

**TITLE V: PUBLIC WORKS**

Chapter

**50. GARBAGE; SOLID WASTE**

**51. ELECTRIC AND WATER PLANT**

**52. SEWERS**

**53. EROSION CONTROL AND SEDIMENT CONTROL  
MEASURES**

**54. ILLICIT DISCHARGE CONTROLS**

**55. POST-CONSTRUCTION RUNOFF**



## CHAPTER 50: GARBAGE; SOLID WASTE

### Section

- 50.01 Definitions
- 50.02 Collection
- 50.03 Preparation, storage, placement for collection
- 50.04 Evictions
- 50.05 Loose material
- 50.06 Prohibited disposal
- 50.07 Dumping regulations
- 50.08 Dangerous or hazardous waste
- 50.09 Collection of construction/demolition debris
- 50.10 Recycling program
- 50.11 Authority to establish rules and regulations
- 50.12 Police power measure
- 50.13 Prosecution
- 50.14 Garbage collection fee
  
- 50.99 Penalty

### § 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ASHES.** The residue of combustion of such fuels as wood, coal, coke, charcoal, and the like.

**COMBUSTIBLE.** All waste substances capable of burning, including garbage, paper, rags, wood, grass, leaves, brush, and the like.

**COMMERCIAL.** All wastes, combustible and noncombustible, arising out of or in connection with the operation of a business or industry, and all other wastes not resulting from the ordinary operations of private residences or households.

**COMPOST.** The substance produced through the decomposition of organic materials, including wood, paper, mulch, yard and food waste, and leaves, that is capable of being used as a soil amendment.

**CONSTRUCTION and DEMOLITION WASTE.** Waste building materials and rubble resulting from construction, remodeling, repair, and demolition operation on houses, buildings, pavements, and other structures.

**GARBAGE.** All putrescible wastes, except sewage and body wastes and recognizable industrial by-products.

**NONCOMBUSTIBLE WASTE.** All waste substances incapable of burning, including tin cans, and other metallic substances, bottles, glassware, earthenware, ashes, and the like.

**RECYCLABLE MATERIAL.** Those commodities which are recyclable and can be sold for processing and use or reuse.

**REFUSE.** All non-putrescible wastes, except recyclable material.

**RESIDENTIAL UNIT.** Private residences or households, apartments, churches, schools and municipal buildings with eight dwelling units or less on one lot of record.

**RESIDENTIAL WASTE.** All solid wastes, combustible and noncombustible, arising out of the ordinary operations of residential units.

**RESPONSIBLE TENANT.** A tenant that has entered into a valid "Agreement to Comply with Chapter 50 of the City of Frankfort's Code of Ordinances" that has been filed with the City Public Works Department.

**SOLID WASTE COLLECTION OFFICER.** The Public Works Director or his designee.

**WASTE.** All trash, garbage, offal, and other refuse and discarded matter required to be removed from private and public places, except recyclable material.

**WHITE GOODS.** Refrigerators, washers, dryers, ranges, freezers, and other large appliances. (70 Code, § 6.12.010) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 7, 2009, passed 6-22-09; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 3, 2012, passed 4-23-12)

## § 50.02 COLLECTION.

(A) (1) The owner, tenant or lessee of each residential unit shall participate in the City's garbage disposal program. The city shall not collect commercial or industrial waste. The city shall collect residential waste when properly containerized and placed adjacent to a publicly maintained street in a manner and in a quantity that does not create a hazard to traffic. Due to traffic hazards, the city shall not collect waste from apartment or condominium buildings with more than eight (8) units per lot of record, and the owners of those units shall enter into a written garbage disposal contract with a properly licensed

private contractor. In the case of a private contractor, the garbage shall be placed in a container equivalent or better than the container used by the City and picked up by the private contractor on no less than a once per week basis.

(2) Exception for residences located on a private street: Notwithstanding the above provision, collection service shall continue for all residences served by the city prior to January 1, 2001, so long as the owner of any private property upon or over which city vehicles are operated in the course of the collection executes an agreement indemnifying the city, its officers, employees and agents against any liability or claim for property damage, personal injury or death sustained by any person or entity, including the property owner, occurring as a result of or during such operation of city vehicles on private property with the exception of any wanton conduct by the city which creates a substantial danger of death or serious physical injury. Provided further, that the property owner shall maintain general liability insurance in a minimum coverage amount of \$1,000,000, naming the city as additional insured.

(-70 Code, § 6.12.020) (Am. Ord. 8, 2002, passed 2-21-02)

(B) Residential solid waste and recyclable material placed in approved City containers or bags shall be collected from each residential unit once per week following a schedule arranged by the Public Works Department. During unlimited pickup days scheduled by the Public Works Department, residential solid waste placed in any suitable container or garbage bag will be picked up at no additional monthly charge. The Director of Public Works, through the adoption and promulgation of rules, shall be authorized to fix and arrange the date and schedules for the collection of solid wastes and recyclable material in all parts of the city. (-70 Code, § 6.12.030)

(C) Tree brush and yard waste shall be collected once per week along with other household garbage and trash.

(1) Tree brush. The tree brush shall be placed adjacent to the pavement in the public street or alley right-of-way alongside regular waste containers. No tree limb shall exceed 50 pounds in weight or six feet in length. Limbs shall be stacked with cut ends facing the street, not criss-crossed, and placed in piles not exceeding three feet high and ten feet long. The city shall not collect tree residue or brush as a result of a private tree contractor's work and the property owner or occupant or the contractor shall be responsible for the removal and disposal of same in this case. (-70 Code, § 6.12.140)

(2) Yard waste. Yard waste consisting of plant material (leaves, grass clippings, branches, brush, flowers, roots, wood waste, etc.), but excluding loose soils, sod, food waste, plastics and synthetic fibers, human or animal excrement, noxious weeds and soil contaminated with hazardous substances, shall be placed in garbage containers with a capacity of thirty-two (32) gallons or less or paper yard waste bags with a filled weight not exceeding fifty (50) pounds.

(D) Bulky items such as white goods, old furniture, and the like, shall be placed alongside other regular garbage and trash once per week for collection. No person shall place a refrigerator for disposal unless and until he has either removed the door or secured it so that children cannot open it. Carpet shall

be cut and tied into four foot sections. Bundled carpet weight shall not exceed 50 pounds. Items such as tires, used propane tanks, metal poles, and swing sets will not be collected by city personnel. (-70 Code, § 6.12.150)

(Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13; Am. Ord. 20, 2014, passed 10-27-14) Penalty, see § 50.99

### **§ 50.03 PREPARATION, STORAGE, PLACEMENT FOR COLLECTION.**

(A) Garbage and household trash. No owner, tenant, or lessee of any public or private premises shall permit to accumulate upon his premises any garbage or refuse except in suitable containers. Wheeled containers with an approximate capacity of 35, 65 and 95 gallons shall be provided by the city to each dwelling unit qualifying for residential service at no initial cost. The containers shall remain the property of the city. Each eligible dwelling unit shall be assigned a serial numbered trash container of the size requested by the owner of the unit. The property owner may exchange the trash container for a container of a different size upon payment to the city of the \$50 fee for the trash container in accordance with the procedure set by the Department of Public Works. The fee may be waived by the Director of Public Works on a city-wide basis. Damaged or stolen containers will be replaced upon request. Waste material which may be excepted from containerization is brush and bulky items such as old furniture, appliances, and the like. Recyclable materials shall be placed in special containers provided by the city. (-70 Code, § 6.12.040)

(B) All owners, tenants, or lessees of any public or private premises shall place garbage, waste, or recyclables to be collected in front of their premises near the street edge so that city sanitation workers may pick up and dispose of same without leaving the street or sidewalk unless, as determined by the Director of Public Works, the premises are occupied solely by one or more persons with physical limitations which prevent the persons from placing the container at the curbside or the topography of the premises prevents the placement of the container at the curbside or as provided in § 50.02(A). If the Director determines that physical or topographical limitations exist, an exemption is available through the Solid Waste Division and waste can be placed curbside in a provided City of Frankfort trash bag. Otherwise, no waste shall be collected outside designated street or alley rights-of-way. Properties which do have rear yard access may be exempt from this provision upon approval by the Director of Public Works. (-70 Code, § 6.12.050)

(C) All garbage and household trash shall be drained free of liquids and placed in the city-issued container or prepaid garbage bag. City-issued containers shall be placed at least three feet from other objects (containers, mailboxes, parked cars, trees, lights, etc.). The trash container shall not be filled so that the attached lid cannot be completely closed, nor shall the bags be filled such that they cannot be securely fastened shut or weigh more than 50 pounds. Garbage and household trash placed in containers other than in the city-issued container or prepaid garbage bag will not be collected except on unlimited pickup days scheduled pursuant to § 50.02(B). (-70 Code, § 6.12.060)

(D) Ashes shall be separated from all other types of waste, and the ashes shall be completely extinguished and placed in an airtight noncombustible container. Animal excrement must be bagged prior to placing into container. (-70 Code, § 6.12.080)

(E) The city will not collect waste from dumpsters. (70 Code, § 6.12.090)

(F) No waste or recycling containers shall be allowed to remain exposed within a public street or any place where the sight of them would be a public nuisance for a longer time than shall be reasonably necessary for collection. The containers shall be promptly removed from the sidewalk or public right-of-way after they have been emptied. Waste and recycling containers shall be placed at the curb no sooner than the evening prior to collection and no later than 7:00 a.m. on the day of collection and removed that evening. No container shall be allowed to remain at a curbside or roadside at times other than those permitted by this chapter. (70 Code, § 6.12.110)

(G) All city-issued containers shall be used for garbage or recycling purposes only and shall be kept clean by the owner thereof. No dead animals, maggots or petroleum products shall be permissible in the waste containers. Paint shall be solidified with sand, dirt, or kitty litter. No garbage or refuse shall be permitted to ferment or putrefy. (70 Code, § 6.12.120)  
(Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13; Am. Ord. 6, 2016, passed 5-23-16; Am. Ord. 23, 2016, passed 11-28-16) Penalty, see § 50.99

#### **§ 50.04 EVICTIONS.**

Notwithstanding the other provisions of Chapter 50 of the City of Frankfort Code of Ordinances, where a landlord, pursuant to a proper order of eviction issued by a court of competent jurisdiction, has evicted a tenant and has set out the tenant's property on the curb pursuant to court order, the City may pick up and dispose of the set out property after it has been on the curb for not less than twenty-four (24) hours after receiving a written request from the evicting landlord, a copy of the order of eviction and payment in the amount of \$50.00. The set out property is not required to be placed in a proper waste container.  
(Ord. 20, 2014, passed 10-27-14)

#### **§ 50.05 LOOSE MATERIAL.**

(A) No person shall place within the street right-of-way for collection any small loose material which could be wind blown and result in littering. Items such as grass clippings, leaves, small branches, paper, and the like, shall be properly containerized or placed in paper yard waste bags.

(B) Exception: Leaves may be raked to the roadside during the city's leaf collection program. (70 Code, § 6.12.160) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11) Penalty, see § 50.99

#### **§ 50.06 PROHIBITED DISPOSAL.**

(A) (1) No person shall throw, place or deposit waste on any street or other public property except in proper waste containers with the lid closed or tied.

(2) No person shall turn over or upset the contents of any waste container on any street or other public property.

(3) When waste has been set out in containers on public property for collection no person shall remove the waste from the containers.

(4) It shall be unlawful for any person to place any garbage or trash upon the property of another or within a trash container assigned to another residence.  
(=70 Code, § 6.12.170) (Am. Ord. 16, 2001, passed 10-11-01)

(B) The disposal of any garbage or refuse by any individual, householder or establishment in any place, public or private, within the city limits other than at a licensed and permitted private landfill or transfer station is prohibited. (=70 Code, § 6.12.180)  
(Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13; Am. Ord. 23, 2016, passed 11-28-16) Penalty, see § 50.99

#### **§ 50.07 DUMPING REGULATIONS.**

No person shall dump combustible waste on any public or private property within the city. No person shall dump dirt or other noncombustible material of any kind on any public or private property within the city without the written permission of the City Engineer.  
(=70 Code, § 6.12.190) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11)  
Penalty, see § 50.99

#### **§ 50.08 DANGEROUS OR HAZARDOUS WASTE.**

Needles and/or syringes will not be collected by city personnel unless they are disposed of in an approved sharps container (which can be purchased at drug stores). The sharps container can then be disposed of in waste containers and collected by the city. Other dangerous or hazardous waste shall not be placed for collection.  
(Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11) Penalty, see § 50.99

#### **§ 50.09 COLLECTION OF CONSTRUCTION/DEMOLITION DEBRIS.**

Construction debris not placed in a suitable container will require the use of a dumpster that is provided by and collected by a private collector. A permit issued by the Public Works Director will be required if the dumpster is to be located within public right-of-way.  
(Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11) Penalty, see § 50.99



**§ 50.10 RECYCLING PROGRAM.**

(A) *Participants.*

(1) The city shall provide curbside recycling opportunity for all residential units, with collection once per week.

(2) The city may provide curbside recycling opportunity for all privately owned commercial units located within the City of Frankfort Renaissance District, which is bounded on the south side by Second Street between Bridge Street and Capital Avenue, on the east side by High Street between Mero Street and the Kentucky River, on the north side by Mero Street between High Street and the Kentucky River and on the west side by the Kentucky River, with collection once per week.

(B) *Containers.* The city shall provide each residential unit which participates in the recycling program with an approved container. The container shall remain property of the city. The container shall be used only for the purpose of recycling, and are not to be filled so that the attached lid cannot be completely closed. Plastic bags or other materials are not to be used for sorting recycling materials. Approved recycling containers shall be purchased from the city and used by the commercial building in order for a commercial building to participate in the recycling program. A maximum of two approved recycling containers shall be allowed for each commercial building, unless otherwise approved by the Director of Public Works based on the amount of recyclable material to be collected.

(C) *Collection.* Recyclable material shall be collected once per week on a schedule set up by the Director of Public Works.

(D) *Pilfering.* No person shall remove any material from recycling containers set out for collection by the city. All recyclable material becomes property of the city at the time it is set out to the street side for collection.

(-70 Code, § 6.12.230) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 24, 2008, passed 9-22-08; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 3, 2012, passed 4-23-12; Am. Ord. 4, 2013, passed 6-24-13) Penalty, see § 50.99

**§ 50.11 AUTHORITY TO ESTABLISH RULES AND REGULATIONS.**

The Director of Public Works, with the approval of the Board of Commissioners, shall be authorized to prepare and publish rules and regulations for the effective administration and enforcement of the provisions of this chapter. Any rules so published shall have the force of law and a violation thereof shall be punishable in the same manner as a violation of this chapter.

(-70 Code, § 6.12.240) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11)

**§ 50.12 POLICE POWER MEASURE.**

This chapter is hereby declared to be an exercise of the city's police power for the preservation of the public peace, health, and safety. The city shall bear no liability for the improper usage or placement of the waste containers.

(-70 Code, § 6.12.260) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11)

**§ 50.13 PROSECUTION.**

(A) Whenever a condition is identified that is in violation of this chapter, the Director of Public Works or his designee may issue a Notice of Violation giving the property owner or the property owner's agent five (5) days to remedy the situation. Notices shall be issued by posting the notice on the container for the residence or by sending the notice by first class mail to the owner. If, after five (5) days of the issuance of notice, the violation has not been brought into compliance, the city may send employees or other workers onto the property to effect compliance. The property owner shall be liable for the reasonable value of labor and materials in remedying the situation as determined by the Director of Public Works (\$25 per event). If payment is not received within forty-five (45) days after invoice is issued, a lien against the property for the invoice amount shall be filed in the Franklin County Clerk's office bearing interest at 18% per annum thereafter until paid, all pursuant to state law.

(B) Responsible Tenant: In the case of a Responsible Tenant, whenever a condition is identified that is in violation of this chapter, the Director of Public Works or his designee may issue a Notice of Violation giving the Responsible Tenant five (5) days to remedy the situation. Notices shall be issued by posting the notice on the container for the residence or by sending the notice by first class mail to the Responsible Tenant. If, after five (5) days of the issuance of notice, the violation has not been brought into compliance, the city may send employees or other workers onto the property to effect compliance. The Responsible Tenant shall be liable for the reasonable value of labor and materials in remedying the situation as determined by the Director of Public Works (\$35 per event). If payment is not received within forty-five (45) days after invoice is issued, the City may take action as set forth in § 50.13(C). A Property Owner shall not be liable for violations caused by a Responsible Tenant.

