

## **ARTICLE 16B**

### **MOUNT VERNON PRETREATMENT ORDINANCE**

(Reference Ordinances: 85-48, 95-14, 96-12, and 2017- 50)

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**SECTION 1 GENERAL PROVISIONS**

**1.1 Purpose and Policy**

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Mt. Vernon and enables Mt. Vernon to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable Mt. Vernon to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other

Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. This ordinance replaces City Ordinance 85-48 and all amendments thereto. All existing permits and connections are hereby adopted by reference, and at least three copies of such regulations are on file in the office of the City Clerk.

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other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

## **1.2 Administration**

Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to other authorized personnel.

## **1.3 Abbreviations**

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand
CFR	-	Code of Federal Regulations
COD	-	Chemical Oxygen Demand
gpd	-	gallons per day
IEPA	-	Illinois Environmental Protection Agency
mg/l	-	milligrams per liter
NPDES	-	National Pollutant Discharge Elimination System
POTW	-	Publicly Owned Treatment Works
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
TSS	-	Total Suspended Solids

U.S.C. - United States Code

USEPA - U.S. Environmental Protection Agency

#### **1.4 Definitions**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. "A" "As in "Cyanide-A" means amenable to alkaline chlorination.
- B. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.
- C. Approval Authority. The Regional Administrator of the U.S. EPA, Region 5, until such time as the State of Illinois' request for program authorization is approved, whereupon, the State of Illinois shall be the approval authority.
- D. Authorized Representative of the User.
  - (1) If the User is a corporation:
    - (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 two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (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 user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for

environmental matters for the company, and the written authorization is submitted to Mt. Vernon.

- E. Biochemical Oxygen Demand or BOD. 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).
- F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- G. City. The City of Mt. Vernon.
- H. City Manager. The chief administrator of the POTW.
- I. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency. The IEPA is the Illinois Environmental Protection Agency.
- J. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- K. Grab Sample. A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
- L. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.
- M. Industrial User. A source of Indirect Discharge, including but not limited to, a manufacturing, commercial or process facility, or other facility engaged in the purchase or sale of goods, transaction of business or who otherwise renders services to the public. (Industrial User includes, but is not limited to, Significant Industrial User as hereinafter defined.)
- N. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- O. Interference. A discharge, which alone or in conjunction with a discharge or discharges

from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of Mt. Vernon's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any 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 regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

- P. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- Q. National Pollutant Discharge Elimination System Permit (NPDES Permit). A permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to the Act.
- R. New Source.
- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
    - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
    - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production

equipment.

- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (a) Begun, or caused to begin, as part of a continuous on-site construction program
    - (i) any placement, assembly, or installation of facilities or equipment;  
or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- S. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- T. Pass Through. A discharge of pollutant which cannot be treated adequately by the POTW and therefore exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Mt. Vernon's NPDES permit, including an increase in the magnitude or duration of a violation.
- U. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- V. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- W. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- X. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or

the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

- Y. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- Z. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- AA. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- BB. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by Mt. Vernon. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- CC. Sanitary Sewer. A sewer which is designed to carry sanitary and industrial wastewater, and to which storm, surface and ground water are not intentionally admitted.
- DD. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- EE. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- FF. Shall is mandatory. May is permissive.
- GG. Significant Industrial User.
  - (1) A user subject to categorical pretreatment standards; or
  - (2) A user that:
    - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
    - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW

treatment plant; or

- (c) Is designated as such by Mt. Vernon on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  - (3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, Mt. Vernon may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.
- HH. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance.
- II. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.
- JJ. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- KK. Superintendent. The person designated by Mt. Vernon to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- LL. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- MM. "T". As is "Cyanide-T" means total.
- NN. Total Solids. The sum of suspended and dissolved solids.
- OO. Total Suspended Solids (TSS). Total suspended matter, expressed in milligrams per liter, that either floats on the surface of, or is in suspension in water, wastewater and other liquids and is removable by laboratory filtration as prescribed in 40 CFR Part 136.
- PP. Total Toxic Organics. The summation of all quantified values greater than 0.01 milligrams per liter for the toxic organics as specified in the applicable regulations.
- QQ. Upset. An exceptional incident in which there is unintentional and temporary non-compliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate

treatment facilities, lack of preventive maintenance, or careless or improper operations.

