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Date of Effect

Approval of Ordinance

Section 23-11. Reserved

Division 2. Definitions

Section 23-12. Definitions

(a) For purposes of this ordinance, the following phrases and words shall have the meaning assigned below, except in those instances where the content clearly indicates a different meaning:

(1) **Clean Water Act (CWA), Act, or the Act.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 United States Code (U.S.C.) 1251, et seq.

(2) **Approved Publicly Owned Treatment Works (POTW) Pretreatment Program or Program or POTW Pretreatment Program.** A program administered by a publicly owned treatment works that meets the criteria established in Chapter 40 of the Code of Federal Regulations (40 CFR) §§ 403.8 and 403.9, and which has been approved by a regional administrator or state director in accordance with 40 CFR § 403.11.

(3) **Board.** Cleveland Utilities Board.

(4) **Bradley County Health Department.** The agency designated by Bradley County and the Tennessee Department of Environment & Conservation (TDEC) as responsible for supervision and administration of private wastewater disposal systems in Bradley County.

(5) **Building Drain.** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.

(6) **Building Sewer.** A sewer conveying wastewater from the building drain to a community sanitary sewer or other place of disposal.

(7) **Bypass.** The intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

(8) **Categorical Standards.** National pretreatment standards established by the Environmental Protection Agency (EPA) for specific industrial user Standard Industrial Classification (SIC) code categories.

(9) **Centralized Waste Treatment Facility (CWT).** A commercial centralized waste treatment facility (other than a landfill or an incinerator) which treats or stores aqueous wastes generated by facilities not located on the CWT site and which disposes of these wastes by introducing them to the POTW.

(10) **City.** City of Cleveland, Tennessee.

(11) **Cleveland Utilities.** The department of the City of Cleveland charged with the responsibility for operation, maintenance, and financial management of the electric distribution system; the water treatment and distribution system; wastewater collection, treatment, and disposal system; and all facilities to perform the necessary services provided by these utilities under the direction of the Cleveland Utilities Board.

(12) **Combined Sewer.** A sewer which has been designed to carry both sanitary sewage and storm water runoff.

(13) **Community Sewer.** A sanitary sewer to which all owners of abutting properties have equal rights and which is owned by the Utility.

(14) **Conventional Pollutant.** Biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform bacteria, and oil and grease.

(15) **Direct Discharge.** The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(16) **Discharge Monitoring Report.** A report submitted by an industrial user to the Utility pursuant to this article containing information relating to the nature and concentration of pollutants and flow characteristics of a discharge from the industrial user to the POTW using standard methods approved by the Utility.

(17) **Environmental Protection Agency (EPA).** An agency of the United States or the administrator or other duly authorized official of said agency.

(18) **Grab Sample.** A sample taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(19) **Holding Tank Waste.** Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks. This specifically includes wastewater from industrial users conveyed to the POTW by any means other than by a standard connection to a sanitary or combined sewer.

(20) **Indirect Discharge.** The discharge or the introduction of pollutants from any source regulated under Section 307(b), ©, or (d) of the Act (33 U.S.C. 1317) into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to state waters.

(21) **Industrial User.** A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act. For the purposes of this article, an industrial user is a source of non- domestic wastes from industrial processes.

(22) **Infiltration.** Water other than wastewater that enters a sewer system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

(23) **Inflow.** Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, fountain drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, storm waters, surface runoff, street wash waters, and drainage. Inflow does not include, and is distinguished from, infiltration.

(24) **Interference.** A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(i) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(ii) therefore, is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations), Section 405 of the CWA, the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

(25) **Mass Emission Rate.** The weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

(26) **Maximum Concentration.** The maximum amount of a specified pollutant in a volume of water or wastewater.

(27) **National Pretreatment Standard.** Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and © of the Act (33 U.S.C. 1347) which applies to industrial users. These terms also include prohibited discharges promulgated in 40 CFR 403.5 and local limits adopted as part of the City's approved pretreatment program.

(28) **New Source.**

(i) 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© of the Act which will be applicable to such

source if such standards are thereafter promulgated in accordance with that section, provided that one of the following criteria is applicable:

(A) The building, structure, facility, or installation is constructed at a site at which no other source is located.

(B) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source.

(C) The production or wastewater generated processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Paragraphs (i)(B) or © of this subsection but otherwise alters, replaces, or adds to existing process or production equipment.

(iii) Construction of a new source as defined under this paragraph has commenced if the owner or operator has taken one of the following actions:

(A) Begun or caused to begin as part of a continuous on-site construction program: y placement, assembly, or installation of facilities or equipment. 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.

(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.

(29) **National Pollution Discharge Elimination System (NPDES) Permit.** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(30) **Normal Wastewater.** Effluent which contains constituents and characteristics similar to effluent from a domestic premise, and specifically for the purposes of this article, does not contain BOD5, COD, or TSS in concentrations in excess of the following:

BOD5 -- 300 milligrams per liter

COD -- 600 milligrams per liter

TSS -- 400 milligrams per liter

(31) **Pass Through.** A discharge which exits the POTW into waters of the United States in the 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation). In the case of POTW receiving discharges from CWTs as defined above, pass through also means the failure of the CWT and the POTW to reduce pollutant discharges from the POTW to the degree required under Section 301(b)(2) of the CWA if the CWT discharged directly to surface waters.

(32) **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

(33) **Pollution.** The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(34) **Premises.** A parcel of real estate or portion thereof, including any improvements thereon which is determined by the Utility to be a single user for purposes of receiving, using, and paying for services.

(35) **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 discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes or by other means, except as prohibited by 40 CFR §403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR §403.6(e).

(36) **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(37) **Publicly Owned Treatment Works (POTW).** A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292). This definition includes any sewers that convey wastewater to such a treatment works and any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or liquid industrial waste, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment.

(38) **Reclaimed Water.** Water which, as a result of the treatment of waste, is suitable for direct beneficial or controlled use that would not occur otherwise.

(39) **Sanitary Sewer.** A sewer which carries wastewater and from which storm, surface, and ground waters are intentionally excluded.

(40) **Severe Property Damage.** Substantial physical damage to property, damage to treatment facilities rendering them 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.

(41) Significant Industrial User:

(i) All dischargers subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N.

(ii) All non-categorical dischargers that contribute a process wastestream which makes up 5 percent or more of the average dry weather capacity of the POTW treatment plant, or more than an average of 25,000 gallons per day of process wastewater to the POTW.

(iii) All non-categorical dischargers that, in the opinion of the Utility, have a reasonable potential to adversely affect the POTW's operation. This may include but not be limited to all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities.

(iv) All non-categorical discharges that contain more than 100 pounds per day of combined BOD and TSS load above that level found in normal wastewater, or that contain more than 1,000 pounds in a month of combined BOD and TSS load above that level found in normal wastewater.

(42) **Standard Industrial Classification.** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(43) **Toxic Pollutant.** Any pollutant or combination of pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the EPA under the provisions of 33 U.S.C. 1317.

(44) **Treatment Works.** Any devices and systems used in the storage, treatment, recycling, and reclamation of domestic sewage of liquid industrial wastes, including interceptor sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including land, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; and including combined storm water and sanitary sewer systems.