(C) Citation to the Franklin District Court or the Frankfort Nuisance Code Board may be issued by a Solid Waste Collection Officer. In the event a citation issued for violation of this chapter is returnable before the Frankfort Nuisance Code Hearing Board, Sections 106 and 107 of the Frankfort Nuisance Code shall not apply.

(D) In addition to the other remedies set forth in this Chapter, where the owner, tenant or lessee of a residential unit fails to comply with the requirements of this Chapter after the issuance of a Notice of Violation, the City may 1) stop collection of garbage and recyclable material at all of the owner's, tenant's or lessee's residential units located within the City, and may collect the City issued trash container and the recycling container issued to all of the owner's, tenant's or lessee's residential units,

and 2) where the owner, tenant or lessee has failed to pay amounts due under this Chapter, file a lien against all of the owner's, tenant's or lessee's residential units in the amount due the City for garbage collection and file suit to enforce the amount of the lien, and collect interest in the amount of eighteen percent (18%) per annum and reasonable attorneys fees. Thereafter, the City shall only issue a trash container and a recycling container to the owner's, tenant's or lessee's residential units upon payment in full of the amount due the City and compliance with the requirements of this Chapter, and payment of an administrative fee of \$50.00 for each residential unit.

(Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 3, 2012, passed 4-23-12; Am. Ord. 20, 2014, passed 10-27-14; Am. Ord. 23, 2016, passed 11-28-16)

**§ 50.14 GARBAGE COLLECTION FEE.**

(A) That, beginning January 1, 2017, the owner of each residence or building from which residential waste is collected by the city pursuant to § 50.02 of the City of Frankfort Code of Ordinances shall not be required to pay a collection fee.

(B) Garbage bags that will be picked up by the city, with the exception of garbage bags collected on unlimited pickup days, may be purchased from the city or other approved vendor for \$6 for 6 bags.

(Ord. 7, 2009, passed 6-22-09; Am. Ord. 7, 2011, passed 7-11-11; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 4, 2013, passed 6-24-13; Am. Ord. 23, 2016, passed 11-28-16)

**§ 50.99 PENALTY.**

(A) Violation of § 50.08 of this chapter shall constitute a criminal offense for which a citation may issue returnable to Franklin District Court with a fine of not less than \$50 nor more than \$500, or imprisonment for a term not to exceed 30 days, or both the fine and imprisonment, at the discretion of the Court, assessed for each offense.

(B) Violation of any other provisions of this chapter may be considered a civil offense for which a citation may issue returnable to the Frankfort Nuisance Code Hearing Board with a civil penalty of not less than \$50 nor more than \$500 assessed for each violation; provided that each day the violation shall exist shall constitute a separate civil offense; and provided further that the citation shall not be issued without two prior written warnings having been received by the offender.

(C) The theft or intentional damage of the city-issued containers is prohibited.

(70 Code, § 6.12.250) (Am. Ord. 16, 2001, passed 10-11-01; Am. Ord. 22, 2011, passed 12-19-11; Am. Ord. 20, 2014, passed 10-27-14)



## CHAPTER 51: ELECTRIC AND WATER PLANT

### Section

- 51.01 Operation of system; state law adoption
- 51.02 Bonds
- 51.03 Installation of bulbs in traffic-control devices

#### ***Statutory reference:***

*Furnishing of utility services, see KRS 96.160*

### **§ 51.01 OPERATION OF SYSTEM; STATE LAW ADOPTION.**

(A) It is hereby declared to be the desire and intention of the city, to accept and operate its combined electric and water system under the provisions of Chapter 212 of the Acts of 1946, KRS 96.171 to 96.188, and the city does hereby accept and agree to all of the provisions of Chapter 212 of the Acts of 1946, KRS 96.171 to 96.188, and to all of the provisions as they may be from time to time amended by the Acts of the General Assembly of the commonwealth.

(B) The Mayor is hereby authorized to appoint, subject to approval by the Board of Commissioners, the Electric and Water Plant Board of the city, in the form and manner provided by Chapter 212 of the Acts of 1946, KRS 96.171 to 96.188.  
(70 Code, § 13.08.010)

### **§ 51.02 BONDS.**

The bond to be executed by each of the members of the Electric and Water Plant Board of the city is fixed at the sum of \$5,000.  
(70 Code, § 13.08.020)

### **§ 51.03 INSTALLATION OF BULBS IN TRAFFIC-CONTROL DEVICES.**

The Electric and Water Plant Board hereby is requested and authorized to undertake at its own expense the installation of light bulbs as needed in all traffic signal lights of the city.  
(70 Code, § 13.08.030)



## CHAPTER 52: SEWERS

### Section

#### *Sewer Use Regulations*

- 52.01 Service to areas outside city limits
- 52.02 Connections; requirements and charges
- 52.03 Privies and septic tanks prohibited where sewer line exists
- 52.04 Sewer service charges based on water use
- 52.05 Charges where 20% or more water does not enter sewer
- 52.06 Discontinuing water service
- 52.07 [Reserved]
- 52.08 Agreement with Electrical Water Plant Board for billing, collecting and accounting of sewer charges
- 52.09 Connecting storm and sanitary sewers
- 52.10 Location of sewers on L&N Railroad property
- 52.11 Width of sewer easements
- 52.12 Sewer line extensions

#### *Sanitary Sewer Mini-Projects*

- 52.25 City participation
- 52.26 Contract with property owners
- 52.27 Approval of plans; inspection of construction
- 52.28 Notice; indemnification of city; easements
- 52.29 Assessment of costs
- 52.30 Contract for construction
- 52.31 Privilege fees; payment
- 52.32 Connection required; failure
- 52.33 Connection fees

#### *Industrial Pretreatment*

- 52.45 Industrial pretreatment ordinance
- 52.46 Reserved
- 52.47 Reserved
- 52.48 Reserved

- 52.49 Reserved
- 52.50 Administration
- 52.51 Powers and authority of inspectors
- 52.52 Enforcement
- 52.53 Violations

***Sewer Capital Recovery Program***

- 52.60 Definitions
- 52.61 Cost Recovery Program
- 52.62 Application fee
  
- 52.99 Penalty

***Cross-reference:***

*Sewer Department, see §§ 36.175 through 36.183*

***SEWER USE REGULATIONS***

**§ 52.01 SERVICE TO AREAS OUTSIDE CITY LIMITS.**

The city will accept sanitary sewer flows from any area within the 201 planning area without regard to any condition other than user charges developed from time to time on an equitable basis, as long as pipeline, pumping and treatment capacity exists.

(=70 Code, § 13.04.010) (Ord. 1-98, 1998, passed 1-12-98; Am. Ord. 30, 2005, passed 12-15-05)

**§ 52.02 CONNECTIONS; REQUIREMENTS AND CHARGES.**

(A) *Connection required - stormwater.* All owners and occupants of houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or any other building of any kind situated upon lots abutting upon any street, alley or easement, in which there is hereafter installed a sewer line which is a part of any future extensions or improvements to the sewer system of the city, shall within 90 days from the date the sewer line is installed and placed in operation connect therewith all sanitary sewerage drain pipes of the houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or other buildings, conveying the sanitary sewage therefrom into the sewer line, the connections to be made under the regulations as the Board of Commissioners may establish by ordinance, and failure to do so is hereby declared to be unlawful and to constitute a nuisance. No storm water drain shall be connected with any separate sanitary sewer hereafter constructed as or made a part



of the separate sanitary sewage system of the city, nor shall any storm water be otherwise introduced into any separate sanitary sewer. (-70 Code, § 13.04.020)

(B) *Plans for sewer connections.* All architects, contractors, builders or other persons who shall hereafter erect new buildings for dwelling, manufacturing or commercial purposes on a lot or parcel ground abutting on a street, alley or easement in which there is hereafter installed and maintained any additional sewer line or in which a sewer line exists which served a previously existing building, which is proposed to be used to serve the new or renovated building or buildings, shall before erecting any building exhibit to the city satisfactory evidence that a means has been or will be provided for connecting the sanitary sewerage drain from the building with the municipal sewer system. (-70 Code, § 13.04.030) (Ord. 21-85, 1985, passed 6-24-85)

(C) *Connection charges.*

(1) Tap Fee: All single family residential dwellings, served by a single five-eighths-inch (5/8-inch) water meter, on an individual lot and connecting to the municipal sewer system of the City of Frankfort shall be assessed a tap fee of \$1,000 to be paid by the property owner, or his or her representative, prior to connecting to the municipal sewer system. The tap fee includes the cost of a cleanout vault and the Sewer Department's labor to install the cleanout vault to the Sewer Department's Specifications. Properties paying a Tap Fee shall not be subject to paying a Capacity Fee.

(2) Capacity Fee: For all other properties, not covered by § 52.02(C)(1) above, within the corporate limits and outside the city there are hereby imposed capacity fees, which include the cleanout vault fee, as set forth in the following schedule:

| <i>Water Meter Size</i> | <i>Capacity Factor</i> | <i>Capacity Fees</i> |
|-------------------------|------------------------|----------------------|
| Five-eighths-inch       | 1                      | \$2,192              |
| Three-quarters-inch     | 1.50                   | 3,013                |
| One-inch                | 2.50                   | 4,655                |
| One and one-half-inch   | 5                      | 8,760                |
| Two-inch                | 8                      | 13,686               |
| Three-inch turbine      | 22.50                  | 37,495               |
| Four-inch turbine       | 50                     | 82,650               |
| Six-inch turbine        | 90                     | 148,330              |
| Eight-inch turbine      | 175                    | 287,900              |

## Frankfort - Public Works

| <i>Water Meter Size</i> | <i>Capacity Factor</i> | <i>Capacity Fees</i> |
|-------------------------|------------------------|----------------------|
| Three-inch compound     | 16                     | 26,822               |
| Four-inch compound      | 25                     | 41,600               |
| Six-inch compound       | 80                     | 131,910              |
| Three-inch combination  | 32.50                  | 53,915               |
| Four-inch combination   | 57.50                  | 94,965               |

(a) A capacity fee shall be imposed for each connection with the municipal sewer system of the city under the provisions codified herein and shall be assessed based upon the total number of water meters installed for the lot.

(b) At the time that the capacity fee is paid, the property owner, or his or her representative, shall pay a separate cleanout vault installation fee, which is included in the capacity fee as shown above. The property owner, or his or her representative, shall have marked the final grade at the location of cleanout vault. The method of marking shall be a stake driven in the ground with a horizontal line indicating the finish grade. When notified of the marking of the finish grade, the Sewer Department will then install the cleanout vault.

(c) All capacity fees shall be payable in full prior to connection to the municipal sewer system, except in cases of extreme financial hardship, where the said cost may be prorated for a period not to exceed two years. Extreme financial hardship exceptions apply to single-family residential dwellings only. Owners making application for the said prorated capacity fee under the hardship provision must submit a request in writing to the city. The city may require any information it deems pertinent to the request. If the request is approved, the capacity fee shall be paid in equal monthly payments, over a period not to exceed two years. At the time an application is received from a homeowner, an application fee of \$150 shall be paid to the Sewer Department to cover the cost of the preparation of the promissory note, the mortgage document, and the mortgage release.

(d) This provision shall be applicable for individual home owners, not contractors, builders or developers. Responsibility for the payments shall run with the land and shall be the responsibility of any subsequent owner.

(3) All ordinances or parts of ordinances in conflict are hereby repealed to the extent of any conflict.  
 (70 Code, § 13.04.040) (Ord. 14-89, 1989, passed 5-8-89; Am. Ord. 26, 2002, passed 10-24-02; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 24, 2007, passed 8-27-07; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 19, 2016, passed 10-24-16) Penalty, see § 52.99

**§ 52.03 PRIVIES AND SEPTIC TANKS PROHIBITED WHERE SEWER LINE EXISTS.**

(A) It is unlawful for any person to construct or maintain a privy, vault, cesspool, septic tank or similar contrivance for the reception of sewerage when the premises abuts upon a public sewer line in any street, alley or other easement, and all privies or toilets shall be removed by the owners and the occupants of the property abutting on any street, alley or other easement or private property on which runs a sewer line and to which the drainage from such premises may be connected.

(B) All privies or surface toilets, or other means of casting or depositing sewerage into a container above or below the surface of the ground, or upon or into the soil or into any running or percolating stream of water or into any cistern or well whereby the soil is contaminated with such sewerage, are hereby declared to be unlawful and to constitute a nuisance.

(-70 Code, § 13.04.050) (Ord. 30, 2005, passed 12-15-05) Penalty, see § 52.99

**§ 52.04 SEWER SERVICE CHARGES BASED ON WATER USE.**

(A) (1) There is hereby established a schedule of rates and charges for the use of and services rendered by the municipal sewer system of the city, which shall be paid by the owner or occupant of each and every lot, parcel of land, building or premises throughout the city discharging sewage, water or other liquid wastes connected with the municipal sewer system. The rates and charges shall be computed and billed monthly and shall be based insofar as possible upon the quantity of water used or supplied each lot, parcel of land, building or premises, as determined by readings of the water meters supplying water thereto, plus any collection fee charged by the collecting water district. The per month charges shall be \$9.33 after July 1, 2014, per 1,000 gallons of water usage, plus any collection fee charged by the collecting water district, with a minimum monthly charge for 2,000 gallons of water usage. On January 1, 2016, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2017, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2018, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2019, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. On January 1, 2020, a rate increase of two and one-half percent (2.5%) in the per month charge shall be enacted. Beginning July 1, 2007 charges shall increase annually at a rate equal to the Consumer Price Index (CPI) for the prior calendar year as published on December 31 of that year with a maximum of 9.99%, but in no event shall this annual increase be less than 1.5% per year; increases of 10% or greater shall require the approval of the Board of Commissioners. In addition, all industrial users shall pay an industrial cost recovery surcharge of \$.20 per 1,000 gallons of water usage for standard strength industrial process wastewater discharged to city sewers. Separate meters shall be maintained at the expense of the industrial user to separately meter sanitary sewage and industrial process wastewater. All sewage from any industrial source, excepting only that which is strictly sanitary sewage is declared to be industrial process wastewater.

(2) In the event a lot, parcel of land, building or premises discharging sewage, water or other liquid wastes, as aforesaid, uses water supplied on other than a metered basis from either a private or a public water supply, then in each case the owner or occupant may be required to cause a water meter

or other measuring device to be installed, acceptable to the city, and the quantity of water used, as measured by such meter, shall determine the sewer rate, rental or charge and, pending installation of the meter, rates, rentals or charges shall be based upon an estimated quantity of water used provided that pending such installation of water meters in private dwellings the sewer rate, rental or charge shall be based on the following usage rates:

- (a) One- or two-bedroom house: 2,000 gallons per month.
- (b) Three-, four-, five- or six-bedroom house: 4,000 gallons per month.
- (c) More than six bedrooms: 6,000 gallons per month.

(3) The rates and charges for sewer services as established by this section, which are based upon water meter readings, shall carry proportionately the same discounts for prompt payment and proportionately the same added charges for past due payments as are presently fixed for water service billings. All charges for sewer services not based on water meter readings shall be due when notice of the amount of the charges is mailed with a penalty of 10% of the amount thereof if not paid within ten days from the mailing, and any bill not paid within 20 days from such mailing shall be classified as delinquent.

(4) The city shall review not less often than annually the wastewater contribution of users, the total cost of operation, maintenance and replacement of the wastewater works, debt service obligation and user charge rates. Based on the review, the city shall revise, when necessary, the schedule of user charge rates to accomplish the following:

(a) Maintain an equitable distribution of operation and maintenance and replacement costs among users of the treatment system; and

(b) Generate sufficient revenues to offset costs associated with the proper operation and maintenance of the wastewater system and to meet debt service requirements.

(5) Excessive strength and toxicity surcharges shall be reviewed at the time of and in conjunction with the review of user charges. Surcharge rates shall be revised where necessary to reflect current treatment and monitoring costs.

(6) Each user shall be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the total charge which is attributable to operation and maintenance and replacement of the wastewater system.

(7) Refunds may be made for sewer charges in hardship cases, in accordance with the city's sewer adjustment policy. A customer's bill may be credited based upon the Electric and Water Plant Board's determination of water usage.

(8) The city will allow the use of a separate agricultural water meter, if approved by the Electric and Water Plant Board of the City of Frankfort, and will not assess a sewer use charge for the water used by the agricultural service.