- RR: User or Industrial User. A source of indirect discharge.
- SS. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- TT. Wastewater Discharge Permit. The document or documents allowing discharge to the POTW issued to a user by the POTW in accordance with the terms of this ordinance.
- UU. Wastewater Hauler. Any person, partnership or corporation engaged in transporting sanitary wastewater as a commercial venture.
- VV. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
- WW. Waters of the State of Illinois. All streams, lakes, ponds, marshes, water courses, 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 of Illinois or any portion thereof.

## **SECTION 2 GENERAL SEWER USE REQUIREMENTS**

### **2.1 Prohibited Discharge Standards**

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW (Publicly Owned Treatment Works) any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- (1) It shall be unlawful for any person to deposit or discharge, or to cause to be deposited or discharged, to any POTW Treatment Facility, any solid, liquid or gaseous waste unless through a connection approved by the POTW.
  - (2) It shall be unlawful to discharge wastewater, without an NPDES permit, to any natural outlet within the POTW or in any area under its jurisdiction.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including,

but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

- (2) Wastewater having a pH less than five (5.0) or more than ten (10.0), or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch ( 1/2" ) or two and fifty-four hundredths centimeters (2.54 cm) in any dimension, including, but not limited to: grease, garbage with particles greater than one-half inch (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, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling and de-burring stones;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW or will pass through the POTW;
- (5) Wastewater having a temperature greater than 140°F (60°C), or which will inhibit biological activity in the treatment plant resulting in interference but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the City Manager in accordance with Section 3.4 of this ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning

solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Mt. Vernon's NPDES permit;

- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm water, foundation drain water, surface water, ground water, artesian well water, roof runoff, surface drainage, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the City Manager;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the City Manager in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l;
- (18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter. Materials for which discharge is prohibited under this subsection include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorides, bromates, polychlorinated biphenyls, polybrominated biphenyls, carbides, hydrides, stoddard solvents, and sulfides;
- (19) Any wastewater containing incompatible 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, cause a violation of the water quality standards or the receiving waters of the POTW, exceed the limitation set forth in a National Categorical Pretreatment standard (when effective) or in Section 2.4 or create a public nuisance;

- (20) In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria guidelines or regulations affecting sludge use or disposal developed pursuant to the RCRA, SWDA, the Clean Water Act, the Toxic Substances Control act, or state regulations Subtitle C Part 391 applicable to the sludge management method being used;
- (21) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards;
- (22) Any wastewater containing BOD, total solids, or suspended solids of such character and quantity that unusual attention or expenses is required to handle such materials at the sewage treatment plant; provided however, that a user may be permitted by specific written agreement with the POTW, which agreement to discharge such BOD or TSS may provide for special charges, payments or provisions for treating and testing equipment;
- (23) Ammonia nitrogen in amounts that would cause a violation of the water quality standards of the receiving waters of the POTW;
- (24) Any discharge exceeding the standards established in 35 Illinois Administration Code 307; or
- (25) Any slug discharged to the POTW.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

## **2.2 National Categorical Pretreatment Standards**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby adopted by reference, and at least three copies of such regulations are on file in the office of the City Clerk.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City Manager shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user

can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

### **2.3 State Pretreatment Standards**

State pretreatment standards located at Title 35, Subtitle C, Chapter I, Section 307.1102 35 Illinois Administration Code 307 are hereby adopted by reference, and at least three copies of such regulations are on file in the office of the City Clerk.

### **2.4 Local Limits**

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

0.25 mg/1 arsenic

2.0 mg/1 barium

0.15 mg/1 cadmium

1.5 mg/1 chromium (total)

0.5 mg/1 chromium (hexavalent)

1.00 mg/1 chromium (trivalent)

500 mg/1 chloride

4.0 mg/1 copper

0.2 mg/1 cyanide

15.0 mg/1 fluoride

12.00 mg/1 iron (total)

3.0 mg/1 iron (dissolved)

0.1 mg/1 lead

1.0 mg/1 manganese

0.0005 mg/1 mercury

2.0 mg/1 nickel

100.00 mg/1 oil and grease (hexane soluble or equivalent)

