

Code of General Ordinances of the City of Tallahassee, Florida

Chapter 21

Utilities

Article IX. Sewers and Sewage Disposal

Division 3. Discharge Restrictions.

Subdivision I. In General.

Sec. 21-346. Definitions.

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

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. Seq.

Accidental discharge means the unintentional discharge of a regulated substance into the wastewater system.

Administrative action review or *AAR* means a comprehensive review by the city of violations of this division by a user, the city's past responses to such violations, past assessments made by the city in regard to such violations, actions taken by the user in response to notices of such violations, and efforts by the user to maintain compliance with the requirements of this division.

Authorized representative of industrial user means:

- (1) If the industrial user is a corporation, authorized representative shall mean:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

- b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.

(3) If the individual user is representing federal, state or local governments, or an agent thereof, 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.

(4) The individuals described 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 authorization is submitted to the city.

Biochemical oxygen demand or *BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/L).

Biosolids means the solid, semi-solid, or liquid residue generated during the treatment of wastewater.

Bypass means the intentional diversion of waste streams from any portion of a user's pretreatment facilities into the wastewater system.

Categorical pretreatment standards means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter I Subchapter N, Parts 405-471, incorporated in this section by reference. A list of activities currently regulated by categorical pretreatment standards is presented in appendix D on file. This list will be updated as necessary by the general manager in the form of a sewer use directive.

Categorical user means all industrial users subject to categorical pretreatment standards under Rule 62-625.410, F.A.C., and 40 CFR Chapter I, Subchapter N, Parts 405-471, which has been adopted by reference in Chapter 62-660, F.A.C.

CFR means the Code of Federal Regulations.

Discharge means the introduction of pollutants into the wastewater system from any non-domestic source regulated by 40 CFR 403.

EPA means the U.S. Environmental Protection Agency and any successor agency.

Existing source means, for users not subject to categorical pretreatment standards, any source of discharge which commenced prior to December 2, 1992. For users subject to categorical pretreatment standards, *existing source* means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards under Sections 307(b) and (c) of the Act (33 USC 1317) which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

F.A.C. means the Florida Administrative Code.

General manager means the General Manager -- Water Utility, or his designee.

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

Hazardous waste means any substance discharged into the wastewater system which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

Industrial user means any user which is a source of a discharge into the wastewater system, except a user located at a premises used only for human residency and where no sort of commercial activities are conducted on the premises.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which causes or contributes to the inhibition or disruption of the wastewater system, including sewage collection facilities, the processes or operations of the treatment plant, or the use or disposal of biosolids in accordance with the city's operating permit or any of the following regulations or permits issued thereunder (or more stringent state or

local regulations): Section 405 of the Act; the Solid Waste Disposal Act (including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA)); any state sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; and the Toxic Substances Control Act.

Medical waste means 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.

New source means:

(1) Any source of a discharge, the construction or operations of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) (33 USC 1317(c)) of the Act which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307(c), provided that:

- a. No other source is located at that site; or
- b. The source completely replaces the process or production equipment of an existing source at that site; or
- c. The new wastewater generating process of the source is substantially independent of an existing source at that site; and the construction of the source creates a new facility rather than modifying an existing source at that site.

(2) Any source of a discharge, the construction or operations of which commenced after adoption of this article for users not subject to categorical pretreatment standards. For purposes of this definition, construction or operation has commenced if the user has:

- a. Begun construction, or caused construction to begin, as part of a continuous on-site construction program; or,
- b. Caused the placement, assembly, or installation of facilities or equipment; or,
- c. Commenced any 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,

- d. 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, contracts which can be terminated or modified without substantial loss to the purchaser, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation for purposes of this definition.

Non-contact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Notice of required action or NORA means a written notice advising a user of a violation of, or inadvertent noncompliance with, the administrative requirements this division (e.g., record keeping or reporting).

Notice of violation or NOV means a written notice advising a user of a violation of categorical pretreatment standards or other requirements of this division. A NOV will require the user to provide an explanation of the cause for such violation and to take corrective action in order to achieve compliance. A NOV will also advise the user of any penalties or assessments imposed as a result of the violation.

Pass through means a discharge which exits the treatment plant in the effluent or in biosolids, in quantities or concentrations which, alone or in conjunction with an indirect discharge or discharges, cause the effluent or the biosolids to be unacceptable for agricultural or public access reuse purposes.

pH means a measure of the acidity or alkalinity of a substance, expressed in standard units. Neutral wastewaters are numerically equal to 7 while the number increases to show increasing alkalinity and decreases to show increasing acidity.

Pollutant means any of the following discharged into water or the wastewater system: dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; biosolids; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and municipal, agricultural and industrial wastes.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of 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 wastewater system. The reduction or

alteration can be obtained by physical, chemical, or biological processes, or by process changes, or by other means, except by diluting the concentration of the pollutants, unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirements related to pretreatment other than pretreatment standards.