(70 Code, § 13.04.060) (Ord. 16-76, 1976, passed 5-24-76; Am. Ord. 14-89, 1989, passed 5-8-89; Am. Ord. 1-92, 1992, passed 4-27-92; Am. Ord. 1-98, 1998, passed 1-12-98; Am. Ord. 25, 2002, passed 10-24-02; Am. Ord. 25, 2007, passed 8-27-07; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 26, 2009, passed 12-22-09; Am. Ord. 20, 2011, passed 12-19-11; Am. Ord. 8, 2016, passed 6-20-16)

*(B) Special charge or treatment for unusual waste substances.*

(1) In the event the sewage, water or other liquid waste being discharged into the municipal sewer system from any buildings or premises contains unduly high concentrates or any substances which add to the operating costs of the municipal sewer system, then special rates, rentals or charges will be charged and collected as to the building or premises, or the owner or other interested party may be required to specially treat the sewage, water or other liquid wastes before it is discharged into the municipal sewer system.

(2) If an industrial user discharges excessive or high strength waste to the public sewer during any month, the user shall be assessed a surcharge for excessive strength as follows:

| <i>Parameters</i> | <i>Concentration Limit</i> | <i>Surcharge in Excess of Limit</i> |
|-------------------|----------------------------|-------------------------------------|
| BOD               | 200 mg/l                   | \$.25/lb. BOD                       |
| TSS               | 200 mg/l                   | \$.20/lb. TSS                       |

(3) The excessive strength surcharge will continue until the industrial user's next monthly average laboratory analysis shows a standard strength waste below the allowable concentration limits. (70 Code, § 13.04.080) (Ord. 1-92, 1992, passed 4-27-92; Am. Ord. 12, 2009, passed 8-24-09)

*(C) Special charges or classification for peculiar or unusual uses.*

(1) Whenever it is determined by the Board of Commissioners to be necessary to classify any commercial institutions or industries or septic haulers, by reason of the unusual purpose for which water is used, or the character of the sewage, water or other liquid wastes discharged therefrom, or whenever the established schedule of rates and charges for any reason is not applicable, then special rates, rentals or other charges will be established by the Board of Commissioners.

(2) The Board of Commissioners hereby established the following special charges: A special charge of \$15 per 500 gallons shall be assessed to septic haulers for domestic sewage pumped from septic tanks and \$25 per 500 gallons for grease from commercial/industrial establishments. Billing of septic haulers shall be based on actual capacity of the tanker, with a minimum charge for 500 gallons. (70 Code, § 13.04.090) (Ord. 1-92, 1992, passed 4-27-92; Am. Ord. 24, 2002, passed 10-24-02; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 20, 2011, passed 12-19-11)



(D) *Collection charges by Electric and Water Plant Board.*

(1) It is contemplated that the rates, rentals and charges for the use of and services rendered by the municipal sewer system, based on water meter readings, will be billed and collected by the Electric and Water Plant Board of the city and the full amount of the proceeds will be paid over to the City Finance Department at least once in each month with a full accounting of all sums collected. All sums thus received by the city shall constitute income and revenues of the municipal sewer system to be set aside in a separate and special fund designated as the "Sewer Revenue Fund" pursuant to the provisions of the ordinance authorizing the issuance of sewer revenue bonds provided that if, and to whatever extent, the Electric and Water Plant Board at any time fails or refuses to bill, collect and account for the income and revenues the city shall by other means and in any other manner as may be lawful, establish, impose, collect and account for income and revenues from the municipal sewer system in conformity with the ordinance pursuant to which sewer revenue bonds or any other obligations for account of the system are at the time outstanding. The records of the Electric and Water Plant Board with respect to charging, billing, collecting and accounting for sewer service charges shall be audited at least each 12 months by an independent public accountant and a report thereof filed with the City Clerk. The cost of the audits shall be classified and paid at as an expense of operation and maintenance of the municipal sewer system.

(-70 Code, § 13.04.100) (Am. Ord. 12, 2009, passed 8-24-09)

(E) *Unauthorized connections with sewer.*

(1) No person shall install any "saddle" or "Y branch" onto, nor by any method break into, any outfall line, trunk line or collector line of, or that ultimately discharges into, the municipal sewer system of the city.

(2) This section does not apply to bona fide agents or employees of the municipal sewer system of the city acting in the course of their assigned duties.

(3) No sanitary sewer inlet which is not at least 12 inches above the top of the lowest of the two adjacent public sanitary sewer manholes shall be connected by a gravity drainage to the building sanitary sewer. Any such connection made after the effective date of this section shall be unlawful and the city shall not be liable for sewage backups through such unlawful connections.

(F) There are hereby established fees for sewer extension design review, written easement review, video inspection, re-inspection and re-testing of new sewer construction. All fees shall be paid in advance.

## Frankfort - Public Works

| <i>Reviews</i>   | <i>Fee</i>   |
|--|--|
| Sewer extension design review  | \$250  |
| Written easement review  | \$100  |
| Final inspections  | First final inspection is free with followup                   |
|  | Each additional final inspection is \$100 after follow up      |
| Video inspection   | First video inspection is free                                 |
|  | Second video inspection is \$2.00 per foot                     |
|  | Third and subsequent video inspection are \$2.50 per foot      |
| Witnessing testing<br><br>Pipe tests are based upon manhole to manhole segments of pipe tested | First manhole test is free                                     |
|  | First manhole retest - \$35 each                               |
|  | Subsequent manhole retest - \$50 each                          |
|  | First pipe mandrel test is free                                |
|  | First pipe mandrel retest - \$.50 per foot of main             |
|  | Subsequent pipe mandrel main retest - \$1.00 per foot of main  |
|  | First pipe pressure test is free                               |
|  | First pipe pressure retest - \$.50 per foot of main            |
|  | Subsequent pipe pressure main retest - \$1.00 per foot of main |
|  | First pump station test is free                                |
|  | First pump station retest - \$150 each                         |
|  | Subsequent pump station retest \$250 each                      |
| Tap inspection   | First tap inspection is free                                   |
|  | Re-inspection \$35 each  |

(=70 Code, § 13.04.180) (Ord. 5-96, 1996, passed 3-18-96; Am. Ord. 1, 2004, passed 1-15-04; Am. Ord. 12, 2005, passed 6-27-05; Am. Ord. 13, 2005, passed 6-27-05; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 20, 2011, passed 12-19-11; Am. Ord. 12, 2013, passed 11-25-13; Am. Ord. 10, 2014, passed 6-23-14; Am. Ord. 23, 2014, passed 12-22-14) Penalty, see § 52.99



**§ 52.05 CHARGES WHERE 20% OR MORE WATER DOES NOT ENTER SEWER.**

Where more than 20% of the water used by the owner or occupant of any building or premises during the year does not flow into the sanitary or combined sewer, the percentage in excess of 20% shall

be excluded from the calculation of the sewer service rates and charges provided herein. The city may determine in such manner as may be found practicable the amount of water entering the sewers and the sewer rate, rental or charge shall be based thereon, or may require or permit the installation of additional meters or measuring devices in a manner as to determine the quantity of water or sewage actually entering the municipal sewer system, in which case the sewer rate, rental or charge shall be based thereon.

(-70 Code, § 13.04.070) (Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

**§ 52.06 DISCONTINUING WATER SERVICE.**

It is the declared intention that bills for water and sewer services and connection charges shall be billed, collected and enforced together, so that when any bill has remained unpaid and becomes delinquent or any premises have failed for 90 days to connect to the sewer system, the water service to the delinquent premises can be and will be discontinued and will not be reinstated until the entire bill for water and sewer service and sewer connection charges is paid in full, or the premises have been connected to the sewer system as the case may be.

(-70 Code, § 13.04.110) (Ord. 30, 2005, passed 12-15-05)



**§ 52.07 [RESERVED].****§ 52.08 AGREEMENT WITH ELECTRICAL WATER PLANT BOARD FOR BILLING, COLLECTING AND ACCOUNTING OF SEWER CHARGES.**

(A) The agreement between the city and the Electric and Water Plant Board of the city, providing for the billing, collecting and accounting by the Electric and Water Plant Board of all charges made by the city for services rendered by and the facilities of the municipal sewer system is in all respects authorized, approved and confirmed. Agreements with additional water districts may be authorized as required to bill, collect and account for sewer service provided outside the Electric and Water Plant Board boundaries. The Electric and Water Plant Board shall be entitled to collect a deposit fee from sewer customers to ensure payment of charges for sewer service.

(B) The Mayor and City Clerk are hereby authorized, empowered and directed to execute the agreement for and on behalf of the city and to cause the corporate seal of the city to be affixed thereto. (70 Code, § 13.04.140) (Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

**§ 52.09 CONNECTING STORM AND SANITARY SEWERS.**

(A) Where the attachment of storm or surface water sewers to a sanitary sewer is prohibited by contract or law, the person, firm or corporation connecting the surface water sewer with a sanitary sewer of the city shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined.

(B) Any plumber or other person who shall connect a storm or surface water sewer to a sanitary sewer of the city shall also be deemed guilty of a misdemeanor and, upon conviction, shall be fined. (70 Code, § 13.04.150) (Ord. 30, 2005, passed 12-15-05) Penalty, see § 52.99

**§ 52.10 LOCATION OF SEWERS ON L&N RAILROAD PROPERTY.**

The city, acting by and through its agency, municipal sewer board of the city, does resolve to enter into the license agreements between the Louisville and Nashville Railroad Company and the city, dated April 17, 1956, June 20, 1956, and April 25, 1957, copies of which are entered in the contract book, with respect to the location of the sewers designated therein upon the terms and conditions therein stated upon the property of the railroad company.

(70 Code, § 13.04.160) (Ord. 30, 2005, passed 12-15-05)

### § 52.11 WIDTH OF SEWER EASEMENTS.

The width of the sewer easements to be granted to the city shall be set at least seven and one-half (7½) feet on either side of the centerline of the easement. (70 Code, § 13.04.170) (Ord. 30, 2005, passed 12-15-05)

### § 52.12 SEWER LINE EXTENSIONS.

Upon application for extension to any sewer line previously accepted for maintenance by the city, the Sewer Department may require the applicant to oversize proposed sewer line, pump station and force main capacity above the standard otherwise required by law or regulations. When the oversizing is required, the city shall bear the differential cost of the oversized pipe, pump and wet well materials if oversizing were not so required. Any obligation of the city for the cost contribution shall be determined in accordance with bidding procedures required by law. (Ord. 7, 2000, passed 2-28-00; Am. Ord. 30, 2005, passed 12-15-05)

## *SANITARY SEWER MINI-PROJECTS*

### § 52.25 CITY PARTICIPATION.

(A) The city, by and through its Board of Commissioners, may encourage, assist and participate financially in "sanitary sewer mini-projects," whenever it finds that a built-up area sewered by individual septic tanks has become a health hazard.

(B) For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***BUILT-UP AREA.*** Properties previously developed for residential, business or commercial purposes and using septic tanks for sewage treatment. ***BUILDABLE VACANT LOTS*** shall be included in this definition.

(70 Code, § 13.12.010) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

### § 52.26 CONTRACT WITH PROPERTY OWNERS.

(A) The city may contract with any duly incorporated nonprofit corporation organized by property owners proposing a mini-project to be financed by the owners of properties to be benefitted and the projects are hereby recognized as and declared to be "public projects." (70 Code, § 13.12.020)

(B) No mini-project will be considered until and unless at least 80% of the owners of individual properties to be benefitted have agreed, in writing, to participate in the private financing of the project. For purposes of computing this percentage, one property shall be represented by one owner, regardless of the actual number of owners thereof. (70 Code, § 13.12.030) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

#### **§ 52.27 APPROVAL OF PLANS; INSPECTION OF CONSTRUCTION.**

All plans must be approved by the city or its designee prior to the commencement of construction. Construction shall be inspected as it progresses and approved before acceptance as a part of the city's sewage system. (70 Code, § 13.12.040) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

#### **§ 52.28 NOTICE; INDEMNIFICATION OF CITY; EASEMENTS.**

The Board of Commissioners, prior to entering into any construction contract, will cause the city to:

(A) Provide written notice, by certified mail, to all owners of property to be ultimately benefitted and who have not agreed in writing to participate in the project at least 14 days in advance of a work session at which privilege fees are to be discussed or adopted. The written notice shall provide a brief description of the proposed project, the share of costs to be borne by each property, and the time and place of the work session at which privilege fees are to be discussed.

(B) The association may be required to indemnify and hold the city harmless from any liability arising out of the construction of the project, including costs of construction not directly contracted for by the city, and any claims for damages by reason of personal injury or property damage. The city may require the entity to provide liability insurance in coverages approved by the city.

(C) The association will provide executed easements from property owners dedicating necessary easements or rights-of-way to the city in perpetuity. (70 Code, § 13.12.050) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

#### **§ 52.29 ASSESSMENT OF COSTS.**

The shared costs for this construction of sewer facilities shall be based upon all costs of construction, including engineering costs. The costs shall be assessed against each benefitted property on a fair and equitable basis to be approved by the city. (70 Code, § 13.12.060) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

**§ 52.30 CONTRACT FOR CONSTRUCTION.**

In order to promote the general health and welfare, the city may contract, in the manner provided by law, individually, or in conjunction with the entity sponsoring the public project, for construction of portions of the project not funded by voluntary participants in the project.

(=70 Code, § 13.12.070) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

**§ 52.31 PRIVILEGE FEE; PAYMENT.**

(A) At any time following the letting of a construction contract, the city may, by and through its Board of Commissioners, by ordinance, provide for a privilege fee to be charged the owners of benefitted properties, their heirs, successors and assigns, who have not theretofore voluntarily participated in the project. The privilege fee shall be based upon a fair and equitable apportionment of all costs of construction, including engineering costs, incurred by the city in sewerage the properties. This subchapter may provide for the payment of a reasonable rate of interest by nonparticipants on their portion of the beginning with the letting of the construction contract. A notice containing a statement of the amount of each privilege fee, the method of payment thereof, the name(s) of current owners of the properties and a brief description of the benefitted properties shall be published in at least one edition of a newspaper of general circulation in Franklin County, Kentucky, at least 14 days prior to any deadline for the payment thereof. The notice shall likewise be recorded in the Office of the Franklin County Court Clerk. (=70 Code, § 13.12.080)

(B) Privilege fees shall be payable by the owners of benefitted properties to the city, in full, together with interest, on the date of connection to the system, which shall not be later than 90 days after the system is placed into service as a part of the municipal sewer system, in accordance with existing law. (=70 Code, § 13.12.090) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

**§ 52.32 CONNECTION REQUIRED; FAILURE.**

Failure to connect to the sewer line, when available, as required by this subchapter and §§ 52.01 through 52.11 is hereby declared to be unlawful and to constitute a public nuisance, and any owner of property found guilty of violating this subchapter shall be fined. The same shall be deemed to be a continuing violation and each day a violation is allowed to exist shall constitute a separate offense. (=70 Code, § 13.12.100) (Ord. 16-86, 1986, passed 10-13-86; Am. Ord. 30, 2005, passed 12-15-05)

**§ 52.33 CONNECTION FEES.**

(A) The Sewer Department is hereby authorized to enter into an agreement with any person, firm, association or corporation constructing the approved sewer lines with private funds, providing that the

city may collect reasonable and fair sewer connection fees, agreed upon in advance, from those residents, property owners or occupants who did not originally contribute to the cost of construction a sum sufficient to cover pro-rata cost of the construction contribution to the benefitted properties in addition to the regular sewer connection charge.

(B) The agreed upon pro-rata cost may, by agreement with the Sewer Department, be reimbursed to the person, firm, association or corporation which accomplished the construction. (70 Code, § 13.12.010) (Ord. 23-87, 1987, passed 8-10-87; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 30, 2005, passed 12-15-05)

### ***INDUSTRIAL PRETREATMENT***

#### **§ 52.45 INDUSTRIAL PRETREATMENT ORDINANCE.**

(A) *General provisions.*

(1) *Purpose and policy.* This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Frankfort and enables the City of Frankfort to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] 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 operations;
- (b) To prevent the introduction of pollutants in to the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into the receiving waters of the Bluegrass, 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 The City of Frankfort Sewer Department 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.

## Frankfort - Public Works

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual 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.

(2) *Administration.* Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to a duly authorized City of Frankfort Sewer Department employee.