6.0 Standard Units pH (permissible range, no averaging)

0.6 mg/1 phenols

1.0 mg/1 selenium

0.2 mg/1 silver

8.0 mg/1 zinc

BOD 300mg/1 bio chemical oxygens demand (BOD)

250mg/1 total suspended solids (tss)

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for “total” metal unless indicated otherwise. The City Manager may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

Discharges from each separate discharge of a user, as measured under the provisions of this ordinance, shall not contain in excess of the following concentrations based upon techniques described in 40 CFR part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants). Multiple industrial wastewater discharges from a permitted facility may be combined in a flow weighted manner to determine compliance with the following limitations for a 24-hour composite sample.

## **2.5 City's Right of Revision**

Mt. Vernon reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

## **2.6 Dilution**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment

standard or requirement. The City Manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

### **SECTION 3 PRETREATMENT OF WASTEWATER**

#### **3.1 Pretreatment Facilities**

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, the State, or the City Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Manager for review, and shall be approved by the City Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Mt. Vernon under the provisions of this ordinance.

All industrial users shall obtain all necessary construction operating permits from the IEPA. Such pretreatment facilities shall be under the control and direction of an IEPA certified wastewater treatment operator. Any subsequent significant changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the POTW prior to the industrial user's initiation of the changes.

#### **3.2 Additional Pretreatment Measures**

- A. Whenever deemed necessary, the City Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. The City Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the City Manager and shall be so located to be easily accessible for

cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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

### **3.3 Accidental Discharge/Slug Control Plans**

At least once every two (2) years, the City Manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The City Manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the City Manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the City Manager of any accidental or slug discharge, as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Each industrial user having the ability to cause pass through or interference with the POTW Treatment Facility or to violate the regulatory provisions of this ordinance shall provide protection from accidental discharge to the POTW of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

All industrial users whose wastewater includes or could include compatible or incompatible pollutants in amounts great enough to cause pass through or interference with the POTW must have detailed plans on file at the POTW showing facilities and operating procedures to provide protection from accidental discharge. All industrial users shall complete construction of said facilities by 180 days from the effective date of this ordinance. No industrial user who begins contributing to or could contribute such pollutants to the POTW after the effective date of this ordinance shall be permitted to introduce such pollutants into the POTW until accidental discharge facilities and procedures, as appropriate, have been approved by the POTW and installed by the industrial user. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of this ordinance.

### **3.4 Hauled Wastewater**

- A. Septic waste shall not be introduced into the POTW by any septic tank waste hauler.
- B. Industrial waste shall not be introduced into the POTW by any industrial waste hauler.

## **SECTION 4 WASTEWATER DISCHARGE PERMIT APPLICATION**

### **4.1 Wastewater Analysis**

When requested by the City Manager, a user must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The City Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

### **4.2 Wastewater Discharge Permit Requirement**

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the City Manager, except that a significant industrial user that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.
- B. The City Manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

### **4.3 Wastewater Discharge Permitting: New Connections**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.4 of this ordinance, must be filed at least ten (10) days prior to the date upon which any discharge will begin or recommence.

#### **4.4 Wastewater Discharge Permit Application Contents**

All users required to obtain a wastewater discharge permit must submit a permit application. The City Manager may require all users to submit as part of an application the following information:

- A. All information required by Section 6.1 (B) of this ordinance;
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation including monthly and seasonal variations;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge showing all pipe sizes, manholes and location of sanitary and storm sewer leaving the building or premises, together with all connections to lateral sanitary and storm sewers;
- G. Time and duration of discharges;
- H. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- I. Wastewater constituents and characteristics including, but not limited to, those set forth in Section 2 of this ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with 40 CFR Part 136;
- J. Proposed or actual hours of operation of pretreatment system and the name of the IEPA certified pretreatment operator;
- K. Significant Industrial User's source of intake water together with the types of usage and disposal sources of water and the estimated volumes in each category; and
- L. Any other information as may be deemed necessary by the City Manager to evaluate the wastewater discharge permit application.

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

#### **4.5 Application Signatories and Certification**

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

#### **4.6 Wastewater Discharge Permit Decisions**

The City Manager will evaluate the data furnished by the user and may require additional information. Within ten (10) days of receipt of a complete wastewater discharge permit application, the City Manager will determine whether or not to issue a wastewater discharge permit. The City Manager may deny any application for a wastewater discharge permit.