(45) **Twenty-Four-Hour, Flow-Proportional Composite Sample.** A sample consisting of several effluent portions collected during a 24-hour period in which the portions of sample are proportionate to the flow and combined to form a representative sample.

(46) **Unpolluted Water.** Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the EPA having jurisdiction thereof for disposal to storm or natural drainage or directly to surface waters.

(47) **User.** Any person, firm, corporation, or governmental entity that discharges, causes, or permits the discharge of wastewater into a community sewer.

(48) **Utility.** The General Manager of Cleveland Utilities, superintendents, engineers, technicians, or other employees of Cleveland Utilities designated by the General Manager to act on behalf of the General Manager and report directly to the General Manager.

(49) **Utility Board.** Cleveland Utilities Board, a department of the City of Cleveland.

(50) **Waste.** Sewage and other waste substances (liquid, solid, gaseous, or radioactive) associated with human habitation or of human or animal origin, or from any producing, manufacturing, or processing operation, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

(51) **Wastewater.** Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

(52) **Wastewater Constituents and Characteristics.** The individual chemical, physical, bacteriological and radiological parameters, including toxicity, volume, and flow rate and such other parameters that serve to define, classify, or measure the contents, quality, quantity, and strength of wastewater.

(53) **Waters of the State of Tennessee.** Any water, surface or underground, within the boundaries of the state.

(b) The following abbreviations shall have the following meanings:

(1) **BAT.** Best Available Technology.

(2) **BPT.** Best Practical Technology.

(3) **BOD5.** Biochemical Oxygen Demand (5-day).

(4) **CFR.** Code of Federal Regulations.

(5) **COD.** Chemical Oxygen Demand.

(6) **CWA.** Clean Water Act.

(7) **CWT.** Centralized Waste Treatment Facility.

(8) **EPA.** Environmental Protection Agency.

(9) **GMP.** Good Management Practices.

(10) **MBAS.** Methylene-blue-active substances.

(11) **mg/l.** Milligrams per liter.

(12) **NPDES.** National Pollutant Discharge Elimination System.

(13) **POTW.** Publicly Owned Treatment Works.

(14) **RCRA.** Resource Conservation and Recovery Act.

(15) **SIC.** Standard Industrial Classification.

(16) **SWDA.** Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

(17) **TSS.** Total Suspended Non-filterable Solids.

(18) **U.S.C.** United States Code.

Section 23-13. **Reserved**

Division 3. Use of Public Sewers

Section 23-14. **Connection with Sanitary Sewer Required**

(a) **Sewer Connection Required.** Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is adjacent to the property line of the parcel containing the building shall be considered as being served by the Utility's sanitary sewer system. The Utility shall make any decision as to the availability of sewer service to a premise. All premises served by the Utility sanitary sewer are subject to sewer user charges as described in Section 23-105 of this ordinance whether connected to the Utility's sewer or not.

All new buildings hereafter constructed on property which is served by the Utility's sewer system shall not be occupied until the connection has been made. Septic tanks shall not be used for new buildings where sanitary sewers are available. All existing buildings shall be connected to the Utility's sanitary sewer system within ninety (90) days after date of official notice that sewer service is available to the property.

(b) **Unconnected Sewer Service Lines Prohibited Where Connection is Available.** Except for discharge to a properly functioning septic tank system approved by the Bradley County Health Department or discharges permitted by a National Pollutant Discharge Elimination System permit (hereinafter NPDES) issued by the TDEC, the discharge of sewage into places other than the Utility's sewer system is prohibited. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the Utility's sewer system shall cease to use any other method for the disposal of sewage except as approved for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank system.

(c) **Insufficient Capacity, Connection Moratorium.** In those parts of the Utility sewer system where no additional capacity exists and a sewer moratorium has been established pursuant to orders of the TDEC, no new or additional sewer connections shall be permitted. Connection permits issued prior to the date of the moratorium may be completed. No permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue in effect until the capacity restriction has been corrected or the order lifted.

(d) **Illegal Connections.** No person shall make or permit connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of

surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. If evidence of such illegal connections is discovered by the Utility, the owner will be notified in writing and directed to eliminate the illegal connection and/or repair the building sewer, as appropriate.

Section 23-15. Adequate and Minimum Fixtures

(a) **Minimum Number of Fixtures.** All new dwellings shall have at least one commode, one bathtub or shower, one lavatory, one kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation, and personal hygiene. All other buildings, structures, or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one commode and one hand-washing lavatory.

(b) **Adequate Water for Disposal of Waste Required.** It shall be unlawful for any person in possession of premises into which a pipe or other connection with the city sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow a sufficient quantity of water to be so applied as properly to carry off all waste matter and keep the same unobstructed.

Section 23-16. Right to Enter, Inspect Connection

The Utility, the plumbing inspector, or other designated employees of the City shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the Utility's sewers are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause or reasonable suspicion that there may be inadequate plumbing, that the facilities present may not be properly functioning, or that there is an improper discharge, or for a periodic systematic inspection of a particular drainage basin or other large segment of the system at any time of the day between the hours of 7:00 a.m. and 6:00 p.m. or any other time in the event of an emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice and an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to interrupt the treatment process, or shall damage the Utility's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.

Section 23-17. Reserved

Section 23-18. Demolished Buildings

When a building is demolished or relocated, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his agent shall notify the plumbing inspector of such a plug and allow same to be inspected prior to covering of any work. If such line is to be reused, it must first undergo inspection by the plumbing inspector and be in conformity with current standards for building sewers.

Section 23-19. Limitations on Point of Discharge; Temporary Facilities

No person shall discharge any substance directly into a manhole or other opening in a Utility sanitary sewer other than through an approved building sewer unless he has been issued a temporary permit by the Utility. Permission may be granted at the discretion of the Utility to provide for discharges from portable sanitary facilities for festivals or public shows or for other reasonable purposes. The Utility shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to ensure compliance with the provisions of this ordinance. Any discharge other than through an approved building sewer shall be unlawful.

Section 23-20. Vehicle Wash Racks

All new gasoline filling stations, garages, self-service automobile washers, and other public wash racks where vehicles are washed shall install catch basins in conformity with the plumbing code in accordance with a permit obtained from the plumbing official. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system. If such users are industrial users as defined in Division 2 of this ordinance, a permit as specified therein will be required. No stormwater shall be diverted to these catch basins.

Section 23-21. Grease Traps, Grit Traps, Oil Traps, and Lint Traps

All new restaurants, laundries, wash racks, vehicle service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the Utility's sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the Utility and constructed in accordance with applicable building codes.

Section 23-22. Multi-User Private Sewer Systems

Excluding those industrial waste facilities with a permit issued pursuant to Division 8, the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the Utility's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or injury caused to the Utility's system as a result of any discharge through the private system.

Section 23-23. Reserved

Division 4. Building Sewers, Connections, and Permits

Section 23-24. Installation, Maintenance, Repair of Sewer Service Lines; Charge; Exception

(a) Definition. A standard sanitary sewer service line is a 4- or 6-inch pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main or trunk.

(b) Installation of Sewer Service Lines. The construction and installation of all building sewers shall be in accordance with the requirements of the latest edition of the Standard Plumbing Code published by the Southern Building Code Congress International, Inc. The Utility may establish additional requirements/or standards for materials and methods of installation in accordance with good engineering practice.

