Manager shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the WRP Manager ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The WRP Manager, MPCA 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 any security guards so that upon presentation of suitable identification, the WRP Manager, MPCA and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

76A.15. Pretreatment. Subdivision 1. Users shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the WRP Manager 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 WRP Manager for review, and shall be acceptable to the WRP Manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WRP Manager under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the WRP Manager prior to the user's initiation of the changes.

Subd. 2. All records relating to compliance with pretreatment standards shall be made available by the WRP Manager to officials of the EPA or MPCA upon request.

76A.16. Confidential Information. Subdivision 1. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City Engineer and in accordance with 40 CFR 403.14 that the release of such information would divulge information, processes or methods of production entitled to protection as trade secret information of the user. The term "trade secret information" shall be defined as provided in Minn. Stat. §13.37, subd. 1(b).

Subd. 2. When requested by the person furnishing a report, the portions of a report

## CHAPTER 76A. SEWAGE PRETREATMENT

---

which might disclose trade secret information 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 chapter, the NPDES Permit, State Disposal System permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

76A.17. Sludges Generated. Sludges, floats, skimmings, or other similar by-products generated by an industrial or commercial pretreatment system shall not be placed into the sanitary sewer system. Such sludges shall be contained, transported, and disposed of by haulers in accordance with all federal, state, and local regulations.

76A.18. Slug or Accidental Discharges. Subdivision 1. Users shall notify the WRP Manager immediately upon having a slug or accidental discharge of substances or wastewater in violation of this chapter in order to enable countermeasures to be taken by the WRP Manager to minimize damage to the wastewater disposal system and the receiving waters. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the City on account thereof under any state or federal law.

Subd. 2. The WRP Manager may require any Significant Industrial Users (SIU) to submit a plan to control slug discharges as defined under 40 CFR 403.8(f)(2)(v).

Subd. 3. A detailed written statement submitted by the user describing the causes of the slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the WRP Manager within 15 days of the date of occurrence.

76A.19. Revocation of Permit. The City Engineer may revoke the permit of any user which fails to factually report the wastewater constituents and characteristics of his discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring; or for violation of conditions of its permit, this Chapter, or applicable state and federal regulations. Non-compliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause, as outlined under this Ordinance, why the proposed action should not be taken.

76A.20. Notification of Violation. Whenever the City Engineer finds that any person has violated or is violating this Ordinance, Wastewater Discharge Permit, or any prohibition, limitation or requirement contained herein, the City Engineer may serve upon such person a written notice stating the nature of the violation. Within ten days of the date of the notice, a

## CHAPTER 76A. SEWAGE PRETREATMENT

---

plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

76A.21. Show Cause Hearing. Subdivision 1. Notice of Hearing. If the violation is not corrected by timely compliance, the City Engineer may order any user which causes or allows an unauthorized discharge to show cause before the Common Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Common Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Common Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

Subd. 2. The Common Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the City to:

- A. Issue in the name of the Common Council a notice of hearing requesting the attendance and testimony of a witness and the production of evidence relevant to any matter involved in such hearing;
- B. Take the evidence; and
- C. Transmit a report of the evidence and hearing, including a transcript thereof and other evidence, together with recommendations to the Common Council for action thereon.

Subd. 3. Transcripts. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.

Subd. 4. Compliance Orders. After the Common Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Orders may also contain such other requirements as might be reasonably necessary



## CHAPTER 76A. SEWAGE PRETREATMENT

---

and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

76A.22. Consent Orders. The City Engineer may enter in to Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order.

76A.23. Cease and Desist Orders. When the City Engineer finds that an industrial user has violated or continues to violate this Ordinance or any permit or order issued hereunder, the City Engineer may issue an order to cease and desist all such violations and direct those persons in noncompliance to comply forthwith, and take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

76A.24. Administrative Fines. Any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, may be fined in an amount not to exceed \$1,000.00 per violation. Each day on which noncompliance occurs or continues shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the City Engineer shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the City Engineer to reconsider the fine within 10 days of being notified of the fine. Where the City Engineer believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.