### **SECTION 5 WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS**

#### **5.1 Wastewater Discharge Permit Duration**

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

#### **5.2 Wastewater Discharge Permit Contents**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

Wastewater discharge permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, user charges, and fees established by the POTW.

- A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed more than five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to Mt. Vernon in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits on daily maximum and average pollutant concentrations from the applicable pretreatment standards (including Federal, State and Local limits whichever is more stringent);
- (4) Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
- (8) Requirements to retain for a minimum of three years any records of monitoring activities and results relating to wastewater discharge and for affording the POTW access to said records;
- (9) Requirements for advance notification to the POTW 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 pursuant to the terms of Section 6.5 of this ordinance;
- (10) Requirements for notification of slug discharges as defined in this ordinance;
- (11) Requirements for reporting pretreatment sludge disposal practices;
- (12) Requirements that permittee allow the POTW or its representatives ready access upon presentation of credentials at reasonable times to all parts of its premises in which a discharge source or treatment system is located or in which records required by this ordinance are kept for the purposes of inspection, sampling, examination and photocopying of said records and for the performance of any of their duties; and
- (13) Other conditions as deemed appropriate by the City Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

### **5.3 Wastewater Discharge Permit Appeals**

No wastewater discharge permit shall be issued by the POTW to any person or industrial user whose discharge of material to sewers, whether shown upon his application or determined after inspection and testing conducted by the POTW, is not in conformity with POTW ordinances and regulations or whose application is incomplete or does not comply with the requirements of Section 4. The POTW shall state the reason or reasons for denial in writing, which shall be mailed or personally delivered to the applicant within ten (10) days after denial. If the application is denied by the POTW, the applicant may obtain review of the denial by the City Council, provided that the applicant shall give written notice of this request within thirty (30) days after receipt of such denial. The City Council shall review the permit application, the written denial and such other evidence and matters as the applicant and POTW City Manager shall present. The decision of the City Council shall be final.

The City Manager shall provide public notice of the issuance of a wastewater discharge permit.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the City Manager fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Circuit Court of Jefferson County.

#### **5.4 Wastewater Discharge Permit Modification**

The Significant Industrial User shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of change. Where any changes are made in the Significant Industrial User's permit, a reasonable time shall be given to achieve compliance.

The City Manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to Mt. Vernon's POTW, POTW personnel, or the receiving waters;

- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

#### 5.5 Limitations on Wastewater Discharge Permit Transfer

Wastewater discharge permits are issued to a specific Significant Industrial User for the process activity specified in the permit. A wastewater discharge permit shall not be assigned, transferred or sold to a new owner or new user in different premises or to a new or changed operation in the same or different premises without the approval of the POTW. If the premises are sold or otherwise transferred by the permittee to a new owner who will maintain the operation in the same premises, then the permit held by the seller shall be reissued by the POTW to the new owner as a temporary permit; provided that the new owner shall immediately apply for a new permit in accordance with this ordinance and further provided that the temporary permit shall only be effective for ninety (90) days after the date of sale or transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the City Manager and the City Manager approves the wastewater discharge permit transfer. The notice to the City Manager must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- D. The POTW shall have the same remedies for violation of temporary permits as it has for violation of other discharge permits.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

## **5.6 Wastewater Discharge Permit Revocation**

The City Manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the City Manager or the designated representative of the City of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City Manager of changed conditions pursuant to Section 6.5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City Manager timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

## **5.7 Wastewater Discharge Permit Reissuance**

A user with an expiring wastewater discharge permit shall apply for wastewater discharge

permit re-issuance by submitting a complete permit application, in accordance with Section 4.4 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

## **5.8 Regulation of Waste Received from Other Jurisdictions**

This ordinance shall apply to the POTW and to persons outside the POTW who are, by wastewater discharge permit, contract, or agreement with the POTW, users of the POTW.

## **SECTION 6 - REPORTING REQUIREMENTS**

### **6.1 Baseline Monitoring Reports**

Industrial users subject to National Categorical Pretreatment standards shall submit Baseline Reports to the POTW in a form prescribed and furnished by the POTW.