Four-inch building sewers shall be laid on a grade of at least 1 percent. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2 feet per second. The slope and alignment of all building sewers shall be neat and regular and shall be bedded in material suitable to achieve proper slope and alignment.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another as an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Building sewers shall be constructed only of one of the following approved materials: (1) cast iron soil pipe using rubber compression joints of approved type; (2) polyvinyl chloride pipe with rubber compression joints; (3) ABS composite sewer pipe with solvent-welded or rubber compression joints of approved type; or (4) similar materials of equal or superior quality following Utility approval. Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a tee or stubbed-out service line, or in the absence of any other provision, by means of a saddle of a

type approved by the Utility, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of 1 percent or more where possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions through the installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the Utility's sewer.

(c) Standard Sewer Stub-Outs. Hereafter, as a part of sanitary sewer projects in the City of Cleveland, the Utility shall install, or cause to be installed, standard sanitary sewer service stub-outs from mains or trunks located in a street, alley, or easement to the property line of each lot or residence on the street being sewered. In the case of sewers being constructed in undeveloped subdivisions located within a designated sewer project, the standard sanitary sewer service stub-out may be constructed to each lot as shown by the developer on the plat of the subdivision as filed in the Register's Office of Bradley County, Tennessee. Sewer service stub-outs may not be constructed at the expense of the Utility in a street where the property is unsubdivided and undeveloped. In such cases, a fee shall be charged upon connection to the sewer line as provided in Division 12.

(d) Sewer Service Stub-Out Charge. A sewer connection charge shall be paid by property owners at the time that application is made to the Utility for permission to tie on to the sanitary sewer line. The collection of such payments shall be the responsibility of the Utility. This service connection charge shall be in addition to any required fees for inspection, street cuts, or other fees.

(e) Title and Maintenance. When a property owner ties into a sanitary sewer stub-out installed pursuant to Paragraph © of this section and pays the sewer service line charge levied in Paragraph (d) of this section, thereafter, all repairs and maintenance of the sanitary sewer service line shall be the responsibility of the property owner or user of the sewer.

(f) Location of Sewer Stub-Outs and Tees. The plumbing contractor is responsible for locating sewer service line stub-outs and tees. Utility personnel will provide whatever information is available for this purpose. If a manhole needed for locating a service line has been lost, then the Utility shall be responsible for locating the manhole.

(g) Taps on Utility Sewers. Where a sewer service line stub-out has not been provided, the Utility shall provide one. If no stub-out exists within 3 feet of either side of the location shown in the Utility's records, then a tap will be provided by the Utility. All taps made directly into the Utility's sewer lines shall be made by Utility personnel.

(h) Manhole Required. A new manhole will be required whenever a sewer service line larger than 6 inches is needed to tie into the Utility's sewer. The Utility's

personnel shall install the manhole. The cost of the manhole, including labor and materials, shall be included in the connection fee.

(i) Maintenance of Sewer Service Lines. All repairs and maintenance of the sanitary sewer service line to include correction of excessive inflow or infiltration shall be the responsibility of the property owner or user of the sewer. The Utility shall be responsible for the maintenance of collector lines only up to the point where the owner's sewer service line connects to the Utility's stub-out.

If, upon smoke testing or visual inspection by the Utility, roof downspout connections, exterior foundation drains, area drains, basement drains, building sewer leaks or other sources of rainwater, surface runoff or groundwater entry into the POTW sewer system are identified on building sewers on private property, the Superintendent may take any of the following actions.

(1) Notify the property owner in writing of the nature of the problem(s) identified on the property owner's building sewer and the specific steps required to bring the building sewer within the requirements of this Ordinance. All steps necessary to comply with this Ordinance must be complete within 60 days from the date of the written notice and are entirely at the expense of the property owner. The inspection requirements of Section 23-25 of this Ordinance apply.

(2) Notify the property owner in writing of the nature of the problem(s) identified on the property owner's building sewer and inform the property owner that the City will provide all labor, equipment and materials necessary to make the repairs required to bring the building sewer within the requirements of this Ordinance. The work on private property will be performed at the City's convenience and the cost of all labor, equipment and materials used will be charged to the property owner. The City will be responsible for bringing any excavations back to original grade, replacing topsoil and hand raking all disturbed areas; however, the property owner shall be responsible for final landscaping, including but not limited to seeding, fertilizing, watering, mulching, sodding and replacing any shrubbery or trees displaced or damaged by the City during the execution of the work.

(j) Cost of Building Sewers. All costs and expenses incidental to the installation and connection of the building sewer to the community sewer shall be borne by the owner. All costs and expenses associated with the installation and operation of pumping equipment necessary to lift sewage to the level of the community sewer shall be borne by the owner. The owner shall indemnify Cleveland Utilities from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(k) Service Lines to Enter Sanitary Sewers at Junction; Exception. No service lines shall enter a sanitary sewer at any point except where a junction has been made and left therefore unless by special permission of the Utility. In all cases where such permission is given, the work shall be done by the Utility's personnel and at the risk and expense of the party requesting the connection.

Section 23-25. Permit Required to Make Connection

(a) Before the owner of any property connects such property into the Utility sewer, the owner or owner's agent shall make application to and be issued permits by both the City and the Utility. The work shall be performed only by a plumber approved by the City and Utility who has also signed the permits. All connections shall be inspected and approved by both the City of Cleveland Plumbing Inspector and the Utility.

(b) In order to secure the required connection permits, the owner or owner's agent shall:

(1) Make application for a plumbing permit to the City of Cleveland Plumbing Inspector's Office. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Plumbing Inspector. A permit and inspection fee shall be paid to the City of Cleveland at the time the application for permit is filed.

(2) Take the plumbing permit to Cleveland Utilities and make application for service and pay the appropriate connection charge and inspection fee.

(c) Connections made without an approved application may be severed by order of the Utility. Such unapproved connection may be allowed to remain active if inspected and accepted; however, the owner shall be required to pay an alternative fee in lieu of the permit application fee in an amount double the current regular fee.

(d) No permit for a connection which may be used for discharge of industrial process wastes or other non-domestic wastes regulated by Division 6 of this ordinance shall be issued except upon separate application to the Utility and approval of the discharge under the provisions of Division 8.

Section 23-26. Sewer Construction; Acceptance of Work

All sewer construction involving sanitary sewer lines, pump stations, metering stations, and appurtenances which are to become a part of the Utility's sewer system shall not be constructed until the plans are approved and the construction inspected and approved by the Utility. Any construction work where Utility sewers are opened, uncovered, or undercut must have the prior approval of the Utility.

Section 23-27. Reserved

Division 5. Private Domestic Wastewater Disposal

Section 23-28. Availability

Where a public sanitary sewer is not available under the provisions of Section 23-14, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

Section 23-29. Requirements

(a) A private domestic wastewater disposal system may not be constructed within the sewer service area unless and until a written statement is obtained from the Utility stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No written statement shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by zoning regulations and the Bradley County Health Department.

(b) Before commencement of construction of a private sewage disposal system, the Owner shall first obtain written permission from the Bradley County Health Department. The Owner shall supply any plans, specifications, and other information as are deemed necessary by the Bradley County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Bradley County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the Owner shall notify the Bradley County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Bradley County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation (TDEC) and the Bradley County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The Owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the Utility.