76A.25. Emergency Suspensions. Subdivision 1. The City Engineer may suspend the wastewater treatment service and/or a Wastewater Discharge Permit when such suspension is necessary, in the opinion of the City Engineer, 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, to the environment, or to the wastewater disposal system, or would cause the City to violate any condition of its NPDES or State Disposal System Permit.

Subd. 2. Any user notified of a suspension of the wastewater treatment service and/or a Wastewater Discharge Permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the City Engineer shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the wastewater disposal system or endangerment to any

## CHAPTER 76A. SEWAGE PRETREATMENT

---

individuals. The City Engineer shall reinstate the Wastewater Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

76A.26. Judicial Remedies. Subdivision 1. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any permit issued hereunder, the City Attorney may commence an action for appropriate legal and/or equitable relief.

Subd. 2. Injunctive relief. Whenever an industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the Common Council may direct the City Attorney to seek a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.

Subd. 3. Civil Penalties. Any industrial user who has violated or continues to violate this chapter or any permit or order issued hereunder, shall be liable to the City for the maximum civil penalty allowed by Minnesota State law, plus actual damages incurred by the Water Reclamation Plant per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the City may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. The City Attorney shall petition the Court to impose, assess, and recover such sums. In determining the amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

Subd. 4. Criminal Prosecution. Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor.

76A.27. Affirmative Defenses. Subdivision 1. Any industrial user who experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the City Engineer thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five days. The report shall contain; a description of the upset, its cause, and impact on the discharger's compliance status; the duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored. An industrial user who complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any

## CHAPTER 76A. SEWAGE PRETREATMENT

---

enforcement action brought by the City Engineer for any noncompliance with this chapter, or an order or permit issued hereunder by the user which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

Subd. 2. Treatment Bypasses. A bypass of the treatment system is prohibited unless all of the following conditions are met; the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; there was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and the industrial user properly notified the City Engineer. Industrial users must provide immediate notice to the City Engineer upon discovery of an unanticipated bypass. If necessary, the City Engineer may require the industrial user to submit a written report explaining the cause, nature and duration of the bypass, and the steps being taken to prevent its recurrence. An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the City Engineer at least ten days in advance. The City Engineer may only approve the anticipated bypass if the circumstances satisfy those set forth above.

76A.28. Variances. With the exception of Federal categorical pretreatment standards and requirements, upon the written request of any person, the City Engineer may grant a variance to these rules or any permit issued thereunder. When such requests can show that there is no economically or technologically feasible alternative to noncompliance, or is in the overall best interests to the citizens of Rochester and; the variance will not cause any treatment plant upset, or contamination of any biosolids and; will not cause damage to the receiving waters and, does not present any danger to any person or persons, such request shall be given approval. Any approval of such a request will be in the form of a written response which may contain, and be contingent upon meeting, certain conditions set forth by the City Engineer.

76A.29. Annual Publication. A list of persons who were in significantly noncompliance with applicable pretreatment requirements, or National Categorical Pretreatment Standards during the twelve previous months, shall be annually published by the City in a local newspaper. Significant noncompliance is defined by 40 CFR 403.8 (f) (2) (vii).

76A.30. Falsifying Information. No person shall knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or Wastewater Discharge Permit. No person shall tamper with or knowingly render inaccurate any monitoring device or method required under this chapter.

76A.31. Conflict. Any other ordinance or parts thereof inconsistent or conflicting with any part of this chapter is repealed to the extent of such inconsistency or conflict.

## CHAPTER 76A. SEWAGE PRETREATMENT

---

(2438, 5/20/85; 2471, 10/8/85; 2608, 10/25/88; 2961, 12/20/94; 3430; 12/4/01; 3836, 10/15/07; 4225, 2/1/16)