(3) *Abbreviations.* The following abbreviations, when used in this section, shall have the designated meanings:

|        |   |   |
|--------|---|---|
| BOD    | - | Biochemical Oxygen Demand                       |
| BMP    | - | Best Management Practice                        |
| BMR    | - | Baseline Monitoring Report                      |
| CFR    | - | <i>Code of Federal Regulations</i>              |
| CIU-   |   | Categorical Industrial User                     |
| COD    | - | Chemical Oxygen Demand                          |
| EPA    | - | U.S. Environmental Protection Agency            |
| GPD    | - | gallons per day                                 |
| IU     | - | Industrial User                                 |
| mg/l   | - | milligrams per liter                            |
| NPDES  | - | National Pollutant Discharge Elimination System |
| NSCIU  | - | Non-Significant Categorical Industrial User     |
| POTW   | - | Publicly Owned Treatment Works                  |
| RCRA   | - | Resource Conservation and Recovery Act          |
| SIU -  |   | Significant Industrial User                     |
| SNC    | - | Significant Noncompliance                       |
| TSS-   |   | Total Suspended Solids                          |
| U.S.C. | - | United States Code                              |

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

***ACT*** or ***“THE ACT.”*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

***APPROVAL AUTHORITY.*** The State of Kentucky is designated as Approval Authority by 40 CFR.



***AUTHORIZED or DULY 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 operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where 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 a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Frankfort Sewer Department.

***BEST MANAGEMENT PRACTICES or BMP's.*** These are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

***BIOCHEMICAL OXYGEN DEMAND or BOD.*** The quantity of oxygen utilize in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

***CATEGORICAL INDUSTRIAL USER.*** An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

***CATEGORICAL PRETREATMENT STANDARD* or *CATEGORICAL STANDARD.***

Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) or (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

***CHEMICAL OXYGEN DEMAND* or *COD.*** A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

***CITY.*** The City of Frankfort, KY.

***CONTROL AUTHORITY.*** The City of Frankfort Sewer Department.

***DAILY MAXIMUM.*** The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

***DAILY MAXIMUM LIMIT.*** The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

***DIRECTOR.*** The person designated by the City of Frankfort Sewer Department to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this section. The term also means a Duly Authorized Representative of the Director.

***ENVIRONMENTAL PROTECTION AGENCY OR EPA.*** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the regional Administrator, or other duly authorized official of said agency.

***EXISTING SOURCE.*** Any source of discharge that is not a "New Source."

***GRAB SAMPLE.*** A sample that 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.

***INDIRECT DISCHARGE OR DISCHARGE.*** The introduction of pollutants into the POTW from any non-domestic source.

***INSTANTANEOUS LIMIT.*** The maximum concentration of a pollutant 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.

***INTERFERENCE.*** A discharge that, 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 the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued 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.

**LOCAL LIMITS.** Specific discharge limits developed and enforced by the City of Frankfort Sewer Department upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

**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.

**MONTHLY AVERAGE.** The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

**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 that 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 of 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 has:

a. Begun, or caused to begin, as part of a continuous onsite construction program

i. Any placement, assembly, or installation of facilities or equipment; or

ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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.

**NONCONTACT COOLING WATER.** Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**PASS THROUGH.** A discharge which exits the POTW into waters of the Bluegrass in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City of Frankfort Sewer Department NPDES permit, including an increase in the magnitude or duration of a violation.

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

**pH.** A measure of the acidity or alkalinity of a solution, expressed in standard units.

**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).

**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 change; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

***PRETREATMENT REQUIREMENTS.*** Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

***PRETREATMENT STANDARDS*** or ***STANDARDS.*** Prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

***PROHIBITED DISCHARGE STANDARDS*** or ***PROHIBITED DISCHARGES.*** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section (B)(1) of this ordinance.

***PUBLICLY OWNED TREATMENT WORKS*** or ***POTW.*** A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City of Frankfort Sewer Department. 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.

***SEPTIC TANK WASTE.*** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

***SEWAGE.*** Human Excrement and gray water (household showers, dishwashing operations, etc.).

***SIGNIFICANT INDUSTRIAL USER (SIU).*** Except as provided in paragraphs (3) and (4) of this Section, a ***SIGNIFICANT INDUSTRIAL USER*** is:

1. An Industrial User subject to a categorical Pretreatment Standards; or
2. An Industrial 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's operation; or
  - c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

***SLUG LOAD*** or ***SLUG DISCHARGE.*** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section (B)(1) of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an

accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

**STORM WATER.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**TOTAL SUSPENDED SOLIDS** or **SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

**USER OF INDUSTRIAL USER.** A source of indirect discharge.

**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.

**WASTEWATER TREATMENT PLANT** or **TREATMENT PLANT.** That portion of the POTW which is designed to provide treatment of the municipal sewage and industrial waste.

(B) *General Sewer Use Requirements.*

(1) *Prohibited Discharge Standards.*

(a) *General Prohibitions.* No User shall introduce or cause to be introduced into the POTW 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 the categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

(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 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

2. Wastewater having a pH of less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;

3. Solid or viscous substances in amount which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than three (3) inches in any dimension.

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 with the POTW;

5. Wastewater having a temperature greater than 100 degrees F (38 degrees 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 of the treatment plant to exceed 104 degrees F (40 degrees C);
6. Petroleum oil, nonbiodegradable 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 Director in accordance with Section (C)(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 the City's NPDES permit;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
12. Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pools drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Director;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical Wastes, except as specifically authorized by the Director in an individual wastewater discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
16. Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;
17. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 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 ten percent (10%) or any single reading over twenty percent (20%) of the Lower Explosive Limit of the meter.

(b) Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged into the POTW.

(2) *National Categorical Pretreatment Standards.* Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

(a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with Section (B)(2)(e) and (B)(2)(f).

(b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

(c) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Director shall impose an alternate limit in accordance with 40 CFR 403.6(e).

(d) A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section. [Note: See 40 CFR 403.15].

1. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

2. *Criteria.*

a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates



that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.

(e) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Section (B)(2)(e)1.a. through (B)(2)(e)1.e. below.

1. To be eligible for equivalent mass limits, the Industrial User must:

a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

2. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

3. An Industrial User subject to equivalent mass limits must:

- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - c. Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (B)(2)(f)1.c. of this Section. Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
  - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs (B)(2)(e)1.a. of this Section so long as it discharges under an equivalent mass limit.
4. When developing equivalent mass limits, the Director:
- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
  - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
  - c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section (B)(6). The Industrial User must also be in compliance with Section (M)(3) of this ordinance regarding the prohibition of bypass.
- (f) The Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.
- (g) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (B)(2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. [Note: See 40 CFR 403.6(c)(7)].
- (h) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day

average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation. [Note: See 40 CFR 403.6(c)(8)].

(i) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate. [Note: See 40 CFR 403.6(c)(9)].

(3) *State Pretreatment Standards.* Users must comply with KPDES Pretreatment Requirements codified at 401 KAR 5:057.

(4) *Local Limits.*

(a) The Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

(b) 1. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limit.

| <i>Maximum Daily Concentration</i> | <i>Parameter</i>     |
|------------------------------------|----------------------|
| 1.21                               | Arsenic              |
| 0.06                               | Cadmium              |
| 0.79                               | Cyanide              |
| 0.95                               | Chromium, Hexavalent |
| 2.50                               | Chromium, Total      |
| 1.53                               | Copper               |
| 0.84                               | Lead                 |
| 0.005                              | Mercury              |
| 1.29                               | Molybdenum           |
| 1.02                               | Nickel               |
| 0.48                               | Selenium             |
| 0.42                               | Silver               |
| 1.62                               | Zinc                 |

2. 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 Director may impose mass limitations in addition to the concentration-based limitations above.

(c) The Director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits to implement Local Limits and the requirements of Section (B)(1).

(5) *City's Right of Revision.* The City of Frankfort Sewer Department reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

(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 Director 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.

(C) *Pretreatment of Wastewater.*

(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 (B)(1) of this ordinance within the time limitations specified by EPA, the State, or the Director, 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 Director for review, and shall be acceptable to the Director 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 the City of Frankfort Sewer Department under the provisions of this ordinance.

(2) *Additional Pretreatment Measures.*

(a) Whenever deemed necessary, the Director may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and impose 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 Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure

equalization of flow. An individual 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 Director 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 a type and capacity approved by the Director, shall comply with the City's FOG Management Ordinance, and shall be so located to be easily accessible for cleaning and inspection. All FSE interceptors shall be inspected, cleaned, and repaired in accordance with the City's FOG Management Ordinance 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) *Accidental Discharge/Slug Discharge Control Plans.* The Director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by Section (F)(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.

(4) *Hauled Wastewater.*

(a) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate Section (B)(1) of this ordinance or any other requirements established by the City. The Director may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b) The Director may require haulers of industrial waste to obtain individual wastewater discharge permits. The Director may require generators of hauled industrial waste to obtain individual

wastewater discharge permits. The Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

(c) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(D) *Individual Wastewater Discharge Permits.*

(1) *Wastewater Analysis.* When requested by the Director, a User must submit information on the nature and characteristics of its wastewater within seven (7) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require Users to update this information.

(2) *Individual Wastewater Discharge Permit Requirement.*

(a) No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Director, except that a Significant Industrial User that has filed a timely application pursuant to Section (D)(3) of this ordinance may continue to discharge for the time period specified therein.

(b) The Director may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections (J) through (L) of this ordinance. Obtaining an individual 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.

(3) *Individual Wastewater Discharge Permitting: Existing Connections.* Any User required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 45 days after said date, apply to the Director for an individual wastewater discharge permit in accordance with Section (D)(5) of this ordinance, and shall not cause or allow discharges to the POTW

to continue after 90 days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit issued by the Director.

(4) *Individual Wastewater Discharge Permitting: New Connections.* Any User required to obtain an individual 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 individual wastewater discharge permit, in accordance with Section (D)(5) of this ordinance, must be filed at least 180 days prior to the date upon which any discharge will begin or recommence.

(5) *Individual Wastewater Discharge Permit Application Contents.*

(a) All Users required to obtain an individual wastewater discharge permit must submit a permit application. Users that are eligible may request a general permit under Section (D)(6) of this ordinance. The Director may require Users to submit all or some of the following information as part of a permit application:

1. *Identifying Information.*

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises.

2. *Environmental Permits.* A list of any environmental control permits held by or for the facility.

3. *Description of Operations.*

- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and 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.
- b. Types of wastes generated, and 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.

- d. Type and amount of raw materials processed (average and maximum per day).
  - e. 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.
4. Time and duration of discharges.
  5. The location for monitoring all wastes covered by the permit.
  6. *Flow Measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section (B)(2)(c) of this ordinance (40 CFR 403.6(e)).
  7. *Measurement of Pollutants.*
    - a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
    - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director, of regulated pollutants in the discharge from each regulated process.
    - c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
    - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section (F)(10) of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the standard.
    - e. Sampling must be performed in accordance with procedures set out in Section (F)(11) of this ordinance.
  8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section (F)(4)(b) of this ordinance [40 CFR 403.12(e)(2)].
  9. Any request to be covered by a general permit based on Section (D)(6).
  10. Any other information as may be deemed necessary by the Director to evaluate the permit application.



(b) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(6) *Application Signatories and Certifications.*

(a) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section (F)(14)(a) of this ordinance.

(b) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

(7) *Individual Wastewater Discharge Permit Decisions.* The Director will evaluate the data furnished by the User and may require additional information. Within 60 days of receipt of a complete permit application, the Director will determine whether to issue an individual wastewater discharge permit. The Director may deny any application for an individual wastewater discharge permit.

(E) *Individual Wastewater Discharge Permit Issuance.*

(1) *Individual Wastewater Discharge Permit Duration.* An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) *Individual Wastewater Discharge Permit Contents.* An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director 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.

(a) Individual wastewater discharge permits must contain:

1. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date; [Note: See Section (E)(1)]

2. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section (E)(3) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
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.
6. Requirements to control Slug Discharge, if determined by the Director to be necessary.

(b) Individual 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 nonroutine 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, including flow measurement devices;
7. A statement that compliance with the individual 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 individual wastewater discharge permit; and

8. Other conditions as deemed appropriate by the Director to ensure compliance with this section, and State and Federal laws, rules, and regulations

(3) *Permit Modification.*

(a) The Director may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
2. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
5. Violation of any terms or conditions of the individual wastewater discharge permit;
6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
7. Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
8. To correct typographical or other errors in the individual wastewater discharge permit; or
9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section (E)(4) of this ordinance.

(4) *Individual Wastewater Discharge Permit Transfer.* Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 90 days advance notice to the Director and the Director approves the individual wastewater discharge permit transfer. The notice to the Director 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 individual wastewater discharge permit.

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

(5) *Individual Wastewater Discharge Permit Revocation.* The Director may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the Director of changed conditions pursuant to Section (F)(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 and certification statements;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the Director 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 section.

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

(6) *Individual Wastewater Discharge Permit Reissuance.* A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section (D)(5) of this ordinance, a minimum of 90 days prior to the expiration of the user's existing individual wastewater discharge permit.

(7) *Regulation of Waste Received from Other Jurisdictions.*

(a) If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Director shall enter into an intermunicipal agreement with the contributing municipality, which shall comply with the Kentucky Interlocal Cooperation Act.

(b) Prior to entering into an agreement required by paragraph (a), above, the Director shall request the following information from the contributing municipality:

1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
2. An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
3. Such other information as the Director may deem necessary.

(c) An intermunicipal agreement, as required by paragraph (a), above, shall contain the following conditions:

1. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this section and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section (D)(4) of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;
2. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
3. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;

**Frankfort - Public Works**

4. A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
6. Requirements for monitoring the contributing municipality's discharge;
7. A provision ensuring the Director access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and
8. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(F) *Reporting Requirements.*(1) *Baseline Monitoring Reports.*

(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 Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in Section (F)(1)(b), below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Director a report which contains the information listed in Section (F)(1)(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. All information required in Section (D)(5)(a)1.a., Section (D)(5)(a)2., (D)(5)(a)3.a., and Section (D)(5)(a)6. of this ordinance. [Note: See 40 CFR 403.12(b)(1)-(7)]

2. *Measurement of pollutants.*

a. The User shall provide the information required in Section (D)(5)(a)7.a. through d.

b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.



c. Samples should be taken 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 the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

d. Sampling and analysis shall be performed in accordance with Section (F)(10) of this ordinance;

e. The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

3. *Compliance Certification.* A statement, reviewed by the User's Authorized Representative as defined in Section (A)(4) of this ordinance 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.

4. *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 must be provided. 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 (F)(2) of this ordinance.

5. *Signature and Report Certification.* All baseline monitoring reports must be certified in accordance with Section (F)(14)(a) of this ordinance and signed by an Authorized Representative as defined in Section (A)(4) of this ordinance.

(2) *Compliance Schedule Progress Reports.* The following conditions shall apply to the compliance schedule required by Section (F)(1)(b)4. 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 Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the Director.

(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 Director a report containing the information described in Section (D)(5)(a)7. and (F)(1)(b)2. of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section (B)(2) of this ordinance [Note: See 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 (F)(14)(a) of this ordinance. All sampling will be done in conformance with Section (F)(11) of this ordinance.

(4) *Periodic Compliance Reports.*

(a) Except as specified in Section (F)(4)(c) of this ordinance, all Significant Industrial Users must, at a frequency determined by the Director submit no less than twice per year (June and December or as specified within the SIU Permit) reports indicating the nature, 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. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User.

(b) All periodic compliance reports must be signed and certified in accordance with Section (F)(14)(a) of this ordinance.

(c) 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.

(d) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section (F)(11) of this ordinance, the results of this monitoring shall be included in the report. [Note: See 40 CFR 403.12(g)(6)]

(5) *Reports of Changed Conditions.* Each User must notify the Director of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

(a) The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section (D)(5) of this ordinance.

(b) The Director may issue an individual wastewater discharge permit under Section (E)(6) of this ordinance or modify an existing wastewater discharge permit under Section (E)(3) of this ordinance in response to changed conditions or anticipated changed conditions.

(6) *Reports of Potential Problems.*

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Within five (5) days following such discharge, the User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might 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 section.

(c) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.



(7) *Reports from Unpermitted Users.* All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

(8) *Notice of Violation/Repeat Sampling and Reporting.*

(a) If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

(b) If the City performs the sampling and analysis in lieu of the Industrial User, the City will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. See 40 CFR 403.12(g) (2).

(9) *Discharge of Hazardous Waste.* The discharge of hazardous waste is explicitly prohibited. Any User who discharges hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, immediately, of any discharge into the POTW of a substance which the User must also stop all flow from their facility from entering into the POTW collection system.