(f) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Bradley County Health Department.

Section 23-30. Reserved

Division 6. Prohibitions and Limitations on Discharges

Section 23-31. Purpose and Policy

This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be legally discharged into the POTW. Pretreatment of some wastewater discharges will be required to achieve the goals established by this article and the Clean Water Act. The specific limitations set forth in Section 23-40 hereof, and other prohibitions and limitations of this article, are subject to change as necessary to enable the Utility to provide efficient wastewater treatment, to

protect the public health and environment, and to enable the Utility to meet requirements contained in its NPDES permit. The Utility shall review said limitations from time to time to ensure that they are sufficient to protect the health and safety of sewer system personnel, and the operation of the treatment works to enable the facility to comply with its NPDES permit, provide for a cost-effective means of operating the treatment works, and protect the public health and the environment. The Utility shall recommend changes or modifications as necessary.

Section 23-32. Prohibited Pollutants

No person shall introduce into the POTW any pollutant(s) which cause pass-through or interference. Additionally, the following specific prohibitions apply:

(a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, pollutants with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade), as determined by a Pensky-Martens closed-cup tester, using the test method specified in the American Society for Testing and Materials (ASTM) D-93-79 or D-93-80k, or a Setaflash closed-cup tester, using the test method specified in ASTM D-3278-78, or pollutants which cause an exceedance of 10 percent of the lower explosive limit (LEL) at any point within the POTW.

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0 or higher than 10.5.

(c) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which cause injury to the POTW, including waxy or other materials which tend to coat and clog a sewer line or other appurtenances thereto.

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge (slug) of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects on its workers or the environment.

(e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 40 degrees Centigrade (104 degrees Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 65.5 degrees Centigrade (150 degrees Fahrenheit).

(f) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker's health and safety problems.

(g) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(h) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause interference or pass-through.

Section 23-33. Affirmative Defenses

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Section 23-32 of this article and the specific prohibitions in Paragraphs ©, (d), (e), (f), and (h) of that section where the user can demonstrate one of the following:

(a) A local limit designed to prevent pass-through and/or interference, as the case may be, was developed pursuant to Sections 23-40 and 23-41 for each pollutant in the user's discharge that caused pass-through or interference and the user was in compliance with each such local limit directly prior to and during the pass-through or interference.

(b) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass-through or interference and the user's discharge directly prior to and during the pass-through or interference did not change substantially in nature of constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

Section 23-34. Wastewater Constituent Evaluation

The wastewater of every significant industrial user shall be evaluated using the following criteria:

(a) Wastewater containing any element or compound which is known to be an environmental hazard and which is not adequately removed by the treatment works.

(b) Wastewater causing a pass-through, discoloration, foam, floating oil and grease, or any other condition in the quality of the Utility's treatment work effluent such that receiving water quality requirements established by law cannot be met.

(c) Wastewater causing conditions at or near the Utility's treatment works which violate any statute, rule, or regulation of any public agency of Tennessee or the United States.

(d) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance.

(e) Wastewater causing interference with the effluent or any other product of the treatment process, residues, sludges, or scums causing them to be unsuitable for reclamation, reuse, causing interference with the reclamation process, or causing them to be unsuitable for disposal.

(f) Wastewater discharged at a point in the collection system that is upstream of any overflow, bypass, or combined sewer overflow and which may thereby cause special environmental problems or specific discharge limitations.

(g) Wastewater having constituents and concentrations in excess of those listed in Section 23-40 or cause a violation of the limits in Section 23-41.

(h) The capacity of existing sewer lines to carry the anticipated wastewater flow, particularly with respect to any problems, overflows, or overloads caused by heavy rain infiltration.

The Utility shall establish reasonable limitations, prohibitions, or monitoring requirements in addition to the limits established pursuant to Sections 23-35 and 23-40 of this ordinance in the wastewater discharge permit of any industrial user that discharges wastewater violating any of the above criteria or that has processes that generate wastewater that could violate any of the above criteria prior to pretreatment as shall be reasonably necessary to achieve the purpose and policy of this article.

Section 23-35. National Pretreatment Standards

Certain industrial users are now or hereafter shall become subject to National Pretreatment Standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to such a standard shall comply with all requirements and with any additional or more stringent limitations contained in this article. Compliance with National Pretreatment Standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within 3 years following promulgation of the standards unless a shorter compliance time is specified. Compliance for new sources shall be required upon promulgation. New sources shall have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

Section 23-36. Dilution

Except where expressly authorized by an applicable National Pretreatment Standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

Section 23-37. Limitation on Radioactive Waste

No person shall discharge or permit to be discharged any radioactive waste into a community sewer, except as follows:

(a) When the person is authorized to use radioactive materials by the TDEC or the Nuclear Regulatory Commission (NRC).

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the agencies having jurisdiction.

(c) When a copy of permits received from said regulatory agencies has been filed with the Utility.

Section 23-38. Septic Tank Pumping, Hauling, and Discharge

No person owning vacuum or cesspool pump trucks or other liquid waste transport trucks shall discharge sewage directly or indirectly into the POTW, unless that person first receives from the Utility a septic tank truck discharge permit for each vehicle used in this manner. All applicants for a septic tank truck discharge permit shall complete the forms required by the Utility, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the Utility.

(a) The owners of such vehicles shall affix and display the permit number in 4-inch block figures on the side of each vehicle used for such purposes.

(b) The permit shall be valid for a period of 1 year from date of issuance, provided that the permit shall be subject to suspension or revocation by the Utility for violation of any provisions of this code, regulations as established by the Utility, or other applicable laws and regulations. A revocation or suspension of the permit shall be for a period not to exceed 5 years. Such revocation or suspension shall bind the permittee, any member of the immediate family of the permittee, or any person who has purchased the business or a substantial amount of the assets of the permittee who paid less than fair market value for such business or assets. Users found operating in violation of a permit issued under this subsection and whose permit is therefore revoked by the Utility, shall be notified of the violation by certified mail or by a notice personally delivered to the user.

(c) Septic tank discharge permits are not automatically renewed. Application for renewal must be made to the Utility.

(d) Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. All other hauled wastes shall be governed by Section 23-39. Any user transporting, collecting, or discharging non-domestic industrial process wastewaters or a mixture of such wastewaters with domestic wastewater shall obtain a holding tank discharge permit in accordance with Section 23-39.

(e) The Utility shall designate the locations and times where such trucks may be discharged and may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste.

(f) The Utility shall have authority to investigate the source of any hauled waste and to require testing of the waste at the expense of the discharger prior to discharge.

Section 23-39. Other Holding Tank Waste

No user shall discharge any other holding tank wastes, including hauled industrial waste, into the POTW unless he has been issued a holding tank discharge permit by the Utility. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. All applicants for a holding tank discharge permit shall complete forms required by the Utility, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the Utility. All such dischargers and transporters must show that they have complied with federal manifests and other regulations under RCRA. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of the discharge, and the source and character of the waste, and shall limit the wastewater constituents and characteristics of the discharge. The user shall pay any applicable charges or fees and shall comply with the conditions of the permit. However, the Utility may waive at his discretion the application and the fees for discharge of domestic waste from a recreational vehicle holding tank.