Pretreatment standards means prohibited discharges, categorical pretreatment standards, and other specific pollutant limitations set forth in this division.

Process wastewater means any water used in a manufacturing or processing operation that comes into contact with, or results from the production or use of, any raw material, intermediate product, finished product, byproduct, or waste product.

Prohibited discharge or prohibited discharge standards means absolute prohibitions against the discharge of certain substances.

Sewage means human excrement and gray water from household showers and sinks, dishwashing operations, and other similar sources.

Sewer use directive shall mean decisions by the general manager described in Section 21-349, City of Tallahassee General Code.

Sewer use manual shall mean the manual promulgated by the general manager in accordance with Section 21-349, City of Tallahassee General Code.

SIC means Standard Industrial Classification Code.

Significant industrial user means industrial user subject to categorical pretreatment standards, or any other industrial user that:

(1) Discharges an average of 25,000 gallons per day or more, of process wastewater to the wastewater system, based on the average sewer usage of that user for the previous 12 months;

(2) Contributes process wastewater which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

(3) Is designated as significant by the general manager because the industrial user has a reasonable potential for causing pass through or interference. Information obtained from wastewater questionnaires and sample analysis shall be considered for purposes of making that determination.

Slug control plan means an emergency plan to notify the general manager of an accidental or purposeful discharge of a pollutant at any flow rate or concentration that will interfere with or pass through the wastewater system.

Slug load or *slug* means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards.

Spill prevention plan means a plan that is developed by a user outlining the response to an accidental discharge of a controlled substance. The plan may include, among other things, secondary containment, cleanup processes, and hazardous response. Detailed plans showing the facility and operating procedures to provide this protection may be required by the general manager.

Suspended solids or *total suspended solids* mean 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.

User means any person who contributes, causes or allows any discharge into the wastewater system, including tenants under any rental or lease agreement and any person who contributes, causes, or allows such discharge from mobile sources.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and other institutions, whether treated or untreated, which are discharged into the wastewater system.

Wastewater system means pipelines or conduits, pumping stations, force mains and all other structures, devices, appurtenances, and facilities owned by the city and used for collecting or conducting wastewater waters to an ultimate point for treatment or disposal.

Sec. 21-347. Purpose.

The purpose of this subdivision is to provide for the maximum possible beneficial public use of the wastewater system, through regulation of sewer use and wastewater discharge; while providing efficient wastewater treatment that meets the demand of the community for maintaining public health and environmental standards; and providing penalties for violations thereof. It is the further purpose of this subdivision to do the following:

- a. To enable industrial pretreatment within the city to comply with all applicable federal and state laws, statutes, regulations, and rules, including, without limitation, the Act and Chapter 62-625, Florida Administrative Code; and,

- b. To provide fees for the equitable distribution of the cost of operation, maintenance, and improvements of the wastewater system; and,
- c. To promote the reuse and recycling of industrial wastewater and biosolids from the wastewater system; and
- d. To protect both city personnel who may be affected by wastewater and sludge in the course of their employment and the general public; and,
- e. To prevent the introduction of pollutants into the wastewater system that will pass through the wastewater system, inadequately treated, into receiving waters, or otherwise be incompatible with the wastewater system; and,
- f. To prevent the introduction of pollutants into the wastewater system that will interfere with its operation.

Sec. 21-348. Applicability.

Unless specifically stated otherwise, this division shall apply to all users of the wastewater system. This division shall apply to users within and outside of the city who, by discharging wastewater into the wastewater system, agree to comply with the terms and conditions established in this division as well as any permits or orders issued hereunder. This division provides for the regulation of direct and indirect discharge to the wastewater system, the issuance of permits to certain industrial users, the enforcement of general requirements for other users, monitoring and enforcement activities, administration review procedures and user reporting.

Sec. 21-349. Administration.

Except as otherwise provided in this division, the general manager shall administer, implement and enforce the provisions of this division. Policies and procedures relating to such administration, implementation, and enforcement shall be set forth in a sewer use manual promulgated by the general manager. Decisions of the general manager that relate to interpretation or application of that manual or this division and that can be applied to all users shall be issued as sewer use directives and shall be available from the general manager.

Sec. 21-350. City's right of revision.

The city reserves the right to establish, by ordinance, policy or in wastewater discharge permits, more stringent limitations or requirements on discharges to the wastewater system if deemed necessary to comply with this subdivision.

Sec. 21-351. Special agreement.

The city reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the system.

Sec. 21-352. Administrative actions.

Unless otherwise stated in this division, the general manager shall have full authority to take all actions deemed necessary with respect to enforcement of this division, including, without limitation, issue all notices of required action and notices of violation, order and conduct administrative action reviews, levy fines or penalties and other assessments, order remedial action, and suspend or terminate service to a user.