(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 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

(11) *Sample Collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in Sections (F)(11)(b) and (c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR

2019 S-15

Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits. [See 40 CFR 403.12(g)(3)]

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections (F)(1) and (3) 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Section (F)(4) (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements. [See 40 CFR 403.12(g)(4).]

(12) *Date of Receipt of Reports.* 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.

(13) *Recordkeeping.* 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 section, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section (B)(4)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Director.

(14) *Certification Statements.*

(a) *Certification of Permit Applications, User Reports and Initial Monitoring Waiver.* The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section (D)(7); Users submitting baseline monitoring reports under Section (F)(1)(b)5. [Note: See 40 CFR 403.12 (I)]; Users submitting reports on compliance with the





categorical Pretreatment Standard deadlines under Section (F)(3) [Note: See 40 CFR 403.12(d)]; Users submitting periodic compliance reports required by Sections (F)(4)(a) through (d) [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an Authorized Representative as defined in Section (A)(4):

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.

(G) *Compliance Monitoring.*

(1) *Right of Entry: Inspection and Sampling.* The Director 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 individual wastewater discharge permit or order issued hereunder. Users shall allow the Director 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 Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The Director 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 Director 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 annually 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 Director and shall not be replaced. The costs of clearing such access shall be absorbed by the User.

(e) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this ordinance.



(2) *Search Warrant.* If the Director 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 the City designed to verify compliance with this section or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Director may seek issuance of a search warrant from the Franklin County District Court of Kentucky.

(H) *Confidential Information.* Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Directors 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 Director, 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(I) *Publication of Users In Significant Noncompliance.* The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates Sections (I)(3), (4), or (8) of this ordinance) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-(6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section (B);

(2) 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 numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section (B) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a Pretreatment Standard or Requirement as defined by Section (B) (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director



determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

(J) *Administrative Enforcement Remedies.*

(1) *Notification of Violation.* When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may serve upon that User a written Notice of Violation. Within thirty (30) days of the receipt of such 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 Director. Submission of such a 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 Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) *Consent Orders.* The Director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall 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 (J)(4) and (5) of this ordinance and shall be judicially enforceable.

(3) *Show Cause Hearing.* The Director may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued



hereunder, or any other Pretreatment Standard or Requirement, to appear before the Director 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 thirty (30) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section (A)(4) and required by Section (D)(7)(a). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

(4) *Compliance Orders.* When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director 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.

(5) *Cease and Desist Orders.* When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual 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 Director 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.

(6) *Administrative Fines.*

(a) When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may fine such User in an amount not to exceed \$25,000. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.



2019 S-15

**Frankfort - Public Works**

(b) Unpaid charges, fines, and penalties shall, after ninety (90) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(c) Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ninety (90) days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(7) *Emergency Suspensions.*

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

1. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Section (J)(8) of this ordinance are initiated against the User.

2. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections (J)(3) or (J)(8) of this ordinance.

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

(8) *Termination of Discharge.*

(a) In addition to the provisions in Section (E)(5) of this ordinance, any User who violates the following conditions is subject to discharge termination:



1. Violation of individual wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the Pretreatment Standards in Section (B) of this ordinance.

(b) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section (J)(3) of this ordinance why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

(K) *Judicial Enforcement Remedies.*

(1) *Injunctive Relief.* When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director may petition the Franklin County District Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this section on activities of the User. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(2) *Civil Penalties.*

(a) A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of \$25,000 per violation, per day. In the 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 Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.



**Frankfort - Public Works**

(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.

(3) *Criminal Prosecution.*

(a) A User who willfully or negligently violates any provision of this ordinance, an individual 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 \$500 per violation, per day, or imprisonment for not more than 12 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 \$500, or be subject to imprisonment for not more than 12 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 section, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this section shall, upon conviction, be punished by a fine of not more than \$500 per violation, per day, or imprisonment for not more than 12 months, or both.

(d) In the event of a second conviction, a User shall be punished by a fine of not more than \$500 per violation, per day, or imprisonment for not more than 12 months, or both.

(4) *Remedies Nonexclusive.* The remedies provided for in this section are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

(L) *Supplemental Enforcement Action.*

(1) *Penalties for Late Reports.* A penalty of \$50 may be assessed to any User for each day that a report required by this section, a permit or order issued hereunder is late, beginning five days after the



date the report is due. Actions taken by the Director to collect late reporting penalties shall not limit the Director's authority to initiate other enforcement actions that may include penalties for late reporting violations.

(2) *Performance Bonds.* The Director may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

(3) *Liability Insurance.* The Director may decline to issue or reissue an individual wastewater discharge to any User who has failed to comply with any provision of this ordinance, a previous individual 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.

(4) *Payment of Outstanding Fees and Penalties.* The Director may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

(5) *Water Supply Severance.* Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

(6) *Public Nuisances.* A violation of any provision of this ordinance, an individual 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 Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City of Frankfort Public Nuisance Code, (Title VIII Chapter 130) governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

(7) *Informant Rewards.* The Director may pay up to Five Thousand Dollars (\$5,000) for information leading to the discovery of noncompliance by a User. In the event that the information provided results in a civil penalty or an administrative fine levied against the User, the Director may disperse up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed Five Thousand Dollars (\$5,000).

(8) *Contractor Listing.* Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or





services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director.

(M) *Affirmative Defenses to Discharge Violations.*

(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 (M)(1)(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 Director within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
  - 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 shall 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.

(2) *Prohibited Discharge Standards.* A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section (B)(1)(a) of this ordinance or the specific prohibitions in Sections (B)(1)(b)3. through 18. of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) *Bypass.*

(a) For the purposes of this Section,

1. Bypass means the intentional diversion of wastestreams 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 (M)(3)(c) and (d) of this Section.

(c) *Bypass Notifications.*

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



2. A User shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of 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 Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) *Bypass.*

1. Bypass is prohibited, and the Director 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 (M)(3)(c) of this Section.

2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (M)(3)(d)1. of this Section.

(N) *Wastewater Treatment Rates - [Reserved].*

(O) *Miscellaneous Provisions.*

(1) *Pretreatment Charges and Fees.* The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City'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 and certification statements submitted by Users;



(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

(e) Fees to recover administrative and legal costs (not included in Section (O)(1)(b)) associated with the enforcement activity taken by the Director to address IU noncompliance; and

(f) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this section and are separate from all other fees, fines, and penalties chargeable by the City.

(2) *Severability*. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (Ord. 18, 2018, passed 9-24-18)

**§ 52.46 RESERVED.**

**§ 52.47 RESERVED.**

**§ 52.48 RESERVED.**

**§ 52.49 RESERVED.**

**§ 52.50 ADMINISTRATION.**

(A) *Wastewater discharge*. It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city and/or to the POTW any wastewater, except as authorized by the Sewer Director in accordance with the provisions of this subchapter. Any agency and/or industries outside the jurisdiction of the city that wish to contribute wastewater to the POTW must first sign, through an authorized representative, an inter-jurisdictional agreement whereby the agency and/or industrial user agrees to be regulated by all provisions of this subchapter, state and federal regulations. A wastewater discharge permit may then be issued by the Sewer Director in accordance with section (B) below.

(B) *Wastewater discharge permits*.

(1) (a) All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All





existing significant industrial users connected to or contributing to the POTW shall apply for a wastewater discharge permit within 30 days after the effective date of this subchapter.

(b) All food service establishments shall obtain a pretreatment wastewater discharge permit.

(2) *Permit applications.* Users required to obtain a wastewater discharge permit shall complete and file with the city an application in the form prescribed by the city, and accompanied by a fee prescribed by the city. Existing users shall apply for a wastewater discharge permit within 30 days after the effective date of the subchapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation the following information:

(a) Name, address and location, if different from the address;

(b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) Wastewater constituents and characteristics including but not limited to those mentioned in § 52.48 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA, pursuant to Section 304(g) of the Act and contained in Title 40 C.F.R. Part 136, as amended;

(d) Time and duration of contribution;



(e) Average daily and three minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(i) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

1. The schedule must be acceptable to the city.

2. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like).

40B

**Frankfort - Public Works**

3. No increment referred to in division (B)(2)(i)2. above shall exceed nine months.

4. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event, shall more than nine months elapse between the progress reports to the city.

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

(k) Type and amount of raw materials processed, average and maximum per day;

(l) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(m) A copy of the industry's written environmental control program, comparable document or policy; and

(n) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(o) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(3) *Permit modification.* Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to the standards shall be revised to require compliance with the standard within the time frame prescribed by the standard. Where a user, subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater discharge permit, as required hereby, the user shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the city within 90 days after the promulgation of an applicable federal categorical pretreatment standard the information required by this subchapter.

(4) (a) Wastewater discharge permits shall be expressly subject to all provisions of this subchapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

**Frankfort - Public Works**

2. Limits on the average and maximum wastewater constituents and characteristics;
3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
4. Requirements for installation and maintenance of inspection and sampling facilities;
5. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
6. Compliance schedules;
7. Requirements for submission of technical reports or discharge reports;
8. Requirements for maintaining and retaining plant records relating to wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system; as specified by the city for a minimum of three years, and afford city access thereto;
9. Requirements for notification of slug discharges;
10. Mass limitations on discharges;
11. Requirements for submission and approval of spill control plans in accordance with this subchapter;
12. Requirements for notification of the city 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;
13. Requirements for the user to reimburse the city for all expenses related to monitoring, sampling and testing performed at the direction of the Sewer Director and deemed necessary by the city to verify that the user is in compliance with the permit; and
14. Other conditions as deemed appropriate by the city to ensure compliance with this subchapter.

(b) Where an effluent from an industrial process is mixed prior to treatment with wastewater other than those generated by the regulated process, fixed alternative discharge limits may be derived for the discharge permit by the Sewer Director. These alternative limits shall be applied to the mixed effluent. These alternative limits shall be calculated using the "combined waste stream formula" and/or "flow-weighted average formula" given, Title 40 C.F.R. Part 403.6(e). Where the





effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the Sewer Director may convert the limits to equivalent limitations expressed either as mass of pollutant that may be discharged per day or of effluent concentration for purposes of calculating effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under Title 40 C.F.R. Part 403.6(c) and must fully comply with these alternative limits. All categorical industrial users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must report production rates annually so that alternative permit limits can be calculated if necessary. The categorical industrial user must notify the Sewer Director 30 days in advance of any change in production levels that might effect the flow or other data used to calculate the effluent limits in the discharge permit.

(5) *Permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed three years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements, as identified herein, are modified or other just cause exists. The user shall be informed at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) *Permit transfer.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The city may deny the transfer of the permit if it is deemed necessary to comply with all provisions of this subchapter.

(C) (1) *Reporting requirements for permittee.*

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to federal categorical pretreatment standards and requirements shall submit to the Sewer Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process or processes which are limited by categorical pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by the categorical standards and requirements.

(b) The report shall state whether the applicable categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional pretreatment equipment and time schedule are necessary to bring the user into compliance with the applicable categorical standard or requirement. This statement shall be signed by an authorized representative of the user.

(2) *Periodic compliance reports.*

(a) All significant industrial users shall submit to the Sewer Director in accordance with the industrial user permit indicating the nature and concentration of pollutants in the effluent which are limited by the pretreatment standards or the industrial user permit. This report also shall include a record of all daily flows which during the reporting period exceed the average daily flow. At the discretion of the Sewer Director and in consideration of such factors as local high or low flow rates, holidays and budget cycles, the Sewer Director may agree to alter the months during which the above reports are to be submitted. In addition the industrial users are to report any changes in flow, type and/or amount of pollutants discharged to the Sewer Director prior to the change, and the Sewer Director shall have the authority to deny or condition any new introductions of, or changes in, wastewater constituents or volume, if deemed necessary.

(b) All analyses shall be performed by a laboratory acceptable to the city. Analytical procedures shall be in accordance with procedures established by the U.S. EPA, pursuant to Section 304(g) of the Act and contained in Title 40 C.F.R. Part 136 and amendments thereto, or with any other test procedures approved by the U.S. EPA. Sampling shall be performed in accordance with the techniques approved by the U.S. EPA.

(c) Where Title 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the U.S. EPA.

(d) All industrial users shall retain all pretreatment records for a minimum of three years, as required by Title 40 C.F.R. Part 403.12(0)(2).

(3) *Baseline monitoring report.*

(a) A baseline monitoring report (BMR) must be submitted to the Sewer Director by all categorical industrial users at least 90 days prior to initiation of discharge to the sanitary sewer. The BMR must contain, at a minimum, the following:

1. Production data including a process description, SIC code number, raw materials used, chemicals used and final product(s) produced;
2. Name of facility contact person;
3. Wastewater characteristics such as total plant flow, types of discharges, average and maximum flows from each process;

4. Nature and concentration of pollutants discharged to the public sewer system that are regulated by this subchapter, state and/or federal pretreatment standards and sample type and location; and

5. Information concerning any pretreatment equipment used to treat the facility's discharge.

(b) All new sources of industrial discharge must be in compliance with all provisions of this subchapter prior to commencement of discharge.

(D) *Permit violations.* All significant industrial users must notify the Sewer Director within 24 hours of first becoming aware of a permit violation. This notification shall include the date of the violation, the parameter violated and the amount in excess. Within 30 days of first becoming aware of a permit violation, the significant industrial user must resample for the parameter(s) violated and submit this sample analysis to the Sewer Director, unless the Sewer Director, on behalf of the city, conducts monitoring of this parameter within that 30-day period.

(E) *Monitoring requirements.*

(1) The city shall require significant industrial users to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. The city shall review and approve the location, plans, and specifications for the monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows.

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

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

(4) All sampling analyses done in accordance with approved U.S. EPA procedures by the significant industrial user during a reporting period shall be submitted to the Sewer Director, regardless of whether or not that analyses was required by the user's discharge permit.

(5) The significant industrial user must receive the approval of the Sewer Director before changing the sampling point and/or monitoring facilities to be used in all required sampling.

(F) *Inspection and sampling.* The city shall inspect the facilities of any user to ascertain whether the purpose of this subchapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, copying, sampling and examination of records or in the performance of any of their duties. "Reasonable times" shall include any time during which the user is discharging to the public sewer system and/or operating any manufacturing process. The city, approval authority and (where the NPDES state is the approval authority), EPA shall have the right to set up on the user's property devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(G) *Pretreatment.*

(1) All significant industrial users shall provide necessary wastewater treatment as required to comply with this subchapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. The city may require the development of a compliance schedule for installation of pretreatment technology and/or equipment by any significant industrial user that is not meeting discharge limits established in the user's wastewater discharge permit. Any facilities required to pretreat wastewater to a level acceptable to the city for review, and shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Sewer Director for review, and shall be acceptable to the city before construction of the facility. The review of the plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(2) The city shall annually publish in *The State Journal Newspaper* a list of the users which were in significant noncompliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. Significant noncompliance is any of the following conditions:

- (a) Results in the exercise of emergency authority by the Sewer Director;
- (b) Remains uncorrected 45 days after notice of noncompliance is given;
- (c) Involves failure to report noncompliance accurately;
- (d) Wastewater violations:



1. *Chronic violations.* Sixty-six percent or more of all measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the monthly average limit for the same pollutant parameter;

2. *Technical review criteria (TRC) violations.* Thirty-three percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRC (TRC =1.4 for BOD, TSS, fats, oils and grease and 1.2 for all other pollutants except pH).

3. *Effluent limit.* Any violation of a pretreatment effluent limit that the Sewer Director believes has caused alone or in combination with other discharges, interference or pass-through or has endangered the health of the POTW personnel or the public.

4. *Imminent endangerment.* Any discharge causing imminent endangerment to human health or to the environment or resulting in the Sewer Director's use of his or her emergency authority to halt or prevent a discharge.

5. *Compliance milestones.* Violations of compliance schedule milestones, failure to comply with schedule milestones for starting or completing construction or attaining final compliance by 90 days or more after the schedule date.

6. *Reporting violations.* Failure to provide required reports within 30 days of the due date.

7. *Operation.* Any violation or group of violations which the Sewer Director determines will adversely effect the operation or implementation of the local pretreatment program. The public notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months. All records relating to the pretreatment program of the city shall be made available to officials of the U.S. EPA or approval authority upon request. All records shall be maintained for a minimum of three years in accordance with Title 40 C.F.R. Part 403.12(0)(2).

(e) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(H) *Confidential information.* Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this subchapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment



programs. Provided however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information and shall be made available to the public without restriction.