Section 23-40. Limitations on Wastewater Strength (Local Limits)

No user shall discharge wastewater with pollutant concentrations in excess of the concentration set forth in Table 1 below unless: (1) an exception has been granted the user under the provisions of Section 23-54; or (2) the user's wastewater discharge permit provides as a special permit condition temporarily allowing a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

TABLE 1

Limitations on Wastewater Strength

Parameter	Maximum Concentration	Maximum Concentration
	(24 Hour Flow Proportional Composite Sample)	(Instantaneous Grab Sample)
	(mg/L)	(mg/L)
Aluminum	3,900.00	7,800.00
Antimony	7.45	14.90
Arsenic	0.13	0.26
Barium	625.00	1,250.00
Boron	19.00	38.00

Cadmium	0.62	1.24
Total Chromium	12.40	24.80
Hexavalent Chromium	6.54	13.08
Copper	6.96	13.92
Total Cyanide	0.53	1.06
Lead	0.42	0.84
Manganese	7.66	15.32
Mercury	0.025	0.05
Nickel	0.55	1.10
Selenium	0.08	0.16
Silver	0.70	1.40
Titanium	109.00	218.00
Zinc	1.37	2.74
Total Dissolved Solids	8,300.00	16,600.00
Phenols	---	3.32
Sulfide	6.53	13.06
Surfactants (MBAS)	40.00	80.00

pH 5.0-10.5 (std.pH units)

Section 23-41. Criteria to Protect the Treatment Plant Influent

The Utility shall monitor the treatment works influent for each pollutant in Table 2. Industrial users shall be subject to the reporting and monitoring requirements set forth in Division 9 as to these pollutants. In the event that the influent at the treatment works reaches or exceeds the established levels, the Utility shall initiate technical studies to determine the cause of the influent violation and shall recommend remedial measures as necessary, including but not limited to, the establishment of new or revised pretreatment levels for these pollutants. The Utility shall also recommend changes to any of these criteria in the event the POTW effluent standards or applicable laws or regulations are changed, or when changes are necessary for a more effective operation.

TABLE 2

Treatment Plant Protection Criteria

Pollutant	Protection Criteria (mg/l)
<u>Conventional Pollutant</u>	
BOD5	300.0
<u>Non-Conventional Pollutant</u>	
Total Dissolved Solids	1,800.0
Phenols	0.050
Cadmium - Total	0.0066
Chromium - Total	.100
Chromium - Hexavalent	0.06
Copper - Total	0.148
Cyanide	0.056
Lead	0.0540
Mercury	0.0004
Nickel	0.200
Silver	0.0102
Zinc	0.263
<u>Base Neutral Organics</u>	
Naphthalene	0.0010
Bis(2-ethyl hexyl)phthalate	
Butyl benzyl phthalate	
Di-n-butyl phthalate	
Diethyl phthalate	
Sum of Phthalates	0.033
<u>Volatile Organics</u>	
Benzene	0.0030
Carbon Tetrachloride	0.0150
1,1,1-trichloroethane	0.0300
Chloroform	0.0850

1,2-Trans dichloroethylene	0.0015
Ethylbenzene	0.0040
Methylene Chloride	0.0500
Tetrachloroethylene	0.0250
Toluene	0.0150
Trichloroethylene	0.0100

Section 23-42. Storm Drainage, Ground Water, Unpolluted Water, and Contaminated Storm Water

(a) No storm water, ground water, rain water, street drainage, rooftop drainage, basement drainage, subsurface drainage, foundation drainage, yard drainage, swimming pool drainage, process water drainage, cooling water, or other unpolluted or minimally polluted water shall be discharged into the City's sewer unless no other reasonable alternative is available, except with permission from the Utility. Reasonable conditions shall be prescribed, and a sewer service charge will be issued based upon the quantity of water discharged as measured by a flowmeter or a reasonable estimate accepted by the Utility. All users shall be required to maintain their private sewer lines so as to prevent infiltration of ground or storm water as a condition of use of the system and shall immediately repair or replace any leaking or damaged lines.

(b) The Utility will accept the discharge of contaminated storm water if the following criteria are met: (1) all known and available technology will not prevent contamination or treat contaminated water to meet state standards for discharge to receiving waters or will cause unreasonable financial burden; (2) the contaminated storm water meets the Utility's discharge limits and all state and federal pretreatment requirements; and (3) adequate containment and storage facilities are available as to allow the discharge to occur at such a time and flow rate approved by the utility. At a minimum, the storm water discharge will not be allowed until after the hydraulic loading from a storm event has subsided.

Section 23-43. Limitations on the Use of Garbage Grinders

No waste from commercial or institutional garbage grinders shall be discharged into the Utility's sewers except from private garbage grinders used in an individual residence or upon approval of the Utility for preparation of food consumed on premises, and then only where applicable fees are paid. Installation of any garbage grinder equipped with a three-fourths horsepower (or greater) motor shall require approval. The Utility may grant approval when there is inadequate space on the user's premises to properly store food preparation waste between regularly scheduled garbage pickup by a service with an equal or greater frequency of collection. Provided, further, that such grinders shall shred the waste sufficiently that it can be carried freely under normal flow conditions prevailing in

the Utility's sewer lines. It shall be unlawful for any person to use a garbage grinder connected to the sewer system for the purpose of grinding and discharging plastic, paper products, inert materials, or anything other than the waste products from normal food preparation and consumption.

Section 23-44. Hospital or Medical Waste

It shall be unlawful for any person to dispose of medical waste, surgical operating room waste, or delivery room waste into the Utility's sewer.

Section 23-45. Obstruction of or Damage to Sewer Lines

It shall be unlawful for any person to deposit or cause to be deposited any waste which may obstruct or damage storm or sanitary sewer lines or which may inhibit, disrupt, or damage either system, including the sewer treatment process and operations. This prohibition includes all substances, whether liquid, solid, gaseous, or radioactive and whether associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing. It shall be unlawful to block or obstruct any catch basin, sewer line, or other appurtenance; or to break, injure, or remove any portion from any part of a sewer, drain, or catch basin, including plates covering manholes.

Section 23-46. Reserved

Division 7. Control of Prohibited Pollutants

Section 23-47. Pretreatment Requirements

Industrial users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities when necessary to reduce or modify the user's wastewater composition to achieve compliance with the limitations in wastewater strength set forth in Section 23-40 of this ordinance, to meet applicable National Pretreatment Standards, to prevent slug discharges or to meet any other wastewater condition or limitation contained in the industrial user's wastewater discharge permit.

Section 23-48. Plans and Specifications

Plans and specifications for wastewater monitoring and pretreatment facilities shall be prepared, signed, dated, and sealed by a registered engineer, and be submitted to the Utility for review in accordance with accepted engineering practices. The Utility shall review the plans within 45 days of receipt and recommend to the industrial user any appropriate changes. Prior to beginning construction of a monitoring or pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the Utility. Prior to beginning construction, the industrial user shall also secure building, plumbing, and all other required permits.

The industrial user shall construct the pretreatment facility within the time provided in the industrial user's wastewater discharge permit. Following completion of construction, the industrial user shall provide the Utility with as-

built drawings to be maintained by the Utility. The review of such plans and specifications will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce an effluent complying with the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or methods of operations shall be reported to and be approved by the Utility prior to implementation.