Sec. 21-353. Enforcement remedies.

This division shall be enforced solely pursuant to the procedures outlined in this section. Enforcement of this division is specifically excluded from the jurisdiction of the municipal code enforcement board as provided in chapter 2, article V, division 3 of this Code.

(1) *Administrative enforcement.* Any user which has violated or continues to violate this division, any order or permit hereunder, or any other pretreatment requirement shall be subject to imposition, by the general manager, of fines and penalties in accordance with this division, not to exceed \$2,000 per day. The user shall also be responsible for any other costs incurred by the city as a result of the violation.

- a. Penalties, fines, and other amounts owed to the city shall be added to the user's utility account. Users will be notified by the general manager of any penalties, fines, or other amounts assessed against the user. The person responsible for the utility account shall be responsible for any penalty regardless of any rental or lease agreement and regardless of whether or not such person occupies or uses the premises in question. Permitted waste haulers shall be invoiced using digester fee billing procedures.
- b. Any user desiring to dispute the imposition of such penalties, fines, or other amounts must file a written request with the general manager to reconsider such imposition within 14 days of being notified of the imposition. That written request may include a request to meet personally with the general manager. The general manager, if a personal meeting is requested, shall

schedule such meeting with the user within 21 days of receiving the request. Payment and daily accrual of any fine, penalty, or other amount imposed on the user shall be tolled during the pendency of a timely filed request for reconsideration. If the user does not receive the requested relief, the obligation to pay, and the accrual of, the subject impositions will resume.

- c. Any user who timely files a written request for reconsideration with the general manager and does not receive the requested relief may file a written request for review with the city manager within ten (10) days following the date of the general manager's written determination. The city manager, or his or her designee, shall consider and render a decision on the request for review, which decision shall be final.
- d. As a part of a consent order, the general manager may accept mitigation projects in lieu of the payment of administrative penalties where the project provides a valuable service to the city and the industrial user's expense in undertaking the project is at least 150 percent of the amount of the administrative penalty.

(2) *Judicial enforcement.* In addition to the various penalties, fines, and other enforcement actions set forth in this division, any user in violation of this division shall be subject to prosecution in a court of competent jurisdiction and, if convicted, may be sentenced to pay penalties and fines otherwise imposed by this division and may be sentenced to imprisonment for a term not to exceed 60 days in a facility as authorized by law.

(3) *Injunctive relief.* Whenever an industrial user has violated or continues to violate the provisions of this division, or the provisions of any permits or orders issued hereunder, or any other pretreatment requirement, the general manager, through the city's attorney, may also petition for the issuance of a temporary or permanent injunction, as may be appropriate, which restrains non-compliance or compels compliance with the provisions of the applicable permit, order, or other requirement imposed by this division on activities of the user.

(4) *Enforcement guide.* The guidelines provided in section 21-357 shall be used to determine the response that the city takes, and the assessments it imposes, when a violation of this division is identified. The general manager shall determine the appropriate response and assessment for any violation not specifically addressed.

(5) *Termination of discharge.* In addition to the other remedies available under this section and otherwise, the general manager may require termination of, or terminate, the discharge of any user who violates any of the following conditions:

- (i) violation of the terms or conditions of a wastewater discharge permit;
- (ii) failure to accurately report the wastewater constituents and characteristics of its discharge;
- (iii) failure to report significant changes in operations or wastewater volume, constituents, or characteristics prior to discharge;
- (iv) refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (v) violation of any categorical pretreatment standards set forth in this division.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause why the discharge should not be terminated as proposed.

(6) *Remedies not exclusive.* The general manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city enforcement response plan; however, the general manager may take other action against any user when the circumstances warrant. Further, the general manager is empowered to take more than one enforcement action against any noncompliant user.

Sec. 21-354. Prohibited discharge standards.

(a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which can reasonably be expected to cause interference or pass through. These general prohibitions apply to all users of the wastewater system whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. Furthermore, no user may contribute the following substances to the wastewater system:

(1) 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 to be injurious in any other way to the wastewater system. Included in this prohibition are waste streams with a closed cup flashpoint of less than 140° Fahrenheit (60° Celsius), determined in accordance with test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances larger than ½ inch in any dimension or which are in quantities which may reasonably be expected to cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system.

(3) Petroleum emulsions, petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in excess of 100 mg/L oil and grease, which will cause interference or pass through.

(4) Any wastewater having a pH less than 5.0 or more than 10.0, or which otherwise causes corrosive structural damage to the wastewater system, city personnel or equipment.

(5) Pollutants released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the wastewater system.

(6) 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 nuisance or hazard to life or to prevent entry of persons into the sewers for maintenance and repair.

(7) Any biosolids screenings, or other residues from the pretreatment of industrial wastes, unless specifically authorized by the general manager.