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the City Manager a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the City Manager a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
  - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
  - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
  - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes. Site plans showing all pipe sizes, manholes and location of sanitary and storm sewers leaving the building or premises, together with all connections to lateral sanitary and storm sewers.
  - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the

combined waste stream formula set out in 40 CFR 403.6(e). Significant Industrial User's source of intake water together with the types of usage and disposal sources of water and the estimated volumes in each category.

(5) Measurement of Pollutants.

- (a) The categorical pretreatment standards applicable to each regulated process.
- (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the City Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance.
- (c) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.
- (d) Sample based on the flow of the sampled stream, as follows: (composite samples are required where feasible)
  - (i) where the flow of the stream being sampled is less than or equal to 950,000 liters/day (approximately 250,000 gpd), the industrial user shall take a minimum of three samples within a two-week period.
  - (ii) Where the flow of the stream being sampled is greater than 950,000 liters/day (approximately 250,000 gpd) the industrial user shall take a minimum of six samples within a two-week period.
- (e) Take the samples immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, in order to evaluate compliance with the National Categorical Pretreatment Standards, the industrial user shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR Section 403.6(e). Where an alternate concentration has been calculated in accordance with 40 CFR Section 403.6(e), this adjusted limit along with supporting data shall be submitted to the POTW.

- (f) Submit, only with POTW authorization, a Baseline Report which utilizes only historical data, so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
  - (g) Provide, for each report the time, date, and place, of sampling and methods of analysis and certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.5 of this ordinance.
- (9) Such other information as may be reasonably requested by the POTW.

## **6.2 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by Section 6.1 (B) (7) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;

- C. The user shall submit a progress report to the City Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the City Manager.

### **6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the City Manager a report containing the information described in Section 6.1(B) of this ordinance. For users subject to equivalent mass or concentration limits; established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.5 of this ordinance.

### **6.4 Periodic Compliance Reports**

- A. All significant industrial users shall, at a frequency determined by the City Manager but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.5 of this ordinance.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user, subject to the reporting requirement in this section monitors any pollutant more frequently than required by the City Manager, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.
- D. Monitoring shall be as follows:

- (1) Significant Industrial Users shall provide and operate at the Significant Industrial User's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer or internal drainage systems. The monitoring facility will normally be situated on the user's premises but the POTW may, when such a location would be impractical and cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area land located so that it will not be obstructed by landscaping, parked vehicles, or other activities of the user.
- (2) Where required by the POTW, additional control manholes or sampling chambers shall be provided at the end of each industrial process within an industrial user's facility suitable for the determination of compliance with Pretreatment Standards.
- (3) Whenever required by a wastewater discharge permit, any Significant Industrial User shall install a large manhole or sampling chamber for each separate discharge in the building sewer in accordance with plans and specifications approved by the POTW, installed and maintained at all times at the user's expense, which shall have ample room in each sampling chamber to permit the POTW to take accurate composite samples for analysis. The chamber shall be safely, easily and independently accessible to authorized representatives of the POTW at any time.
  - a) Each sampling chamber shall contain a Palmer-Bowlus flume unless a weir or similar device is approved by the POTW with a recording and totalizing register for measurement of the liquid quantity; or at the discretion of the POTW the metered water supply to the industrial plant may be used as the liquid quantity where it is substantiated to the POTW that the metered water supply and waste quantities are approximately the same, or where a measurable adjustment agreed to by the POTW is made in the metered water supply to determine the liquid waste quantity.
  - b) When required, samples shall be taken every hour or half hour, as determined by the POTW and properly refrigerated and preserved in accordance with 40 CFR Part 136 and shall be composited in proportion to the flow for a representative 24 hour sample. Such sampling shall be done as prescribed by the user's wastewater discharge permit.
  - c) The sampling chamber, metering device, and documentation of the frequency of sampling, sampling methods and analyses of samples shall be subject, at any reasonable time, to inspection and verification by the POTW.