(70 Code, § 13.20.040) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

### § 52.51 POWERS AND AUTHORITY OF INSPECTORS.

(A) *Right to enter premises.* The Sewer Director and city employees and representatives designated by the Sewer Director and authorized representatives of applicable federal and state regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties at any reasonable time for purposes of, but not limited to inspection, observation, measurement, sampling and testing of discharges to the public sewer system and inspection and copying of all records in accordance with the provisions of this subchapter.

(B) *Right to obtain information regarding discharge.* Duly authorized employees and representatives of the city are authorized to obtain information concerning character, strength and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(C) *Access.*

(1) Duly authorized employees and representatives of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to inspection, observation, measurement and sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement.

(2) All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(D) *Safety.*

(1) While performing the necessary work on private properties referred to in division (A) above, all duly authorized employees of the city shall observe all safety rules applicable to the premises established by the facility and the company shall be held blameless for any injury or death to the city employee.

(2) The city shall secure the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the



company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this subchapter. (70 Code, § 13.20.050) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

## § 52.52 ENFORCEMENT.

### (A) *Harmful contributions.*

#### (1) *Generally.*

(a) The city through the Sewer Director or his or her designee, to insure compliance with this subchapter, and as permitted through Title 40 C.F.R. Sub. N, Part 401 thru 471 and 401 KAR 5:055, Section 9 may take the following enforcement steps against users not in compliance with this subchapter. The remedies available to the Sewer Director include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of the list of significant violators annually. The enforcement authority shall be vested in the Sewer Director of the POTW or his or her designee.

(b) All violations of requirements of this subchapter must be reviewed and responded to by the Sewer Director or his or her representative. In general, the Sewer Director shall notify the industrial user when a violation occurs. For all violations, the Sewer Director shall receive an explanation and, as appropriate, a plan from the industrial user to correct the violation within a specific time period. If the violation(s) persist or the explanation and/or plan are not adequate, the Sewer Director's response shall be more formal and commitments or schedules, as appropriate, for compliance will be established in an enforceable document. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal enforcement action. The full scale of enforcement actions will be detailed in the city's pretreatment program enforcement response plan.

#### (2) *Enforcement actions.*

(a) *Informal notice.* These actions include statements made to the industrial user during sampling and/or inspection visits, telephone calls to the appropriate company official, informal meetings, warning or reminder letters. These informal notices shall be used for minor violations.

(b) *Formal notice.* These actions include the following:

1. *Notice of violation.* Any person found to be violating any provision of this subchapter, wastewater discharge permit or any order issued hereunder shall be served by the POTW Sewer Director with a written notice stating the nature of the violation. The offender must permanently cease all violations.

2. *Administrative orders/fines.* Any person who, after receiving a notice of violation, shall continue to discharge in violation of this subchapter or other pretreatment standard or requirement or is determined to be a chronic or persistent violator, shall be ordered to appear before the Sewer Director. At the appearance, a compliance schedule will be given to the violating user and an administrative fine assessed. The fine shall be determined on a case-by-case basis which shall consider the type, severity, duration and number of violations, severity of impact on the POTW, impact on human health, user's economic benefit from the violation, past history of the user and good-faith efforts made by the user. The fine shall be a nonarbitrary but appropriate amount.

(B) *Disputes.* Users desiring to dispute the fines shall file with the Sewer Director a request for the city to reconsider the fine within ten days of being notified of the fine. The city shall convene a hearing on the matter within 15 days of receiving a request from the user.

(C) *Orders.* The administrative order may take any of the following four forms:

(1) *Consent order.* The Sewer Director is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. The orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as all other administrative orders.

(2) *Compliance order.* When the Sewer Director finds that an industrial user has violated or continues to violate this subchapter or permit or order issued hereunder, he or she may issue an order to the industrial user responsible for the violation directing that following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(3) *Cease and desist order.* When the Sewer Director finds that an industrial user has violated or continues to violate this subchapter or any permit or order issued hereunder, the Sewer Director may issue an order to cease and desist all violations to the user and direct those persons in noncompliance to:

(a) Comply forthwith; or

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

2010 S-6

(4) *Show cause hearing.*

(a) The Sewer Director may issue to any user who causes or contributes to violations of this subchapter, discharge permit or order issued hereunder, an order to appear and show cause why more severe enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing to be held by the Sewer Director regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the Sewer Director why more severe enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of the facility. Whether or not a duly notified industrial user or its representative appears, immediate enforcement action may be pursued.

(b) The city itself may conduct the hearing and take evidence or may designate a representative to:

1. Issue in the name of the city notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings;

2. Take the evidence; and

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city for action thereon. At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof. After the city has reviewed the evidence, it may issue an order to the user responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued.

(D) *Suspension of service.* The city may suspend the wastewater treatment service and/or a wastewater discharge permit when the suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit. Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take the steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user



describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence. (70 Code, § 13.20.060) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

### § 52.53 VIOLATIONS.

(A) *Written notice.* Any user found to be violating any provision of this subchapter or discharge permit or order issued hereunder shall be served by the city or its designee with written notice stating the nature of the violation. The violator shall permanently cease all violations upon receipt of this notice. As contained in § 52.52, the notice may be of several forms. Also, as contained in §§ 52.52 and 52.99, penalties of various forms may be levied against users for violations of this subchapter. The penalties shall range from publication of violators in the local newspaper to fines as provided in § 52.99.

(B) *Revocation of permit.*

(1) Any user who violates any of the provisions of this subchapter or applicable state and federal regulations shall be subject to termination of its authority to discharge sewage into the public sewer system, as well as the payment of fines.

(2) The termination shall be immediate if necessary for the protection of the POTW. The user may also have water service terminated. Any user who violates any condition(s) of this subchapter, discharge permit, order or applicable state or federal regulations is subject to having its wastewater discharge permit revoked in accordance with the procedures of § 52.52:

(a) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;

(b) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the wastewater discharge permit, ordinance or other order issued thereunder.

(C) *Liability.*

(1) Any user violating any of the provisions of this subchapter, discharge permit or other order issued hereunder shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.



(2) This civil liability is as provided by state and federal regulations.

(D) *Falsifying information and/or misrepresentation.* Any person who knowingly and/or negligently 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 subchapter, or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this subchapter, shall, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 12 months.

(-70 Code, § 13.20.070) (Ord. 17-94, 1994, passed 11-11-94; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09)

### ***SEWER CAPITAL RECOVERY PROGRAM***

#### **§ 52.60 DEFINITIONS.**

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below.

***CONSTRUCTING PARTY.*** Individuals or entities constructing sanitary sewer extensions to areas or developments not currently provided sewer service by the City Sewer Department.

***PROJECT.*** The sanitary sewer extension and upgrades, if any, built by the constructing party or by the city.

***SUBSEQUENT DEVELOPERS.*** Individuals or entities benefitting from sanitary sewer extensions built by a constructing party(s), excluding the city and individuals or entities within the constructing party's development.

(Ord. 7, 2007, passed 4-23-07)

#### **§ 52.61 COST RECOVERY PROGRAM.**

(A) Upon application and payment of the required application fee by any constructing party to the city to extend sanitary sewers to undeveloped or unsewered areas, the Sewer Department shall as soon as practicable undertake a review of the area to be served by the proposed extension which will be transferred to the city. The information developed will be used in reviewing the application for cost recovery. The cost of such review shall be paid for in advance by the applicant. Only the portion of the sewer extension or upgrades to the system which will provide service to areas outside the property owned by the Constructing Party will be eligible for cost recovery.



**Frankfort - Public Works**

(1) After determining the total amount of sanitary sewage flow available in the extension, and upgrades, if any, that are the subject of the application, the city shall determine the projected percentage of sanitary sewage flow to be allocated to the constructing party.

(2) The design and construction of the project shall have been approved by the Sewer Department, and as-built drawings of said project shall be provided to the Sewer Department. After inspection and approval of the project by the city, the project shall be transferred to the city pursuant to the written agreement between the city and the constructing party.

(B) A constructing party shall be permitted to receive from the subsequent developers in obtaining sewer service through said project each of their pro rata share of the cost of said project based upon the subsequent developer's relative percentages of projected sanitary sewage flow into said project.

(C) At the completion of the construction of any project contemplated by divisions (A) and (B) above, the constructing party shall certify, in a writing signed by a licensed accountant, to the Director of the city's Sewer Department, the costs eligible for cost recovery, which shall be limited to the direct cost of constructing the project, including engineering and design fees of the project. The constructing party shall keep all costs associated with the portion of the project eligible for cost recovery separate from any other sewer related costs. Copies of all receipts to verify actual costs shall be included with said certification. Items not documented shall not be included in the final approved cost. Said certification shall be made to the city no later than 60 days following transfer of said project to the city.

(D) At such time as any subsequent developer, who has been identified as being in the drainage area of any project makes application for a permit to connect to said project, the Director of the Sewer Department shall advise said applicant of his or her pro rata share of the cost of the project to which he seeks to connect plus any city administrative charges.

(1) The pro-rata share of the cost of the project shall be paid by the subsequent developer directly to the City Sewer Department no later than 30 days after the subsequent developer executes a contract with the city for the sewer line extension.

(2) The city shall promptly reimburse the constructing party or his or her successor, the cost recovery amount less its share of any city administrative charges.

(3) The City Sewer Department Cost Recovery administrative fee shall be divided equally between the constructing party and the subsequent developer.

(4) The constructing party shall notify the city of the additional persons or entities required to make cost recovery payments. The applicable tap fee shall be paid by the subsequent developer directly to the City Sewer Department.

(5) The Cost Recovery administrative fee to be paid for each cost recovery application is as follows:

(a) \$100.00 for subsequent developments of ten residences or less, or containing structures with sanitary sewer flow less than or equal to the flow from ten residences.

(b) \$250.00 for subsequent developments of 50 residences or less, or containing structures with sanitary sewer flow less than or equal to the flow from 50 residences.

(c) \$500.00 for subsequent developments exceeding 50 residences, or containing structures with sanitary sewer flow greater than the flow from 50 residences.

(E) (1) Should the Sewer Department require a constructing party choosing not to participate in the cost recovery program to oversize the proposed sewer line extension, pump station and force main capacity above the standard otherwise required by law or regulation, the city shall bear the differential cost of the oversized pipe, pump and wet well materials, exclusive of any other associated costs, over the cost of such materials if oversizing were not so required. The city shall receive from developers or property owners subsequently obtaining sewer service through the project its pro rata share of the cost of said project.

(2) Should the city construct a sewer line extension or upgrade to its sewer system (hereinafter "city project"), the city may recover from developers or property owners subsequently obtaining sewer service through said city project the developer's or property owner's pro rata share of the cost of said city project.

(F) The term of cost recovery shall be for the shortest practicable time, but in no event shall recovery be allowed after ten years from the date of the transfer of the project to the city.

(1) Any amount to be paid under this subchapter shall be in addition to the connection fee or other applicable fee to be paid to the city. In no event shall the refund received by the constructing party exceed the cost of the project.

(2) In no event will a developer/or property owner be entitled to participate in or claim an interest in the cost recovery program for sewer facilities transferred to the city prior to the effective date of this subchapter.

(Ord. 7, 2007, passed 4-23-07)

## **§ 52.62 APPLICATION FEE.**

(A) The purpose of this section is to set the amount of the fee to be paid to the Frankfort Sewer Department when submitting an application to participate in the Sewer Capital Recovery Program. The fee will pay for the cost of the processing and review of the application.

(B) Parties extending sanitary sewers to undeveloped or unsewered areas to be served by the city and desiring to participate in the Sewer Capital Recovery Program shall pay a fee in the amount of \$150.00 when submitting an application to participate in the program.  
(Ord. 20, 2007, passed 6-25-07)

### § 52.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation violating any of the provisions of §§ 52.01 through 52.33 or failing or refusing to comply with an administrative order issued due to the failure to comply with same, whether or not he, she or it shall be the owner or the occupant of the property involved, shall be fined not less than \$100 nor more than \$10,000 for each offense. Each day on which a violation shall occur or continue shall occur or constitute a separate offense.

(C) Any person, firm or corporation violating federal or state law or any of the provisions of §§ 52.45 through 52.53 or failing or refusing to comply with an administrative order issued due to the failure to comply with same, whether or not he, she or it shall be the owner or the occupant of the property involved, shall be fined not less than \$1,000 nor more than \$50,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(D) In addition to the penalty set forth in this subchapter, any person, firm or corporation violating any of the provisions of § 52.01 through 52.62 can be required by the Sewer Director to take action to correct the condition causing the violation and to cease discharging into the city's sewer system if the condition causing the violation is not corrected or remedied.

(E) The city or its designee may take legal action to enforce the provisions of this subchapter, including an action for injunctive relief. In addition to the penalties provided in this subchapter, the city may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation incurred as a result of legal action taken against the person found to have violated this subchapter or the orders, rules regulations and permits issued hereunder.

(F) Any person, firm, or corporation found knowingly discharging unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water into the municipal separate sewer system shall be fined \$75 per month for each connection found until the illegal connections are removed.

(70 Code, § 13.04.120) (Ord. 22-85, 1985, passed 6-24-85; Am. Ord. 30, 2005, passed 12-15-05; Am. Ord. 12, 2009, passed 8-24-09; Am. Ord. 19, 2016, passed 10-24-16)

## CHAPTER 53: EROSION CONTROL AND SEDIMENT CONTROL MEASURES

### Section

- 53.01 Authority
- 53.02 Purpose and scope
- 53.03 Definitions
- 53.04 Design and maintenance requirements
- 53.05 Permitting process
- 53.06 Inspection
- 53.07 Enforcement
- 53.08 Compatibility with other permits and ordinance requirements
- 53.09 Severability
- 53.10 Incorporation by reference

### § 53.01 AUTHORITY.

(A) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This chapter and all references made herein are adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.

(C) The Approving Agency for this chapter is the City of Frankfort Public Works Department and its duly authorized designees, who are responsible for implementing all the provisions within and referenced by this chapter.

(Ord. 9, 2005, passed 6-27-05; Am. Ord. 2, 2018, passed 2-26-18)

### § 53.02 PURPOSE AND SCOPE.

(A) The regulations set forth in this chapter are intended to protect the general health, safety, and welfare of the citizens of the city and more specifically:

(1) To control or eliminate soil erosion and sedimentation resulting from land disturbing activities within the city with appropriate erosion and sediment control BMPs;



(2) Establish guidelines, conservation practices and planning activities which minimize adverse impacts to water quality and promote the utilization of Good Housekeeping measures that, at a minimum, are as proactive as Kentucky's General Permit for Stormwater Construction Sites;

(3) Establish procedures for site-plan reviews that, at a minimum, verify compliance with local ordinances and submittal of an eNOI or NOI, and protect High Quality Waters that are being discharged into from construction sites;

(4) Establish procedures for site inspections and enforcement of control measures;

(5) Establish procedures for the receipt and consideration of information submitted by the public;

(6) Comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth by the Kentucky Pollution Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination System (NPDES) storm water general permit for Phase II communities.

(B) This chapter controls land disturbances, soil storage, and erosion and sedimentation resulting from such activities and establishes procedures for issuance, approval administration, and enforcement of an Erosion Protection and Sediment Control (EPSC) Permit.  
(Ord. 7, 2005. passed 6-27-05; Am. Ord. 2, 2018, passed 2-26-18)

### § 53.03 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below.

**APPLICANT.** The landowner or developer who submits an application to the city for an EPSC permit pursuant to this chapter.

**APPROVING AGENCY.** The City of Frankfort Public Works Department and its duly authorized designees, who are responsible for implementing all the provisions within and referenced by this chapter.

**BEDROCK.** In place solid rock.

**BENCH.** A relatively level step excavated into earth material on which fill is to be placed.

**BEST MANAGEMENT PRACTICES (BMP).** A technique or series of techniques, which are proven to be effective in controlling runoff, erosion, and sedimentation.



**BORROW.** Earth material acquired from an off-site location for use in grading on a site.

**CLEARING AND GRUBBING.** The cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots, and other remains in the designated areas.

**CONTRACTOR.** A person who contracts with the permittee, landowner, developer, or another contractor (I.e. subcontractor) to undertake any or all the land disturbance activities covered by this chapter.

**CO-PERMITTEE.** Any person, other than the permittee, including but not limited to a developer or contractor who has or represents financial or operational control over the land disturbing activity.