(8) Any wastewater having a temperature greater than 150°F (65°C) at the point of discharge to the wastewater system, or which will inhibit biological activity in the treatment plant resulting in interference, or which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).

(9) Wastewater containing radioactive wastes or isotopes except as specifically approved by the general manager in compliance with applicable state or federal regulations.

(10) Discharge which results in the presence of toxic gases, vapors or fumes within the wastewater system in a quantity that may cause worker health or safety problems. The user's discharge may at no time exceed limits established in 29 CFR 1910.1000 (Subpart Z-Toxic and Hazardous Substances of Chapter XVII--Occupation Safety and Health Administration).

(11) Any trucked or hauled pollutants, except at discharge points designated by the general manager in the sewer use manual.

(12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, condensate, cooling water, or unpolluted industrial wastewater, unless specifically authorized by the general manager.

(13) Wastewater that imparts color that cannot be removed by the city's wastewater treatment process, such as, but not limited to, dye waste and vegetable tanning solutions.

(14) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes in sufficient quantities to cause interference with the wastewater system.

(15) Any hazardous waste, except as may be specifically authorized by the general manager.

(16) Recognizable portions of human anatomy, animal anatomy, or medical waste in a wastewater discharge, except as specifically authorized by the general manager.

(17) Any wastes containing detergents, surface-active agents, or other substances in quantities which may cause excessive foaming in, or interference with, the wastewater system.

(18) Any chemicals or pesticides set forth in the sewer use manual. This includes substances that are banned for sale or use in the United States, the state, the county or the city.

(b) The general manager shall have the authority to specifically approve the discharge of any substance which would otherwise be prohibited, provided, however, that such approved discharge shall be limited to no more than five years. Requests must be submitted on a form specified by the general manager and signed and certified in accordance with Section 21-376. Whenever possible, guidelines for the granting of specific approval shall be established by the general manager and set forth in the sewer use manual..

(c) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the wastewater system.

(d) Substances whose discharge is prohibited by this section shall not be processed or stored in such a manner that such substances 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 wastewater system.

(e) Bypass is prohibited, and the general manager may take an enforcement action against any user for a bypass, unless:

- (i) the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (ii) 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 when equipment is not in use (provided that, in the exercise of reasonable engineering judgment, no back-up equipment should have been installed to prevent a bypass from occurring during normal periods of equipment non use or preventive maintenance); and,
- (iii) the user submitted notices as required under subsection (e)(3) below.

(1) 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.

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

(3) A user shall submit oral notice to the general manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain the following: 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 general manager may waive the written report on a case-by-case basis if the oral report has been received within the required time and the bypass will not cause or result in damage to the wastewater system.

(4) The general manager may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the conditions set forth in (i), (ii), and (iii) above.

Sec. 21-355. Categorical pretreatment standards.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the general manager may impose equivalent concentration or mass limits in accordance with Rule 62-625.410(4), F.A.C.

(b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the general manager shall impose an alternate limit using the combined wastestream formula set forth in Rule 62-625.410(6), F.A.C.

(c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions set forth in Rule 62-625.700, F.A.C., 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 pretreatment standard in accordance with Rule 62-625.820, F.A.C.

Sec. 21-356. Specific pollutant limitations.

(a) No person shall discharge wastewater containing pollutants in excess of concentration limitations established by the general manager using procedures, calculations and methods acceptable to the Florida Department of Environmental Protection (FDEP) to protect against pass through, interference, protection of city employees, and adverse affects on wastewater residuals disposal. No industrial user shall discharge process waste streams, unregulated waste streams, or dilute waste streams in excess of the concentrations set forth by the general manager. Local concentration limitations shall be included as conditions in permits issued by the city.

(b) The established concentration limitations shall be subject to change and shall be modified as needed based on the following: applicable regulatory requirements and standards; wastewater system operation, performance and processes; the industrial user base; potable water quality; and domestic wastewater characteristics. Modifications to the local concentration limitations established from time to time must be reviewed and approved by FDEP prior to implementation and shall become effective 30 days from notice of acceptance of the modified limitations by FDEP. Concentration limitations apply at the point where the industrial waste is discharged to the wastewater system or at the end of the process, as determined by the general manager. All concentrations for metallic substances are for "total" metal. At the discretion of the general manager, mass limitations may be imposed in addition to or in place of the concentration limitations.

Sec. 21-357. Table of guidelines.

The following guidelines shall be used in determining the response and possible assessment of penalties, fines, and costs in the event of a violation of this division. The phrases "no harm" or "with harm" refer to whether or not a particular violation, in the opinion of the general manager, resulted in harm to any component or portion of the wastewater system, city employees, the environment, or the public.

(a) The following guidelines shall be used with regard to violations of subdivision I this division 3.