- (4) Whenever required by a wastewater discharge permit, the permittee shall pay the costs of sampling of its discharge and the costs of analyses of its samples, whether or not the sampling and analyses are done by the permittee or by the POTW.
- (5) All measurements, tests, and analyses to which reference is made in this ordinance shall be determined and performed in accordance with the procedures established by the Administrator of the United States Environmental Protection Agency (hereafter "Administrator") pursuant to section 304 (g) of the Act and contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

## **6.5 Reports of Changed Conditions**

Each user must notify the City Manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

- A. The City Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.4 of this ordinance.
- B. The City Manager may issue a wastewater discharge permit under Section 4.6 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.
- D. No permittee shall materially and substantially change the type, quality or volume of its wastewater beyond that allowed by its permit without prior approval of the POTW.

## **6.6 Reports of Potential Problems**

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW of the incident. This notification shall include the name of caller, the location and time of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the City Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance. Failure to report accidental or deliberate discharges may, in addition to any other remedies available to the POTW, result in the revocation of the discharger's wastewater discharge permit.
- C. A notice in English or the language of common use, shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- D. The industrial user shall control production or all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement includes the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

## **6.7 Reports from Unpermitted Users**

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

## **6.8 Notice of Violation/Repeat Sampling and Reporting**

If sampling performed by a user indicates a violation, the user must notify the City Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Manager within thirty (30) days after becoming aware of the violation. The user is not required to re-sample if the City Manager monitors at the user's facility at least once a month, or if the City Manager

samples between the user's initial sampling and when the user receives the results of this sampling.

## **6.9 Notification of the Discharge of Hazardous Waste**

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. 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 POTW, 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 wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. 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, the user must notify the City 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.
- D. In the case of any notification made under this section, 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.

- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

#### **6.10 Analytical Requirements**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

#### **6.11 Sample Collection**

- A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the City Manager may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

#### **6.12 Timing**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **6.13 Record Keeping**

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be

automatically extended for the duration of any litigation concerning the user or Mt. Vernon, or where the user has been specifically notified of a longer retention period by the City Manager.

## **SECTION 7 COMPLIANCE MONITORING**

### **7.1 Right of Entry: Inspection and Sampling**

The City Manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the City 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.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The City Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The City Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated as per manufacturer's recommendation to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the City Manager and shall not be replaced. The costs of clearing such access shall be born by the user.
- E. Unreasonable delays in allowing the City Manager access to the user's premises shall be a violation of this ordinance.

### **7.2 Search Warrants**

If the City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Mt. Vernon designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the

community, then the City Manager may seek issuance of a search warrant from the Circuit Court of Jefferson County.

## **SECTION 8 CONFIDENTIAL INFORMATION**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City Manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City Manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

The POTW shall implement measures to prevent the negligent release of confidential information; however, neither the POTW nor its employees shall be held legally responsible for release of information if they have acted in good faith.

## **SECTION 9 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE**

The City Manager shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation that the City Manager believes has caused, alone or

in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City Manager's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) which the City Manager determines will adversely affect the operation or implementation of the local pretreatment program.

## **SECTION 10     ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **10.1     Notification of Violation**

When the City Manager finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may serve upon that user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City Manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### **10.2     Consent Orders**

The City Manager may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

### **10.3 Show Cause Hearing**

The City Manager may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the City Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

The POTW may, upon discovering an ongoing or potential discharge to the POTW which presents or may present a danger to the environment or which threatens to interfere with the operation of the POTW, immediately issue an order to the responsible industrial user to show cause before the City Council why the POTW should not disconnect service, revoke or suspend the industrial user's wastewater discharge permit or seek injunctive relief to prohibit the industrial user from making the discharge to the POTW. Procedures to be followed by the City Council in said show cause hearing shall be in accordance with Section 10.8 of this ordinance. After said hearing, the POTW may disconnect service, revoke or suspend the wastewater discharge permit or seek injunctive relief to prohibit the industrial user from making the discharge to the POTW.

### **10.4 Compliance Orders**

When the City Manager finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

### **10.5 Cease and Desist Orders**

When the City Manager finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other

pretreatment standard or requirement, or that the user's past violations are likely to recur, the City Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

## **10.6 Emergency Suspensions**

- A. Conditions for Immediate Disconnection of Service

Any industrial user is subject to immediate disconnection of service under either of the following conditions:

- (1) Whenever immediate disconnection is required to halt or prevent any discharge of pollutants to the POTW which reasonably appears to the City Manager to present an imminent endangerment to the environment, the POTW, health or welfare of persons; or
- (2) Whenever the industrial user's wastewater discharge permit is revoked.