**DETENTION FACILITY.** A temporary or permanent natural or man-made structure that provides for the temporary storage of storm water runoff.

**DEVELOPER.** Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity

**ENGINEER.** A professional engineer licensed in the Commonwealth of Kentucky to practice in the field of civil works.

**EPSC (EROSION PROTECTION AND SEDIMENT CONTROL).** The prevention of erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

**EPSC DESIGN MANUAL AND STANDARDS.** A compilation of rules, design criteria, guidelines and standards adopted by the City of Frankfort as being proven methods of controlling construction related surface runoff, erosion and sedimentation.

**EPSC PLAN.** A detailed plan which includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a specific development site or parcel of land during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed, all in accordance with this chapter.

**EROSION.** The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

**EROSION CONTROL INSPECTOR.** A person designated by the issuing authority who has attended a Frankfort-sponsored or approved training course in EPSC.





**FLOODPLAIN.** The 100-year floodplain which is that area adjoining a watercourse which could be inundated by a flood that has a 1% chance of being equaled or exceeded in any given year and is delineated on the Federal Emergency Management Agency Floodway Maps.

**GENERAL PERMIT.** A KPDES Storm Water General Permit for storm water discharges related to construction activities that disturb one acre or more. Coverage under this general storm water permit is obtained by filing a Notice of Intent (NOD with the Kentucky Division of Water.

**GRADE.** The vertical location of the ground surface.

- (1) Existing grade is the grade prior to grading.
- (2) Rough grade is the stage at which the grade approximately conforms to the approved plan.
- (3) Finish grade is the final grade of the site which conforms to the approved plan.

**LAND DISTURBANCE ACTIVITY.** Any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the city, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land. Land disturbance activity does not include the following:

- (1) Minor land disturbance activities including, but not limited to, underground utility repairs-replacement of existing utilities, home gardens, minor repairs, and maintenance work.
- (2) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- (3) Emergency work to protect life, limb, or property and emergency repairs. If the land disturbing activity would have required an approved EPSC except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this chapter.

**OUTFALL.** The point of discharge to any watercourse from a public or private stormwater drainage system.

**PERMITTEE.** The applicant in whose name a valid EPSC permit is duly issued pursuant to this chapter and his/her agents, employees, and others acting under his/her direction.

**PUBLIC WORKS DIRECTOR.** The City of Frankfort Public Works Department Director and City Engineer.

**RETENTION FACILITY.** A temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.



**RUNOFF.** Rainfall snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT.** Soils or other surficial materials transported by surface water as a product of erosion.

**SEDIMENTATION.** The process or action of deposition sediment that is determined to have been caused by erosion. .

**SITE.** The entire area of land on which the land disturbance activity is proposed in the site disturbance permit application.

**EPSC PERMIT.** A permit required by this chapter for land disturbance activities.

**SITE PLAN.** A plan or set of plans showing the details of any land disturbance activity of a site including but not limited to the construction of: structures, open and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

**SLOPE.** The incline of a ground surface expressed as a ratio, of horizontal distance to vertical distance.

**SOIL.** Naturally occurring surficial deposits overlying bedrock.

**STRIPPING.** Any activity which removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and root mat, and topsoil removal.

**STRUCTURE.** Anything manufactured, constructed or erected which is normally attached to or positioned on land, including buildings, portable structures, earthen structures, roads, parking lots, and paved storage.

**TOPSOIL.** The upper layer of soil.

**UTILITY.** The owner/operator of any underground facility including an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, stormwater, steam, sewage and other similar substances.

**WATERCOURSE.** Any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

**WATERSHED.** A region draining to a specific river, river system, or body of water.



**WETLANDS.** A lowland area such as a marsh, that is saturated with moisture, as defined in Sec. 404. Federal Water Pollution Control Act Amendments of 1987. (Ord. 7, 2005, passed 6-27-05; Am. Ord. 2, 2018, passed 2-26-18)

#### **§ 53.04 DESIGN AND MAINTENANCE REQUIREMENTS.**

The City of Frankfort has adopted a Stormwater Procedures Manual that is a compilation of rules, design criteria, and standards of proven methods for controlling construction related surface runoff, erosion, and sedimentation. The Stormwater Procedures Manual shall be used as a guide during the design and selection of appropriate erosion protection and sediment control (EPSC) measures and required as part of any Land Disturbance Activity in the City of Frankfort. Maintenance of EPSC measures shall also be performed to further minimize adverse impacts on water quality. (Ord. 7, 2005, passed 6-27-05; Am. Ord. 2, 2018, passed 2-26-18)

#### **§ 53.05 PERMITTING PROCESS.**

The Stormwater Procedures Manual describes the Land Disturbance permitting process within the City of Frankfort. It includes the types of permits required by the City for land disturbance activities, lists the required submittal materials, and describes the review process for the each application. Complying with the provisions of this chapter and references materials does not exempt the permittee (applicant in whose name a valid Land Disturbance Permit is duly issued) from obtaining coverage from the Kentucky Division of Water (KDOW) under the KPDES Storm Water General permit for storm discharges related to construction activities. By approving a plan under this chapter, the City of Frankfort does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs. (Ord. 2, 2018, passed 2-26-18)

#### **§ 53.06 INSPECTION.**

Any person who takes responsibility for any land development shall ensure that soil erosion, sedimentation, increased pollutant loads, and changes in water flow characteristics resulting from the activity are controlled so as to minimize pollution of receiving waters. The Approving Agency or its duly authorized representatives shall make inspections of land disturbing activities subject to this chapter, to ensure compliance with the approved Land Disturbance Permit and to examine field practices to determine if control measures are adequate. Authorized inspectors of the Approving Agency shall have the power to inspect any land disturbing activity and to review the records of all inspections, repairs and modifications made by the permittee. The permittee shall be self-policing and shall correct or remedy any EPSC measures that are not effective or functioning properly at all times during the various phases of construction. All updates to EPSC measures shall be accurately noted in the SWPPP. (Ord. 2, 2018, passed 2-26-18)



**§ 53.07 ENFORCEMENT.**

(A) *Enforcement Authority.* The Approving Agency shall be responsible for the enforcement of this chapter. Duly authorized representatives have the authority to issue Notices of Violation (NOV) and Stop Work Orders (SWO).

(B) *Conditions Warranting NOV and/ or SWO.* A NOV and/or SWO may be posted for the entire project or any specified part thereof if any of the following conditions exist:

- (1) Any land disturbance activity regulated under this chapter is being undertaken without a permit.
- (2) The SWPPP is not being fully implemented.
- (3) Any of the conditions of the Land Disturbance permit are not being met.

An offense of the same nature as a previous offense, even if previously corrected under a NOV, will constitute a separate offense to be enforced.

(C) *Notice Procedures for NOV and SWO.* For the purposes of this section, a NOV and/or SWO order is validly posted by posting a copy of the NOV and/or SWO on the site of the land disturbing activity in reasonable proximity to a location where the land disturbing activity is taking place. Additionally, a copy of the NOV and/or SWO, in the case of work for which there is a Land Disturbance permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the Permittee on the permit. In the case of work for which there is no permit, a copy of the NOV and/ or SWO shall be mailed to the person listed as the landowner of the property.

(D) *Notice of Violation Procedures.* An NOV is the first level of enforcement and does not include a monetary fine or penalty. Offenses enforced through a NOV must be corrected within five (5) calendar days of the date of issuance or a Stop Work Order will be issued.

(E) *Stop Work Order Procedures.* An SWO shall be issued if an NOV is not corrected within five (5) calendar days of the date of issuance of the NOV, or for an offense of the same nature as a previous offense, even if previously corrected under an NOV. An SWO may also be issued if the Approving Agency reasonably determines that the violation is so severe as to require proceeding to an SWO without first issuing an NOV to adequately ensure the purposes of this chapter are met. An SWOs shall include a civil penalty, or fine, for each occurrence violating this chapter and shall be paid to the City prior to release. Fines shall be payable by check to the City of Frankfort.

- (1) First SWO = \$250.00 fine.
- (2) Second SWO = \$500.00 fine and permit revocation.





If the permittee does not comply with the requirements of the SWO and pay the accompanying fine within five (5) calendar days of issuance, the Approving Agency may revoke the permit. If a permittee is issued a second SWO, the permittee must pay the accompanying fine within five (5) calendar days of issuance, and permit revocation is automatic. If the permittee does not pay the civil penalty within the specified time, the penalty may be recovered by the city in a civil action in the nature of debt by filing a petition with the court of appropriate jurisdiction.

(F) *Injunctions.* If the landowner or developer where no Land Disturbance permit has been issued does not cease the land disturbance activity, the Approving Agency may request the City Attorney to seek to obtain injunctive relief.

(G) *Permit Reinstatement.* Upon revocation of permit, the permittee shall bring the site back into compliance prior to re-inspection by the Approving Agency. If the site is found acceptable, and upon receipt of any fines, or penalties, the Approving Agency will reinstate the permit.

(H) *Notice of Intent.* Ten (10) calendar days after posting a stop-work order, the Approving Agency may issue a Notice of Intent to the Permittee, landowner, or land user of the Approving Agency's intent to perform work necessary to comply with this chapter. The Approving Agency may go on the land and commence work after fourteen (14) days from issuing the Notice of Intent. The costs incurred by the Approving Agency to perform this work shall be paid by the landowner, land user or permittee. In the event no EPSC permit was issued or no bond was posted, the cost, plus a reasonable administrative and attorneys fee shall be billed to the land owner.

(I) *Immediate Abatement.* The Approving Agency is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately; the issuing authority is authorized to enter onto private or public property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the issuing authority shall be fully reimbursed by the property owner and/or responsible party.

(J) *Legal Action and Injunctions.* Should the Approving Agency or city take legal action to enforce the provisions of this chapter, the issuing authority or city shall be entitled to collect any and all costs in instituting and taking such legal action, including but not limited to its court costs and attorney's fees. Compliance with the provisions of this chapter may also be enforced by injunction. (Ord. 7. 2005. passed 6-27-05; Am. Ord. 2, 2018, passed 2-26-18)

## **§ 53.08 COMPATIBILITY WITH OTHER PERMITS AND ORDINANCE REQUIREMENTS.**

The requirements of this chapter should be considered minimum requirements, and where any provisions of this chapter impose restrictions different from those imposed by any other applicable ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or



impose higher protective standards for human health or the environment shall be considered to take precedence.

(Ord. 2, 2018, passed 2-26-18)

**§ 53.09 SEVERABILITY.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

(Ord. 2, 2018, passed 2-26-18)

**§ 53.10 INCORPORATION BY REFERENCE.**

The "City of Frankfort Stormwater Procedures Manual, 2018 edition", which is attached to this chapter as Exhibit A, is hereby adopted in its entirety by reference, as if fully set forth in this chapter. A copy of the Manual shall be made a part of the permanent records of the City and shall be maintained on file in the Office of the City Clerk for public inspection.

(Ord. 2, 2018, passed 2-26-18)

[Text continues on page 69]





## CHAPTER 54: ILLICIT DISCHARGE CONTROLS

### Section

- 54.01 Authority
- 54.02 Purpose and scope
- 54.03 Definitions
- 54.04 Standards
- 54.05 Prohibition of discharges
- 54.06 Rules and regulations
- 54.07 Inspection and monitoring
- 54.08 Enforcement
  
- 54.99 Penalty

### § 54.01 AUTHORITY.

(A) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky laws, including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This chapter is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act, and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.  
(Ord. 8, 2005, passed 6-27-05)

### § 54.02 PURPOSE AND SCOPE.

The regulations set forth in this chapter are intended to protect the general health, safety, and welfare of the citizens of Frankfort, and more specifically:

(A) To protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act by prohibiting non-storm water discharges, including pollutants contained in storm water discharges, to the municipal separate storm sewer system (MS4), community waters and waters of the Commonwealth, collectively called storm water conveyance system;

(B) To prohibit illicit discharges and connections to the MS4;

(C) To regulate the contribution of pollutants to storm water discharges to the MS4 by any user;

(D) To comply with all applicable state and federal requirements for clean water, including limitations on the discharge of pollutants as set forth by the Kentucky Pollutant Discharge Elimination System (KPDES); and all applicable provisions of the Federal National Pollution Discharge Elimination System's storm water general permit for Phase II communities; and

(E) To establish legal authority to carry out all inspection, surveillance and monitoring, and enforcement procedures necessary to ensure compliance with this chapter.

(Ord. 8, 2005, passed 6-27-05)

### § 54.03 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

**COMMUNITY WATERS.** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the city.

**DEVELOPER.** Any person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a land disturbance activity.

**EPSC (EROSION PROTECTION AND SEDIMENT CONTROL).** The prevention of soil erosion and control of solid material during land disturbing activity to prevent its transport out of the disturbed area by means of air, water, gravity, or ice.

**ENFORCEMENT AGENCY.** The City of Frankfort Public Works Department or its duly authorized designees designated to enforce this chapter.

**HAZARDOUS MATERIALS.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, biological or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLEGAL DISCHARGE.** Any direct or indirect non-storm water substance, pollutant or hazardous material disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, intentionally or unintentionally, into the MS4, community waters, waters of the Commonwealth, or any area draining directly or indirectly into the MS4, except as exempted in § 54.05.





***ILLICIT CONNECTION.*** Defined as any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4. Included are conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

***INSPECTOR.*** A person designated by the enforcement agency who has attended an approved training course in detection of illicit discharges.

***MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).*** A conveyance, or system of conveyances (including roads with drainage systems, municipal and county streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains) designed or used for collecting or conveying stormwater. Sanitary and combined sewers are not included in the definition of the municipal separate storm sewer system.

***NON-STORM WATER DISCHARGE.*** Any discharge to the MS4, community waters or waters of the Commonwealth that is not composed solely of storm water except as permitted by § 54.05.

***PERSON.*** Any individual or entity.

***POLLUTANT.*** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

***PUBLIC WORKS DIRECTOR.*** The City of Frankfort Public Works Department Director and City Engineer.

***PREMISES.*** The area of land, site, grounds, property from which the illegal discharge emanates.

***UTILITY.*** The owner/operator of any underground or overhead line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, potable water, stormwater, steam, sewage and other similar substances.

***WATERS OF THE COMMONWEALTH.*** Any surface or subsurface watercourses and water bodies including all natural waterways and definite channels and depressions in the earth that may carry



water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

**WATERCOURSE.** Any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

**WATERSHED.** A region draining to a specific river, river system, or body of water.

**WETLANDS.** A lowland area such as a marsh, that is saturated with moisture, as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987. (Ord. 8, 2005, passed 6-27-05; Am. Ord. 3, 2018, passed 2-26-18)

#### **§ 54.04 STANDARDS.**

(A) Except as herein provided or exempted by the enforcement agency, this chapter shall apply to all non-storm water discharges and connections to the MS4, community waters and waters of the Commonwealth forming a part of the boundaries of the city.

(B) The enforcement agency shall administer, implement, and enforce the provisions of this chapter.

(C) The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not effect the other provisions of this chapter.

(D) This chapter shall be construed to insure consistency with requirements of the Clean Water Act, the KPDES, and acts amendatory thereof or any other applicable regulations.

(E) The standards and requirements set forth herein and promulgated pursuant to this chapter are minimum standards. This chapter does not intend nor imply that compliance by any person, company, developer, or any other entity will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the MS4, community waters or waters of the Commonwealth. (Ord. 8, 2005, passed 6-27-05)

#### **§ 54.05 PROHIBITION OF DISCHARGES.**

(A) No person, company, developer or any other entity shall discharge or cause to be discharged into the MS4, community waters or waters of the Commonwealth any pollutants or hazardous substances, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards. The commencement, conduct or continuance of any illegal discharge is prohibited.



(B) Unless the enforcement agency has identified them as a source of contaminants, the following categories of discharges are permitted:

- (1) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Fire Code requires to be contained and treated prior to discharge;
- (2) A discharge or flow from lawn watering, or landscape irrigation;
- (3) A discharge or flow from a diverted stream flow or natural spring;
- (4) Uncontaminated discharge or flow from a foundation drain, crawl space pump or footing drain;
- (5) A discharge or flow from air conditioning condensation;
- (6) A discharge or flow from individual residential car washing;
- (7) A discharge or flow from a riparian habitat or wetland;
- (8) A discharge or flow water used in street washing or cosmetic cleaning that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
- (9) Drainage from a private residential swimming pool containing no harmful quantities of chlorine or other chemicals;
- (10) A discharge or flow from any other water source not containing pollutants; and
- (11) Upon verbal notification to the enforcement agency and prior to time of the test, dye testing is an allowable discharge.