No Harm

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Only violation in past two years.	1. NORA or NOV. Re-inspection within 60 days	1. Sampling and analysis fee.
2. Violation repeated in past two years but not in past six months.	2. NOV. Re-inspection within 60 days.	2. Sampling and analysis fee. Penalty of \$75 or 1 /2 sewer bill, not to exceed \$500/violation.
3. Violation repeated in past six months.	3. NOV. Re-inspection within 30 days.	3. Sampling and analysis fee. Penalty of \$150 or 1/2 sewer bill, or double previous penalty.
4. Failure to comply with required remedial or other action.	4. NOV / AAR / Severance of service.	4. \$1,000/violation.

With Harm

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. First offense. Harm to Treatment Facility, City Employees, Environment or Public.	1. NOV. Re-inspection within 30 days.	1. Sampling and analysis fee and damages to City. Penalty of ½ the sewer bill or double the previous penalty.
2. Repeat offense. Harm to Treatment Facility, City Employees, Environment or Public.	2. NOV. Re-inspection within 30 days.	2. Sampling and analysis fee and damages to City. Penalty of \$750 or 1/2 sewer bill, or double previous penalty.
3. Failure to comply with required remedial or other action.	3. NOV / AAR / Severance of service.	3. \$1,000/violation.

Imminent Harm

City may issue a NOV, order an AAR, order an emergency suspension of the related discharge, and impose a \$1,000/violation assessment with respect to any situation which reasonably appears to present an imminent threat of a discharge that will cause, or is likely to cause, harm.

(b) The following guidelines shall be used with regard to violations of subdivision II of this division 3 relating to industrial discharge requirements:

Equipment or Procedures

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Failure to provide required equipment or proper procedures.	1. NORA.	1. None.
2. Failure to provide required facilities, equipment, or procedures after deadline provided in NORA.	2. NOV. Re-inspection within 30 days.	2. Penalty of \$75 or 1/2 sewer bill, or double previous penalty.
3. Continued violation.	3. AAR.	3. \$1,000/violation.

Maintenance

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Failure to properly operate or maintain facilities or equipment. Only violation in past two years.	1. NORA. Re-inspection within 30 days.	1. None.
2. Failure to properly operate or maintain facilities or equipment. Repeated in past two years.	2. NOV. Re-inspection within 30 days.	2. Penalty of \$75 or 1/2 sewer bill, not to exceed \$500.
3. Failure to properly operate or maintain facilities or equipment. Repeated in past six months.	3. NOV. Re-inspection within 30 days.	3. Penalty of \$150 or 1/2 sewer bill, or double previous penalty.
4. Continued violation.	4. AAR.	4. \$1,000/violation.

Unauthorized Discharge

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Unauthorized discharge of hauled waste. (No harm)	1. NOV.	1. Penalty of \$500, or double the previous penalty.
2. Unauthorized discharge of hauled waste. (Harm)	2. NOV.	2. Penalty of \$750, or double previous penalty, and damages to the City.
3. Continued violation.	3. AAR.	3. \$1,000/violation. Damages to City.
4. If, in the opinion of the general manager, administrative action is inadequate.	4. Investigation and litigation by attorney.	4. Pursue appropriate civil, criminal, or non-criminal relief.

Dilution of Waste Streams in lieu of Treatment

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Initial violation	1. NOV	1. None
2. Subsequent or recurring violation	2. NOV / AAR./ Injunction / Severance of service	2. \$1,000/violation.

Violations by waste hauler

If a potential violation is discovered prior to discharge, the plant operator will not allow the truck to dump. Other violations by “Permitted Waste Haulers” will be handled as a violation of permit conditions.

(c) The following guidelines shall be used in regard to violations of subdivision II this division 3 relating to violations of wastewater permits:

Failure to Comply

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Failure to properly complete and sign survey, application or renewal.	1. Telephone call, 7-day deadline.	1. None.
2. Failure to properly complete and sign survey, application or renewal, after telephone call deadline.	2. NOV.	2. Penalty of \$150.
3. Multiple or continued violation of particular requirement.	3. NOV. Review in 30 days.	3. Penalty of \$300 or double previous penalty.
4. Failure to comply with NOV.	4. AAR.	4. \$1,000/violation.

Discharge Without Permit

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Discharge without required permit.	1. NORA with 180-day deadline to obtain permit.	1. None.
2. Discharge without required permit, after receipt of NORA.	2. NOV. Review for compliance in 30 days.	2. Penalty of \$150 or double previous penalty.
3. Discharge after receipt of NOV.	3. AAR if discharge after 90 days.	3. \$1,000/violation.

Violation of Permit

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Violation of permit conditions. Only offense in past 24 months.	1. NORA. Re-inspection within 30 days.	1. None.
2. Violation of permit conditions. More than 1 violation in past 24 months.	2. NOV. Re-inspection within 30 days.	2. Penalty of \$150 or double the previous penalty.
3. Violation of permit conditions. More than 1 violation in past 6 months.	3. NOV. Re-inspection within 30 days.	3. Penalty of \$300 or double previous penalty.
4. More than 2 violations in past 6 months.	4. AAR.	4. \$1,000/violation.