- B. Procedures for Immediate Disconnection

- (1) Notwithstanding Sections 10.1 through 10.8 of this ordinance, the City Manager shall have the authority, after informal notice to the industrial user, to immediately and effectively halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. When the City Manager determines that such an emergency situation exists, he shall issue a verbal order (followed immediately by a written order) to the industrial user stating the problem and requiring immediate cessation of the discharge. The City Manager's action may include disconnection of wastewater collection service. The City Manager shall obtain the concurrence of the POTW attorney before initiating action. Methods of informal notice shall include, but not be limited to, any of the following: personal conversation between the industrial user and POTW employees, telephone calls, letters, hand delivered messages or notices posted at the industrial user's premises or point of discharge.

C. Procedures for Elimination of Discharge and Reinstatement

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City Manager may take such steps as deemed necessary, including immediate blockage or severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless the termination proceedings in Section 10.7 of this ordinance are initiated against the user.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City Manager prior to the date of any show cause or termination hearing under Sections 10.3 or 10.7 of this ordinance.

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

**10.7 Termination of Discharge**

In addition to the provisions in Section 5.6 of this ordinance, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

## **10.8 Revocation or Suspension of Wastewater Discharge Permits**

### **A. Conditions for Revocation or Suspension**

Any Significant Industrial User who violates this ordinance, an Order issued pursuant to Section 10 of this ordinance, the Illinois Environmental Protection Act, or the Federal Act, or regulations promulgated under either act, or does any of the following, is subject to having its wastewater discharge permit revoked or suspended.

- (1) Fails to fully and accurately report the wastewater constituent's and characteristics of its wastewater discharge as determined by the industrial user's or POTW's analysis;
- (2) Fails to fully and accurately report significant changes in process activity which could affect its wastewater discharge or wastewater constituents and characteristics;
- (3) Refuses reasonable access to the industrial user's premises by POTW representatives for the purpose of inspection or monitoring;
- (4) Tampered with, disrupted, or destroys POTW equipment;
- (5) Fails to report an accidental discharge of a pollutant;
- (6) Fails to report an Upset of the industrial user's treatment facilities; or
- (7) Violates any condition of the wastewater discharge permit.
- (8) Tampered with any portion of the city sanitary sewer.

### **B. Procedures for Revocation or Suspension**

- (1) The POTW may order any industrial user who causes or allows any action which is subject to revocation or suspension under Section 10.8 A above to show cause before the City Council why its wastewater discharge permit should not be revoked or suspended. A notice shall be served on the industrial user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed action, and directing the industrial user to show cause before the City Council why its wastewater discharge permit should not be revoked or suspended. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

- (2) The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or its attorney to:
  - (a) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
  - (b) Take the evidence;
  - (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.
- (3) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded stenographically or by tape recording. The transcript of said hearing will be made available to any member of the public or any party to the hearing upon payment of the usual copying charges therefore.
- (4) After the City Council has reviewed the evidence, it may issue an order to the industrial user responsible for the discharge directing either: a) that the wastewater discharge permit be revoked or suspended and the service be disconnected, or b) that following a specified time the wastewater discharge permit shall be revoked or suspended and sewer service discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and operated properly to comply with the wastewater discharge permit, or c) direct the user to cease the unauthorized discharge effective after a specified period of time, or d) that such other action as deemed necessary by the City Council to abate the discharge be done by the industrial user. Further orders and directives as are necessary may be issued.
- (5) Following an order of revocation or suspension of its wastewater discharge permit, the industrial user shall cease discharging to the POTW in accordance with the terms of said Order. Failure to do so shall be prima facie evidence of continuing harm to POTW and provide grounds for the granting of injunctive relief or temporary restraining orders.

## **SECTION 11      JUDICIAL ENFORCEMENT REMEDIES**

### **11.1      Injunctive Relief**

- A.      The POTW may institute a civil action for an injunction to restrain violations of

this ordinance.