Section 23-49. Prevention of Accidental Discharges

All users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this article from liquid or raw material storage areas, from truck loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this article. The wastewater discharge permit of any industrial user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this article shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for accidental discharge. Plans, specifications, and operating procedures for special permit conditions shall be developed by the user and submitted to the Utility for review under the provisions of Paragraphs (k) and (l) of Section 23-60.

Section 23-50. Oil and Grease Discharge Control Program

Disposal of oil by discharge to the sewer system is not permitted. Oils include automotive lubricating oils, transmission and brake fluid, other industrial oils, and vegetable oils used in a restaurant or food processing facility.

The Utility shall contact all wastewater discharge permit holders, restaurants, service stations, septic tank pumpers, commercial food processors, oil tank firms and transporters, and others as appropriate, by letter as often as needed to advise them of requirements for oil and grease discharge control. These dischargers will also be informed of approved oil and grease disposal options available in the Cleveland vicinity. The dischargers of oil and grease waste shall be required to provide an equivalent of primary treatment based on gravity separation of visible and floating oil and grease and oil and grease sludge from wastewater discharges. Such pretreatment processes shall be subject to the good management practices as required by Sections 23-54(f) and approval by the Utility. Discharges shall also be subject to monitoring, entry, inspection, reporting, and other requirements as determined by the Utility at his discretion. These dischargers may be required by the Utility to apply for industrial waste discharge permits if the Utility determines that the dischargers are a source of prohibited pollutants, toxic pollutants in toxic amounts, or are otherwise controlled by federal or state regulations. All dischargers of oil and grease as listed above are subject to all enforcement and penalty provisions of this article.

Section 23-51. Slug Control Program

(a) Each user shall provide protection from slug discharges of restricted materials or other substances regulated by this article. A *slug* is defined as any pollutants, including oxygen demanding pollutants (BOD, COD, NH₃, etc.) released in a

discharge of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects upon its workers or the environment. No user who commences discharge to the sewerage system after adoption of this ordinance shall be permitted to introduce pollutants into the system until the need for slug discharge control plans or procedures has been evaluated by the Utility.

(b) Certain users will be required to prepare Slug Discharge Prevention and Contingency Plans (SDPC) showing facilities and operating procedures to provide this protection. These plans shall be submitted to the Utility for review and approval. All existing users required to have SDPC plans shall submit such a plan within 3 months after notification from the Utility and complete implementation within 6 months. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

(c) In the case of a slug discharge, it is the responsibility of the user to immediately notify the POTW of the incident by telephone or in person. Information concerning the location of the discharge, type of waste, concentration and volume, and corrective action shall be provided by the user.

Within 5 days following a slug discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures being taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the sewerage system, fish kills, or any other damage to person or property, nor shall notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(d) A notice shall be permanently posted on the user's premises advising employees of a contact to call in the event of a slug discharge. The user shall ensure that all employees who may cause or allow such slug discharge to occur are advised of the proper emergency notification procedure.

Section 23-52. Prohibition of Bypass

(a) Except as allowed in Paragraph (c) below, bypass is prohibited, and the Utility may take enforcement action against an industrial user for a bypass, unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup 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.

(3) The industrial user submitted notices as required under in Section 23-80 of this ordinance.

(b) The Utility may approve an anticipated bypass after considering its adverse effect if the Utility determines that it will meet the three conditions listed in Paragraph (a) of this section.

(c) Bypass Not Violating Applicable Pretreatment Standards or Requirements. An industrial 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 ensure efficient operation. These bypasses are not subject to the reporting provisions of Section 23-80.

Section 23-53. Centralized Waste Treatment Facilities

The Utility shall establish effluent limits for centralized waste treatment facilities (CWT) in order that the level of pollution discharged from the CWT through the POTW to the environment will not exceed the level that would be allowed if the CWT discharged directly to surface waters under Section 301(b)(2) of the Act (33 U.S.C. §1311). Additionally, centralized waste treatment facilities shall maintain records and submit reports as directed by the Utility regarding the SIC codes of their customers and the frequency, characteristics, and volume of wastes from the various categories.

Section 23-54. Exception to Wastewater Strength Standard

(a) Applicability. This section provides a method for industrial users subject to the limitation on wastewater strength pollutants listed in Section 23-40 to apply for and receive a temporary exception to the discharge level for one or more pollutants or parameters.

(b) Time of Application. Applicants shall apply for a temporary exception when they are required to apply for a wastewater discharge permit or renewal provided that the Utility allows applications at any time unless the applicant has submitted the same or substantially similar application within the preceding year that was denied by the Board.

(c) Written Applications. All applications for an exception shall be in writing and shall contain sufficient information for evaluation of each of the factors to be considered by the Utility pursuant to Paragraph (d) of this section.

(d) Review by Utility. All applications for an exception shall be reviewed by the Utility. If the application does not contain sufficient information for complete evaluation, the Utility shall notify the applicant of the deficiencies and request additional information. The applicant shall have 30 days following notification by the Utility to correct such deficiencies. This 30-day period may be extended by the Utility upon application and for just cause shown. Upon receipt of a complete application, the Utility shall evaluate it within 30 days and approve or deny the application based upon the following factors:

(1) The Utility shall consider if the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in Section 23-40 and grant an exception only if such exception is within limitations of applicable federal regulations.

(2) The Utility shall consider if the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the EPA under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), or similar state regulation, and then grant an exception only if such exception may be granted within the limitations of federal and state regulations.

(3) The Utility shall consider if the exception would create conditions or a hazard to Utility personnel that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works.

(4) The Utility shall consider the possibility of the exception causing the treatment works to violate its NPDES permit.

(5) The Utility shall consider if the exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by the Utility or which would cause the Utility to violate any regulation promulgated by EPA under the provisions of Section 405 of the Act (33 U.S.C. 1345) or similar state regulatory measure.

(6) The Utility may consider the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception.

(7) The Utility may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge.

(8) The Utility may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

(9) The Utility may consider the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(10) The Utility may consider an application for exception based upon the fact that water conservation measures instituted or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user without increasing the amount of mass of pollutants discharged. To be eligible for an exception under this subparagraph, the applicant must show that except for water conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth in Section 23-40. No such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have significant adverse impact upon the operation of the POTW.

(e) Review by Utilities Board. The board shall review any appeal to a denial by the Utility of an application for an exception and shall take into account the same factors considered by the Utility. At such hearing, the applicant and the Utility shall have the right to present relevant proof by oral or documentary evidence.

The procedure set forth in Section 23-88 shall be applicable to such a hearing. The applicant shall bear the burden of proof in an appeal hearing.

(f) **Good Management Practices Required.** The Utility shall not grant an exception unless the applicant demonstrates to the Utility that *good management practices* (GMP) are being employed to prevent or reduce the contribution of pollutants to the POTW. GMPs include, but are not limited to, preventive operating and maintenance procedures, schedule of activities, process changes, prohibiting activities, and other management practices to reduce the quantity of pollutants discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage.

Section 23-55. Reserved.