(d) The following guidelines shall be used in regard to violations of Section 21-378, City of Tallahassee General Code:

Incomplete Report

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Report not properly completed or signed.	1. Telephone call, 7-day deadline to comply.	1. None.
2. After deadline.	2. NOV, with 30-day deadline to comply.	2. Penalty of \$150.
3. Report not properly completed and/or signed 30 days after NOV deadline.	3. NOV, with 30-day deadline to comply.	3. Penalty of \$300 or double previous penalty.
4. Multiple violations.	4. AAR.	4. \$1,000/violation.

Report not Received

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Required report not received, 30 days late, not habitual.	1. Telephone call, 7-day deadline to comply.	1. None.
2. Required report not received after deadline. 30 days late, not habitual.	2. NOV, 30-day deadline to comply.	2. Penalty of \$150.
3. Required report habitually late (at least 3 of previous 5 reports).	3. NOV. Review for compliance in 30 days.	3. Penalty of \$300 or double previous penalty.
4. Multiple violations.	4. AAR.	4. \$1,000/violation.

Failure to Report (No Harm)

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Failure to report spill or changed condition. First offense.	1. NORA.	1. None.
2. Failure to report spill or changed condition. More than 1 violation in past 24 months.	2. NOV.	2. Penalty of \$150 or double previous penalty.

Failure to Report With Harm

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Failure to report spill or changed condition.	1. NOV.	1. Penalty of \$150 or double previous penalty.
2. More than 1 violation.	2. AAR.	2. \$1,000/violation.

Failure to Report Additional Monitoring Required by City

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Initial violation	1. Phone call	1. None
2. Failure to comply (after phone call)	2. NOV	2. None
3. Failure to comply with NOV	3. NOV (2 nd)	3. \$150/violation
4. Failure to comply with NOV (2 nd)	4. AAR	4. \$1,000/violation

Other Reporting Violations

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Intentional falsification of report or tampering with a monitoring device.	1. Investigation and litigation by attorney.	1. Up to \$500/day fine and/such other relief as may be available at law.

(e) The following guidelines shall be used in regard to violations of subdivision II of this division 3 relating to compliance monitoring:

Denial of Access

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Denial or delay in providing access to premises or records. First violation.	1. NOV.	1. Penalty of \$500.
2. Denial or delay in providing access to premises or records. More than 1 violation.	2. NOV. Apply for search warrant when appropriate.	2. Penalty \$1,000.

Sampling and Record Keeping

<u>Level of Violation</u>	<u>Response by City</u>	<u>Assessments</u>
1. Improper sampling or record keeping. No prior violation in past 24 months.	1. NORA. Review in 60 days.	1. None.
2. Improper sampling or record keeping. At least one prior violation in past 24 months.	2. NOV. Review in 30 days.	2. Penalty of \$150 or 1/2 sewer bill, or double previous penalty.
3. Continued violation.	3. AAR.	3. \$1,000/violation.

(f) Following issuance of a notice of violation, the general manager, at his discretion and depending on the severity of the violation and the workload of the inspectors, will schedule one or more follow-up inspections. If the same, or a different, violation is noted during a follow-up inspection, another notice of violation will be issued. No more than one notice of violation may be issued per day with respect to a particular violation; however, each notice will be considered a separate violation.

(g) The general manager shall conduct administrative action reviews. Each AAR shall begin with a thorough review of the status of the violation(s) and the need for additional action. The user may be required to appear in a Show Cause Hearing in which the City shall attempt to negotiate a Consent Order. Failing this, a Compliance Order may be issued. Either administrative order shall require specific action at specified times. It may modify reviews and penalties that would otherwise be assessed during the time allowed for the user to achieve compliance. Should the user fail to meet any compliance requirement by more than 30 days, the normal reviews and penalties shall resume. Should the user fail to achieve compliance by more than 90 days, the status will again be reviewed. The user may be required to appear at a second Show Cause Hearing. A modification of the existing administrative order or a Cease And Desist Order may result. It may also result in the termination of the discharge permit of a permitted significant user. If a Cease And Desist Order is not complied with the City may take the action necessary to affect it, including severance of sewer or water service.

(h) The general manager shall issue notices of violation and notices of required action, and shall make all telephone call reminders. The general manager will notify users of any requirement to provide required facilities, equipment, or procedures or any requirement to obtain a discharge permit. The general manager is also authorized to impose penalties and to provide notice of such imposition to users.

(i) The administrative penalty shall be the greater of the amounts provided for in the preceding guidelines. The calculation of 1/2 of the sewer bill

shall be based on the average sewer charges for the previous twelve months. The noted penalties are imposed in addition to requiring reimbursement for costs of sampling and analysis performed by or for the city and reimbursement for any direct damages to the wastewater system.