- B. The POTW may, upon discovering an ongoing or potential discharge of pollutants to the POTW which reasonably appears to present an imminent danger to the health or welfare of persons, seek and obtain from the Circuit Court of Jefferson County a temporary restraining order or preliminary injunctions to halt or prohibit such discharge. Prior to the filing of such petition, the discharger shall be given informal notice of the POTW intention to file such action. Methods of informal notice shall include, but not be limited to, any of the following: personal conversation between discharger and the POTW employees, telephone calls, letters, hand delivered messages or notices posted at the discharger's premises or point of discharge. Personal contact between the POTW personnel and the discharger shall be attempted, but shall not be condition precedent to POTW petitioning for an obtaining a temporary restraining order.

## **11.2 Civil Penalties**

- A. A user who has violated, or continues to violate, any provisions of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to Mt. Vernon for a civil penalty of \$1,000.00 per violation, per day. In this case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The City Manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Mt. Vernon.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

## **11.3 Criminal Prosecution**

- A. A user who willfully or negligently violates any provisions of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six months, or both.

- B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000.00 or be subject to imprisonment for not more than six months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six months, or both.
- D. In the event of a second conviction, a user shall be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than six months, or both.

#### **11.4 Remedies Nonexclusive**

The remedies provided for in this ordinance shall not be exclusive. The City 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 Mt. Vernon's Enforcement Response Plan. However, the City Manager may seek whatever remedies are authorized by statute, at law or in equity against any person or industrial user violating the provisions of this ordinance. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant user.

- A. In addition to remedies available to the POTW set forth elsewhere in this ordinance, if the POTW is fined by the State of Illinois or USEPA for violation of the POTW NPDES permit or violation of water quality standards as the result of discharge of pollutants, then the fine, including all the POTW legal, sampling analytical testing costs and any other related costs shall be charged to the responsible industrial user. Such charge shall be in addition to, and not in lieu of, any other remedies the POTW may have under this ordinance, statutes, regulations, at law or in equity.
- B. If the discharge from any industrial user causes a deposit, obstruction or damage to any of the POTW wastewater facilities, the POTW shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including material, labor and supervision, shall be borne by the person or industrial user causing such deposit, obstruction, or damage.
- C. In addition to any penalty levied under Section 11, the POTW may, where the

circumstances of the particular case so dictate, seek injunctive relief to prohibit the user from discharging into the sanitary sewer system, or to provide such other affirmative relief as may be appropriate.

## **SECTION 12 SUPPLEMENTAL ENFORCEMENT ACTION**

### **12.1 Performance Bonds**

The City Manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to Mt. Vernon, in a sum not to exceed a value determined by the City Manager to be necessary to achieve consistent compliance.

### **12.2 Liability Insurance**

The City Manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

### **12.3 Water Supply Severance**

Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

### **12.4 Public Nuisances**

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the City Manager. Any person creating a public nuisance shall reimburse the City of Mt. Vernon for any costs incurred in removing, abating, or remedying such nuisance, and shall be subject to the general provisions of Section 13.11 of the Revised Code of Ordinances of the City of Mt. Vernon, including the provision for a lien upon real estate as described therein.

## **SECTION 13 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

### **13.1 Upset**

A. For the purposes of this section, "upset" means an exceptional incident in which

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

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

things, the primary source of power of the treatment facility is reduced, lost, or fails.

## **13.2 Bypass**

- A. For the purposes of this section.
  - (1) "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.
  - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C.
  - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, at least ten (10) days before the date of the bypass, if possible.
  - (2) A user shall submit oral notice to the City 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 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 City Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D.
  - (1) Bypass is prohibited, and the City Manager may take an enforcement action against a user for a bypass, unless
    - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not

satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (c) The user submitted notices as required under paragraph (C) of this section.  
(2) The City Manager may approve an anticipated bypass, after considering its adverse effects, if the City Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

## **SECTION 14 WASTEWATER TREATMENT RATES**

**[RESERVED]-See Article 16, Section 16.7**

## **SECTION 15 MISCELLANEOUS PROVISIONS**

### **15.1 Pretreatment Charges and Fees**

Mt. Vernon may adopt reasonable fees for reimbursement of costs of setting up and operating Mt. Vernon's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as Mt. Vernon may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by Mt. Vernon.

### **15.2 Severability**

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

**SECTION 16    EFFECTIVE DATE**

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

**SECTION 17    FALSIFICATION**

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall be subject to the penalties and costs provided in Section 11.