Division 8. Wastewater Discharge Permits

Section 23-56. Applicability

The provisions of this article are applicable to all industrial users of the POTW. The Utility has an "Approved POTW Pretreatment Program" as that term is defined in 40 CFR, Part 403.3(d) and any permits issued hereunder to industrial users who are subject to or who become subject to a National Categorical Pretreatment Standard as defined in 40 CFR, Part 403.3(j) shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the EPA or the State of Tennessee regarding such categorical standards unless an exception for the Utility's program or for specific industrial categories is authorized.

Section 23-57. Application and Permit Requirements for Industrial Users

Prior to discharging non-domestic waste into the POTW, all significant industrial users of the POTW shall obtain a wastewater discharge permit. The industrial user shall request that the Utility determine if the proposed discharge is significant as defined in Section 23-12. If the discharge is determined not to be significant, then the Utility may still establish appropriate discharge conditions for the user. Any noncategorical industrial user designated as significant may petition the Utility to be deleted from the list of significant industrial users on the grounds that there exists no potential for adverse effect on the POTW's operation or violation of any pretreatment standard or requirement.

All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the Utility, pay appropriate fees, and agree to abide by the provisions of this article and any specific conditions or regulations established by the Utility. All original applications shall be accompanied by a report containing the information specified in Section 23-58 of this ordinance. All original applications shall also include a site plan, floor plan, and mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size and location. The industrial user shall also submit revised plans to the Utility when alterations or additions to the user's premises affect said plans.

Section 23-58. Report Requirement

The report required for all significant industrial users by Section 23-57 or other provisions of this article shall contain in units and terms appropriate for evaluation the information listed in Subparagraphs (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the Utility a report which contains the information listed in Paragraphs (a) through (f) below within 180 days after the promulgation by the EPA of a National Pretreatment Standard under Section 307(b) or © [33 U.S.C. 1317(b) or ©] of the Act. This report is called the *Baseline Monitoring Report* (BMR). Industrial users who are unable to achieve a discharge limit set forth in Division 6 without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in Paragraphs (a) through (g) of this section.

As specified, the report shall contain all applicable portions of the following:

- (a) The name and address of the industrial user.
- (b) The location of the industrial user.
- (c) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user.
- (d) The average and maximum flow in gallons per day of discharge from the industrial user to the POTW.
- (e) The nature and concentration of pollutants in the discharge from each regulated and unregulated process from the industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard and as determined by standard methods approved by the Utility. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the Utility for approval. When pH information is required in the initial report or in regular periodic self- monitoring reports, it shall be provided to the Utility as a copy of the charge from a continuous pH recorder or copy of logged PH readings taken at least every hour of operation using a "probe" type PH meter.
- (f) A statement that has been reviewed by an authorized representative of the industrial user and certified by a professional engineer indicating if pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.
- (g) If additional pretreatment or operation and maintenance procedure will be required to meet the pretreatment standards, the report shall contain the shortest schedule by which the industrial user will provide the additional pretreatment. The completion date in this schedule shall be no later than the compliance date established for the applicable pretreatment standard.

For purposes of this paragraph when the context so indicates, the phrase *pretreatment standard* shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the industrial user's discharging any incompatible pollutant regulated by Division 6. For purposes of this paragraph, the term *pollutant* shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in Division 6.

Section 23-59. Incomplete Applications

The Utility will act only on applications that are accompanied by a report which contains all the information required in Section 23-58 above. Industrial users who have filed incomplete applications will be notified by the Utility that the application is deficient and the nature of such deficiency and will be given 30 days to correct the deficiency. If the deficiency is not corrected within that period or with such extended time allowed by the Utility, the Utility shall deny the application and notify the applicant in writing of such action.

Section 23-60. Evaluation of Application Permit Conditions

Upon receipt of complete applications, the Utility shall review and evaluate the applications and shall propose such special permit conditions as the Utility deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this article and all other applicable ordinances, laws, and regulations. The Utility may also propose that the wastewater discharge permit be subject to one or more special conditions in regard to any of the following:

- (a) Pretreatment requirements.
- (b) The average and maximum wastewater constituents and characteristics.
- (c) Limits on rate and time of discharge of requirements for flow regulations and equalization.
- (d) Requirements for installation of inspection and sampling facilities.
- (e) Specifications for monitoring programs that may include sampling, number, types, and standards for tests and reporting schedule.
- (f) Requirements for submission of technical reports or discharge reports.
- (g) Requirements for maintaining records relating to wastewater discharge.
- (h) Mean and maximum mass emission rates, or other appropriate limits when toxic pollutants (as set forth in Division 6) are proposed or present in the industrial user's wastewater discharge.
- (i) Other conditions deemed appropriate by the Utility to ensure compliance with this article or other applicable ordinance, law, or regulation.
- (j) A reasonable compliance schedule, as determined by the Utility, up to one year in duration or such earlier date as may be required by other applicable law or

regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods of operation and maintenance.

(k) Requirements for the installation of facilities to prevent and control accidental discharge or spills at the user's premises.

(l) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.

Section 23-61. Applicant to be Notified of Proposed Permit Conditions; Right to Object

(a) Upon completion of the evaluation, the Utility shall notify the applicant of any special permit conditions proposed for inclusion in the wastewater discharge permit.

(b) The applicant shall have 30 days from and after the date of the Utility's recommendations for special permit conditions to review same and file written objections with the Utility in regard to any special permit conditions recommended. The Utility may, but is not required, to schedule a meeting with applicant's authorized representative within 15 days following receipt of the applicant's objections, to attempt to resolve disputed issues concerning special permit conditions.

(c) If applicant files no objection to special permit conditions proposed by the Utility or a subsequent agreement is reached concerning same, the Utility shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein. Otherwise, the Utility shall submit the disputed matters to the board for resolution.

Section 23-62. Board to Establish Permit Conditions; Hearing

(a) In the event the Utility cannot issue a wastewater discharge permit pursuant to Section 23-61 above, the Utility shall submit to the board the proposed permit conditions and the applicant's written objections thereto at the next regularly scheduled meeting of the board or a specially called meeting.

(b) The board shall schedule a hearing within 90 days following the meeting referred to above unless such time is extended for just cause shown to resolve any disputed matters relevant to such permit.

(c) The Utility shall notify the applicant of the date, time, place, and purpose of the hearing scheduled by the board. The applicant and the Utility shall have the right to participate in the hearing and present any relevant evidence to the board concerning proposed special permit conditions or other matters being considered by the board.

(d) Following the hearing or additional hearings deemed necessary and advisable by the board, the board shall establish special permit conditions deemed advisable to ensure the applicant's compliance with this article or other applicable laws or

regulations and direct the Utility to issue a wastewater discharge permit to the applicant accordingly.

Section 23-63. Compliance Schedule and Reporting Requirements

The following conditions shall apply to the schedules required by Section 23-60 of this article:

(a) **Schedule Components.** 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 requirements for the industrial user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing the engineering report, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).

(b) **Schedule Intervals.** No such increment shall exceed 9 months.

Section 23-64. Duration of Permit

All existing permits for significant industrial users shall be reviewed and reissued with revisions as necessary to comply with new regulatory measures of this article within one year of adoption of this ordinance.

Wastewater discharge permits shall be issued for a period not to exceed 5 years. Permits issued to industrial users granted an exception pursuant to Section 23-54 shall be issued for a period of 1 year. A permit may remain effective after the expiration date if the IU has submitted a formal appeal or the Utility requires an extended time for review.