Sec. 21-358. Affirmative Defense to Discharge Violations.

(a) For the purposes of this division, the term “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with 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 preventative maintenance, or careless or improper operation.

(1) An upset shall constitute an affirmative defense to imposition of assessments or any enforcement action against the user for noncompliance with pretreatment standards, provided that the user, through properly signed, contemporaneous operating logs or other relevant evidence, can show that the following requirements are met:

- (i) An upset occurred and the user can identify the cause(s) of the upset; and,
- (ii) The facility, at the time of the upset, was being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and,
- (iii) The user has submitted the following information to the general manager within twenty-four (24) hours of the becoming aware of the upset:
 - A. A description of the indirect discharge and the cause of the noncompliance;
 - B. The period of noncompliance, including exact duration, dates, and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and,
 - C. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

If this information is provided orally, a written submission must be provided to the general manager within five (5) days.

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

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

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

(b) A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with Section 21-354 if it can prove that it did not know, or have reason to know, that its discharge alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (i) a local concentration limitation exists for each pollutant discharged and the user was in compliance with each such limitation directly prior to, and during, the pass through or interference; or,
- (ii) no local concentration limitation exists, but the discharge did not change substantially in nature of constituents from the user's prior discharge when the city was regularly in compliance with its National Pollutant Discharge Elimination System permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Sections 21-359 through 21-375 - Reserved

Subdivision II. Industrial Discharges

Sec. 21-376. Industrial discharge requirements.

(a) *Pretreatment facilities.* Industrial users shall provide necessary wastewater pretreatment as required to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in subdivision I of this division, within the time limitations specified by the general manager. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the industrial user's expense.

(b) *Additional pretreatment measures.* Whenever deemed necessary, the general manager may require new industrial users to restrict their discharge

during peak or low flow periods, or may require that certain wastewater be discharged only into specific sewers. Categorical users may be required to separate domestic waste streams from industrial waste streams. Industrial users may be required to install sampling manholes, monitors and such other devices as may be necessary to protect the wastewater system and determine the industrial user's compliance with the requirements of this division.

(c) *Dilution.* An industrial user shall not increase the use of process wastewater to avoid the need for pretreatment or, as a partial or complete substitute for adequate pretreatment, to achieve compliance with a discharge limitation.

(d) *Spill prevention, accidental discharge, or slug control plan.* Industrial users shall provide protection from accidental discharge (slug discharge) of materials which, if discharged, would violate subdivision I of this division. The general manager may require industrial users to develop slug prevention plans, that may include facilities such as secondary containment.

(e) *Signatures and certification.* All wastewater surveys, wastewater permit applications, reports required by this division, and waste hauler authorization required by this division must contain the certification statement acceptable to the general manager and be signed by an authorized representative of the industrial user.

(f) *Metering.* The general manager may require that a sewer meter be installed, if the total discharge exceeds the metered water by more than 5% by volume. Such meters shall be installed at the expense of the user, and shall conform to the requirements of this subdivision.

(g) *Separation of domestic and industrial waste streams.* Industrial users shall separate domestic waste streams from industrial waste streams.

(h) *Hauled wastewater.* Septic tank waste (septage), waste from food processing grease separators and other hauled wastes that have been specifically approved by the general manager will be accepted into the wastewater system at a designated receiving structure and at such times as are established by the general manager, provided such discharge does not violate any other requirements established by the city.

Sec. 21-377. Wastewater permit requirement.

(a) *Wastewater survey.* When requested by the general manager any industrial user must submit information on the nature and characteristics of their wastewater by completing a wastewater survey.

(b) *Wastewater permit requirement.* It shall be unlawful for a significant industrial user to discharge wastewater into the city's sanitary sewer system without first obtaining a wastewater permit from the general manager. Any violation of the terms and conditions of a wastewater permit shall be deemed a violation of this division. If a user who otherwise meets the definition of a significant industrial user has no reasonable potential for adversely affecting the wastewater system or for violating any discharge standards or requirements, the general manager, in accordance with Rule 62-625.500(2)(e), F.A.C., may determine that such user is not a significant industrial user.

Sec. 21-378. Reporting requirements.

(a) *Periodic compliance reports.*

- (1) In addition to the reporting requirements of this division, all users shall comply with the reporting requirements set forth in Rule 62-625.600, F.A.C.
- (2) Any significant industrial user subject to a pretreatment standard or requiring pretreatment to meet a specific limitation shall submit periodic reports indicating the nature and concentration of pollutants in the discharge which are limited by such standards and the measured or estimated average and maximum daily flows for the reporting period. The user shall submit such reports no later than the fifteenth day of June and December of each year or at such other times as may be required by the general manager.