(C) No discharge or flow available under division (B) is allowed if the discharge or flow in question has been determined by the enforcement agency to be a source of a pollutant or pollutants to the MS4, community waters or waters of the Commonwealth. Written notice of such determination shall be provided by the enforcement agency to the discharger.

(D) The prohibition of discharges or flows shall not apply to any non-storm water discharges permitted under a KPDES or NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the Kentucky Division of Water under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

2006 S-2

(E) Any person, company, developer or any other entity subject to a construction activity NPDES storm water discharge permit and Erosion Protection and Sediment Control Permit shall comply with all provisions of such permits. Proof of compliance with such permits may be required in a form acceptable to the enforcement agency.

(F) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition includes without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practice applicable at the time of connection.

(G) No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon public or private property, driveway, parking area, street, alley, sidewalk, component of the MS4, community waters or waters of the Commonwealth, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.  
(Ord. 8, 2005, passed 6-27-05)

#### § 54.06 RULES AND REGULATIONS.

(A) *Eliminate illegal discharges.* Notwithstanding the requirements of § 54.07, the enforcement agency may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

(B) *Remediate.* Whenever the enforcement agency finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water entering the MS4, community waters, or waters of the Commonwealth, the enforcement agency may require by written notice to the owner of the premises and/or the responsible person that the pollution be remediated and the affected property restored within a specified time.

(C) *Monitor and analyze.* The enforcement agency may require any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the MS4, community waters, or waters of the Commonwealth system, to undertake at said person's expense such monitoring and analyses and furnish such reports to the enforcement agency as deemed necessary to determine compliance with this chapter.

(D) *Notification of spills.* Notwithstanding other requirements of local, state and federal law, as soon as any person responsible for a dwelling, development, facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of pollutants or hazardous materials which are resulting or may result in illegal discharges to the MS4,



2006 S-2

community waters or waters of the Commonwealth from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the enforcement agency in person or by phone or email no later than 9:00 a.m. of the next business day. Notifications shall be confirmed by written notice addressed and mailed to the enforcement agency within three business days of the notice.

(Ord. 8, 2005, passed 6-27-05; Am. Ord. 3, 2018, passed 2-26-18)

**§ 54.07 INSPECTION AND MONITORING.**

(A) *Inspection.* Whenever the enforcement agency has cause to believe that there exists, or potentially exists, any condition which constitutes a violation of this chapter, the enforcement agency may enter the MS4, community waters and waters of the Commonwealth at all reasonable times to inspect the same. If it is determined an illegal discharge emanates from private premises, the owner or operator of the premises will be notified in accordance with § 54.06 of this chapter. Copies of records of storm water compliance shall be provided to the enforcement agency.

(B) *Sampling devices and testing.* During any inspection as provided herein, the enforcement agency may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. The cost of all testing may be passed on to the owner or operator of the premises from which the illegal discharge emanates.

(Ord. 8, 2005, passed 6-27-05)

**§ 54.08 ENFORCEMENT.**

(A) *Notice of violation.*

(1) Whenever the enforcement agency finds that a person, company, developer or any other entity has violated a prohibition or failed to meet a requirement of this chapter, the Director may order compliance by written notice of violation to the responsible entity. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;



(e) The implementation of source control or treatment best management practices.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the enforcement agency or a contractor designated by the Director and the expense thereof shall be charged to the violator.

(B) *Abatement by the city.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation then the enforcement agency or designated contractor may enter upon the subject private premises and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the enforcement agency or designated contractor to enter upon the premises for the purposes set forth above.

(C) *Charging cost of abatement.*

(1) Within 30 days after abatement of the nuisance by the enforcement agency, the Director shall notify the property owner of the premises of the cost of abatement undertaken by the city, including but not limited to administrative costs, court costs and attorneys fees. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The Clerk shall set the matter for public hearing by the Board of Commissioners. The decision of the Commissioners shall be set forth by resolution and shall be final.

(2) The amount due must be paid within 30 days of receipt of the notice of the costs due, or upon ten days of the appeal decision of the Board of Commissioners, should an appeal be filed and an amount be upheld.

(D) *Emergency abatement.* The enforcement agency is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well being of the public. If any such violation is not abated immediately as directed by the enforcement agency, the city is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party.

(E) *Injunctive relief and legal costs.* The enforcement agency is authorized to request the City Attorney to seek injunctive relief and is entitled to recover its costs incurred, including court costs and attorney's fees, in seeking injunctive relief or taking other legal action to enforce the provisions of this chapter as authorized by law.



(F) *Acts potentially resulting in a violation of the Federal Clean Water Act.* Any person who violates any provision of this chapter or any provision of any permit issued by the city may also be in violation of the Clean Water Act and may be subject to the sanctions of those acts including civil and criminal penalties.

(Ord. 8, 2005, passed 6-27-05; Am. Ord. 1, 2006, passed 1-28-06; Am. Ord. 3, 2018, passed 2-26-18)

**§ 54.99 PENALTY.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. A violation of or failure to comply with any of the requirements of this chapter shall constitute a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than \$100 and not more than \$500 or by imprisonment for not more than 90 days, or both, for each separate offense. Each day there is a violation of any part of this chapter shall constitute a separate offense.

(Ord. 8, 2005, passed 6-27-05; Am. Ord. 1, 2006, passed 1-28-06)







## CHAPTER 55: POST-CONSTRUCTION RUNOFF

### Section

|       |   |
|-------|---|
| 55.01 | Authority   |
| 55.02 | Purpose and scope   |
| 55.03 | Definitions   |
| 55.04 | Applicability   |
| 55.05 | Utilization of BMP resources                                |
| 55.06 | Requirements for stormwater management plan approval        |
| 55.07 | Maintenance agreements                                      |
| 55.08 | Enforcement   |
| 55.09 | Compatibility with permits and other ordinance requirements |
| 55.10 | Severability  |

### § 55.01 AUTHORITY.

(A) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky laws including the statutory authority granted to Kentucky cities in KRS Chapters 67 and 100.

(B) This chapter is adopted pursuant to the powers granted and limitations imposed by the Federal Clean Water Act and in particular those parts that authorize local governments to require any state or federal department or agency to comply with all local water pollution control requirements.

(C) The Approving Authority for this chapter is the City of Frankfort Public Works Department and its duly authorized designees who are responsible for implementing all the provisions within and referenced by this chapter.

(Ord. 9, 2005, passed 6-27-05; Am. Ord. 4, 2018, passed 2-26-18)

### § 55.02 PURPOSE AND SCOPE.

(A) The regulations set forth in this chapter are intended to protect the general health safety and welfare of the citizens of the city by establishing a set of water quality and quantity policies to provide reasonable guidance for the regulation of stormwater runoff in all public and private developments. This chapter seeks to meet that purpose through the following objectives:



(1) To protect and enhance the municipal separate storm sewer system MS4 community waters and waters of the Commonwealth;

(2) To maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, silation and sedimentation, and local flooding;

(3) To improve stormwater quality through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety; and

(4) To provide long-term responsibility for and maintenance of stormwater Best Management Practices (BMP).

(B) These regulations for stormwater management apply to the development or redevelopment of land for residential commercial industrial or institutional use but do not apply to agricultural land management practices.

(Ord. 9, 2005, passed 6-27-05; Am. Ord. 4, 2018, passed 2-26-18)

### § 55.03 DEFINITIONS.

For the purposes of this chapter the following terms, phrases, words, and their derivatives shall have the definitions stated below.

***APPROVING AGENCY.*** The City of Frankfort Public Works Department and its duly authorized designees responsible for review and approval of stormwater management plans.

***BEST MANAGEMENT PRACTICES (BMP).*** A technique or series of techniques, structural or nonstructural, which are proven to be effective in controlling runoff erosion sedimentation and mitigate flooding.

***DETENTION FACILITY.*** A temporary or permanent natural or manmade structure that provides for the temporary storage of stormwater runoff which is designed so as not to create a permanent pool of water.

***DEVELOPER.*** An person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof, engaged in the development or redevelopment of property.

***DRAINAGE AREA.*** That area contributing runoff to a single point measured in a horizontal lane which is enclosed by a ridge line.



**EXTENDED DETENTION.** A stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events.

**FLOW ATTENUATION.** Prolonging the flow time of runoff to reduce the peak discharge.

**INFILTRATION.** The passage or movement of water into the soil surface.

**LAND DISTURBANCE ACTIVITY.** An land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City of Frankfort including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land.

**PUBLIC WORKS DIRECTOR.** The Cit of Frankfort Public Works Department Director and City Engineer.

**REDEVELOPMENT.** Any construction, alteration, or improvement involving land disturbance performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential.

**RETENTION FACILITY.** A temporary or permanent natural or manmade structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**RETROFITTING.** The construction of a structural BMP in a previously developed area, the modification of an existing structural BMP or the implementation of a nonstructural practice to improve water quality over current conditions.

**RUNOFF.** Rainfall snowmelt or irrigation water flowing over the ground surface.

**SEDIMENT.** Soils or other surficial materials transported or deposited by the action of wind water ice, or gravity as a product of erosion.

**SITE PLAN.** A plan or set of plans showing the details of any land disturbance activity of a site including but not limited to the construction of structures, open and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, and landscaping.

**STORMWATER DESIGN STANDARDS.** The Cit of Frankfort's Stormwater Design Standards, latest version that serves as the official guide for stormwater design principle, methods and practices.



**STORMWATER MANAGEMENT.** For:

(1) Quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land, and

(2) Qualitative control, a system of vegetative structural and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

**WATERCOURSE.** An natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, or wash in which waters flow either continuously or intermittently.

**WATERSHED.** The total drainage area contributing runoff to a single point.

**WETLANDS.** A lowland area such as a marsh, that is saturated with moisture as defined in Sec. 404, Federal Water Pollution Control Act Amendments of 1987.  
(Ord. 9, 2005, passed 6-27-05; Am. Ord. 4, 2018, passed 2-26-18)

**§ 55.04 APPLICABILITY.**

(A) This chapter shall be applicable to all subdivision or site plan applications, unless eligible for an exemption or granted a waiver by the City of Frankfort under the specifications of the City of Frankfort Stormwater Procedures Manual, incorporated by reference in City Ordinance § 53.11. This chapter also applies, to land development activities that are smaller than one (1) acre if such activities are part of a larger common plan of development as established in KPDES permit number KYO200000.

(B) When a site development plan is submitted that qualifies as a redevelopment project as defined in the Stormwater Procedures Manual, decisions on permitting and on-site stormwater requirements shall be made after a review by the City of Frankfort.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.05 UTILIZATION OF BMP RESOURCES.**

The City of Frankfort may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements for this chapter in the form of approved Best Management Practices (BMP), which will be located in the City of Frankfort's Stormwater Procedures Manual. The Stormwater Procedures Manual will include specific design criteria and operation and maintenance requirements for stormwater BMPs. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards. Until the development of this resource, information

2019 S-15



on stormwater BMPs is available at EPAs National Menu of Stormwater Best Management Practices (<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/>).  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.06 REQUIREMENTS FOR STORMWATER MANAGEMENT PLAN APPROVAL.**

(A) No application for development will be approved unless it includes a Stormwater Management Plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. The Stormwater Procedures Manual outlines accepted design criteria and the information required for submittal in the Stormwater Management Plan.

(B) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater plan, measures for controlling existing stormwater runoff discharges from the site in accordance with the Stormwater Procedures Manual.

(C) The Stormwater Management Plan(s) must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Stormwater Procedures Manual or EPAs National Menu of Stormwater Best Management Practices, as applicable. By approving a plan under this chapter, the City of Frankfort does not accept responsibility for the design, installation, and operation and maintenance of stormwater BMPs.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.07 MAINTENANCE AGREEMENTS.**

All commercial/multifamily stormwater treatment practices shall have an enforceable Operation and Maintenance Agreement to ensure the system functions as designed. This agreement will include any and all easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.  
(Ord. 4, 2018, passed 2-26-18)

**§ 55.08 ENFORCEMENT.**

The Approving Agency shall be responsible for the enforcement of this chapter and have the authority to issue notices of violation (NOVs), citations, and levy fines as described below.



(A) *Conditions Warranting Enforcement Procedures.* Enforcement procedures may be utilized if any of the following conditions exist:

- (1) Structural and/or non-structural BMPs are not being installed or maintained per manufacturer's specifications and/or Approving Agency;
- (2) Construction is not in compliance with the approved Stormwater Management Plan;
- (3) Maintenance of permanent stormwater BMPs is not sufficient after construction; or
- (4) Any of the conditions of this chapter are not being met.

(B) *Enforcement Procedures.*

(1) *Notice Procedures for NOV and Citation.* For the purposes of this chapter, an NOV and/or citation is issued by posting a copy of the NOV and/or citation on the construction site in reasonable proximity to a location where the violation is taking place. Additionally, a copy of the NOV and/or citation shall be mailed by first class mail, postage pre-paid, to the address listed by the responsible party on the Operation and Maintenance Agreement. In the case of work for which there is no Operation and Maintenance Agreement, a copy of the NOV and/or citation shall be mailed to the person listed as the landowner of the property.

(2) *Notice of Violation Procedures.* NOVs are the first level of enforcement and do not include a penalty, or fine. Only one NOV will be issued for an offense before citations are utilized. An offense of the same nature as a previous offense, even if previously corrected under a NOV, will constitute a second offense to be enforced through a citation. Offenses enforced through a NOV must be corrected within five (5) calendar days of the date of issuance or a citation will be issued.

(3) *Citation Procedures.* A citation shall be issued if an NOV is not corrected within (5) calendar days of the date of issuance of the NOV, or for an offense of the same nature as a previous offense, even if previously corrected under an NOV. Citations shall include a civil penalty, or fine, for each occurrence and shall be paid to the City of Frankfort prior to release. Fines shall be payable by check to the City of Frankfort.

(a) First Citation = \$1000.00 fine.

(b) Second Citation = \$2000.00 fine and Notice of Intent letter.

If the responsible party or landowner does not comply with the requirements of the citation and pay the accompanying fine within five (5) calendar days of the date of issuance of the citation, the penalty may be recovered by the city in a civil action in the nature of debt by filing a petition with the court of appropriate jurisdiction.



(4) *No Operation and Maintenance Agreement.* For violations where no Operation and Maintenance Agreement has been recorded, the Approving Authority will notify the property owner or Responsible Party and cooperate for resolution prior to enforcement. Should the Responsible Party not provide stormwater structure maintenance or demonstrate a history of non-compliance of the same nature, the Approving Authority may request the City Attorney to seek to obtain injunctive relief.

(5) *Notice of Intent.* Ten (10) calendar days after issuing the second citation, the Approving Authority may issue a Notice of Intent to the Responsible Party, landowner, or land user stating the City of Frankfort's intent to perform work necessary to comply with this chapter. The City of Frankfort may go on the land and commence work after fourteen (14) days from issuing the notice of intent. The costs incurred by the City of Frankfort to perform this work shall be paid by the property owner or Responsible Party. The cost, plus a reasonable administrative and attorneys fee shall be billed to the property owner. Failure to reimburse the City within thirty (30) days of billing will result in legal action to collect the amount due.

(6) *Immediate Abatement.* The Approving Authority is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately, the City of Frankfort is authorized to enter onto private or public property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Frankfort shall be fully reimbursed by the property owner and/or responsible party. The cost, plus a reasonable administrative and attorneys fee shall be billed to the property owner. Failure to reimburse the City within thirty (30) days of billing will result in legal action to collect the amount due. For the purpose of this chapter, the ultimate party responsible for assuring compliance with the conditions set forth is tire property owner.

(7) *Legal Action and Injunctions.* Should the city take legal action to enforce the provisions of this chapter, the City of Frankfort shall be entitled to collect any and all costs in instituting and talcing such legal action, including but not limited to its court costs and attorney's fees. Compliance with the provisions of this chapter may also be enforced by injunction.

(Ord. 4, 2018, passed 2-26-18)

## **§ 55.09 COMPATIBILITY WITH OTHER PERMITS AND ORDINANCE REQUIREMENTS.**

The requirements of this chapter should be considered minimum requirements, and where any provisions of this chapter impose restrictions different from those imposed by any other applicable ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(Ord. 4, 2018, passed 2-26-18)



**§ 55.10 SEVERABILITY.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

(Ord. 4, 2018, passed 2-26-18)