(b) *Baseline monitoring reports for categorical users.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination pursuant to Rule 62-625.410(2), F.A.C., whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the wastewater system shall be required to submit to the general manager a report which contains such information as may be required by the general manager. At least 90 days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the general manager a report which contains such information as may be required by the general manager, including but not limited to the method of pretreatment it intends to use to meet applicable pretreatment standards and estimates of its anticipated flow and quantity of pollutants discharged.

(c) *Compliance deadline reports for categorical users.* 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 wastewater system, each industrial user

subject to such pretreatment standards and requirements shall submit to the general manager a report containing such information as may be required by the general manager.

(d) *Report of changed conditions.* Each industrial user shall notify the general manager of any planned significant changes to the industrial user's operation or pretreatment systems which might alter the nature, quality or volume of its wastewater.

(e) *Reports of potential problems.* Each industrial user shall report accidental or intentional discharges of prohibited materials or other substances regulated by this article to the general manager.

(f) *Notification of the discharge of hazardous waste.*

(1) Users who commence the discharge, to the wastewater system, of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, shall give written notice of such discharge to the general manager, the EPA Regional Waste Management Division Director, and State hazardous waste authorities. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the wastewater system, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the waste, an estimate of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimate of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All such notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Such notification need be submitted only once for each hazardous waste discharged; however, notifications of changed conditions must still be submitted in accordance with this subdivision. This notification requirement does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements set forth in this subdivision.

(2) Users shall be exempt from the requirements of subsection (1) above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as described in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute

hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as described in 40 CFR 261.30(d) and 261.33(e).

- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, each user must notify the general manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (4) In the case of any notification made under this subsection, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 - (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued hereunder, or any applicable federal law or state statute.
- (g) All compliance reporting required by this division shall be performed in accordance with the requirements of Rule 62-160, F.A.C.

Sec. 21-379. Compliance monitoring.

(a) *Inspection and sampling.* The general manager shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this division is being met and whether such user is in compliance with all requirements of this division. Industrial users shall allow the general manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(b) *Monitoring charges.* The general manager may recover the city's costs incurred in collecting and analyzing samples of the industrial user's discharge by adding such costs to the industrial user's sewer charges, for any sampling and analysis that indicates that the discharge is prohibited or exceeds limitations. The person responsible for the utility account shall be responsible for these costs regardless of any rental or lease agreement and regardless of whether such person is responsible for or caused such discharge.

(c) *Record keeping.* Industrial users shall maintain, retain, and make available for inspection and copying, all records and information relating to all monitoring activities required by this division and all additional records of

information relating to monitoring activities undertaken by the user independent of such requirements. Such records shall include following information: the date, exact place, and method of sampling; the time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; the name of the company or persons who performed the analyses; the analytical techniques or methods used; and the results of such analyses. Such records shall remain available for a period of at least three years or such longer period as may be required by the general manager.

Sec. 21-380. Confidential information.

Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from city inspection and sampling activities shall be available to the public in accordance with requirements of the Florida Public Records Act, Chapter 119, Florida Statutes. Should a user believe, in good faith, that any such information or data is information which would be exempt from disclosure or copying under Florida law, such user shall indicate that belief by placing a distinctive cover sheet on the document containing such information or data with the phrase "CONTAINS INFORMATION EXEMPT FROM DISCLOSURE" set forth in large, bold type, and by typing or printing, in bold letters, the phrase "Exempt from Disclosure" on the face of each affected page of such material. The user shall submit to the general manager both a complete and a redacted copy of the document and each affected page. Should any person request to examine or copy any material so designated, the city will produce for that person only the redacted copy of the affected page. If the person requests to examine or copy the complete copy of the affected page, the city shall notify the user of that request, and the user, within thirty-six (36) hours of receiving such notification, shall either permit or refuse to permit such disclosure or copying. If the user refuses to permit the requested disclosure or copying, the user shall hold harmless and indemnify the city for all expenses, costs, damages, and penalties of any kind whatsoever which may be incurred by the city, or assessed or awarded against the city and in favor of the person making such request, in regard to the user's refusal to permit disclosure or copying of such material. If litigation is filed in relation to such request and the user is not initially named as a party, the user shall promptly seek to intervene as a defendant in such litigation to defend its claim regarding the confidentiality of such material.

Sec. 21-381. Recognition of outstanding customers and of significant violators.

(a) *Certificate of recognition and appreciation.* The city commission may annually award a certificate of recognition and appreciation to the industrial user that has operated the most effective pretreatment process or who has made the most important improvement to, or made the greatest contribution to, pretreatment or waste minimization.

(b) *Publication of significant noncompliance.* The city shall annually publish, in the newspaper of largest circulation in the county, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. Significant noncompliance shall be determined as provided by the general manager.

Sections 21-382 through 21-400 – Reserved.