Notwithstanding the foregoing, industrial users subject to a national pretreatment standard shall apply for new permits on the effective date of such national pretreatment standards. The Utility shall notify in writing any industrial user whom the Utility has cause to believe is subject to a national pretreatment standard of the promulgation of such federal regulations, but any failure of the Utility in this regard shall not relieve the industrial user of the duty of complying with such national pretreatment standards. An industrial user must apply in writing for a renewal permit within the period of time not more than 90 days and not less than 30 days prior to expiration of the current permit. Limitations or conditions of a permit are subject to modification or change as such changes become necessary due to changes in applicable water quality standards, changes in the Utility's NPDES permit, changes in Section 23-41, changes in other applicable law or regulation, or for other just cause. Industrial users shall be notified of any proposed changes in their permit by the Utility at least 30 days prior to the effective date of the change. Any change or new condition in a permit shall include a provision for a reasonable time schedule for compliance. The industrial user may appeal the decision of the Utility in regard to any changed permit conditions as otherwise provided in this article.

Section 23-65. Transfer of a Permit

Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, a different premises, or a new or changed operation, unless as approved by the Utility.

Section 23-66. Revocation of Permit

Any permit issued under the provisions of this article is subject to modification, suspension, or revocation in whole or in part during its term for cause, including but not limited to, the following:

(a) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation.

(b) Obtaining of a permit by misrepresentation or failure to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(d) Refusal of reasonable access to the user's premise for the purpose of inspection or monitoring.

Section 23-67. Reserved

Division 9. Inspections, Monitoring, and Records

Section 23-68. Inspections, Monitoring, and Entry

(a) When required to carry out the objective of this article, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this article; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition; (3) any requirement established under this section.

(b) The Utility shall require any industrial user to (1) establish and maintain records, (2) make reports, (3) install, use, and maintain monitoring equipment or methods, including where appropriate, biological monitoring methods, (4) sample effluents in accordance with these methods, at such locations, at such intervals, and in such manner as the Utility shall prescribe, and (5) provide such other information as the Utility may reasonably require.

(c) Specific requirements under the provisions of Paragraph (b) of this section shall be established by the Utility, or the board as applicable, for each industrial user and such requirements shall be included as a condition of the industrial user's wastewater discharge permit. The nature of degree of any requirement under this

provision shall depend upon the nature of the user's discharge, the impact of the discharge on the POTW, the volume of water discharged, and the technical feasibility of an economic reasonableness of any such requirement imposed.

(d) The Utility or his authorized representative shall, upon presentation of his credentials:

(1) Have a right of entry to, upon, or through any user's premises in which an effluent source is located or in which any records required to be maintained under this subsection are located.

(2) Have access at reasonable times to and copy any records, inspect any monitoring equipment or method required under Paragraph (b), and sample any effluents which the owner or operator of such source is required to sample.

(e) In the event any industrial user denies the Utility or his authorized representative the right of entry for inspection, sampling effluents, inspecting and copying records, or verifying that a user is not discharging industrial wastes or performing such other duties as shall be imposed upon the Utility by this article, the Utility shall seek a warrant or use such other legal procedures as advisable and reasonably necessary to discharge the duties of this section.

(f) Any industrial user failing or refusing to discharge any duty imposed upon the user under the provisions of this section, or who denies the Utility or authorized representative the right to enter the user's premises for purposes of inspection, sampling effluents, inspecting and copying records, or such other duties as may be imposed upon him by this section, shall be deemed to have violated the conditions of the wastewater discharge permit and such permit shall be subject to modification, suspension, or revocation under the procedures established in this article. A user who does not have an industrial waste discharge permit and denies the Utility or authorized representative the right to inspect as described herein subject to having the sewer service in question terminated by the Utility.

Section 23-69. Reports

(a) Progress Reports. No later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Utility, including as a minimum, whether 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 the delay, and steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Utility.

(b) 90-Day Report, New Source Compliance. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Utility a report containing the information described in Section 23-58, Paragraphs (d) through (f).

(c) Self-Monitoring Reports

(1) All significant industrial users shall submit to the Utility during the months of May and November, unless required more frequently in the pretreatment standard or by the Utility, a report indicating the nature and concentration of pollutants in the effluent which are limited by their permit. In addition, this report shall include a record of the total daily flows. At the discretion of the Utility and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Utility may agree to alter the months during which the above reports are to be submitted.

(2) The Utility, as applicable, may impose mass limitations on industrial users employing dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Paragraph © (1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the industrial user.

(d) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production rates and mass limits where requested by the Utility, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards or industrial permit. For industrial users subject to equivalent mass or concentration limits established by the Utility as alternative standards, the report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report shall include the user's actual average production rate for the reporting period. The frequency of monitoring shall be prescribed in the applicable treatment standard.

Section 23-70. Monitoring Facilities

(a) All significant industrial users shall install a monitoring station of a standard design or one satisfactory to the Utility within one year from adoption of this ordinance. All users who propose to discharge or who in the judgment of the Utility could now or in the future discharge wastewater with constituents and characteristics different from that produced by a domestic premise may be required to install a monitoring facility.

(b) Installation. Required monitoring facilities shall be constructed, operated, and maintained at the user's expense. The purpose of the facility is to allow inspection, sampling, and flow measurement of wastewaters. If sampling or metering equipment is also required by the Utility, it shall be provided, installed, and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside the building. The Utility may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

(c) Access. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for Utility personnel. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and any sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.

(d) The industrial user shall be required to design any necessary facility and to submit according to the permit compliance schedule an engineering report, including detailed design plans and operating procedures to the Utility for review in accordance with accepted engineering practices. The Utility shall review the plans and other documents within 45 days and shall recommend to the industrial user any change deemed appropriate.

(e) Upon approval of plans and other documents, the industrial user shall secure all building, electrical, plumbing, and other permits required and proceed to construct any necessary facility and establish required operating procedures within the time provided in the industrial user's wastewater discharge permit.

Section 23-71. Sampling and analysis

(a) All collected samples must be of such nature that they provide a true and accurate representation of the industry's normal workday effluent quality.

(b) Chain-of-custody procedures, sample preservation techniques, and sample holding times recommended by EPA shall be followed in all self-monitoring activities. Grab samples must be used for cyanide, phenols, oil and grease, sulfide, volatile organics, and when a continuous monitor is not used, pH. All other samples shall be 24-hour flow-proportional composite samples, unless otherwise approved by the utility.

(c) Monitoring shall be performed at the approved monitoring station on the effluent sewer. Location and design of the monitoring station shall be subject to the review and approval of the Utility. Any change in monitoring location will be subject to the approval of the Utility.

(d) All analyses shall be performed in accordance with procedures established by EPA under the provisions of Section 304(h) of the Act [33 U.S.C. 1314(h)] and contained in 40 C.F.R. Part 136 and amendments thereto or with any other test procedures approved by EPA or the Utility. Sampling shall be performed in accordance with the techniques approved by EPA or the Utility.

Section 23-72. Dangerous Discharge Notification

(a) Telephone Notification. Any person or user causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to human health and welfare or the environment, or which is likely to cause interference with the POTW, shall notify the Utility immediately by telephone. In the absence of the Utility, notification shall be given to the Utility employee then in charge of the treatment works. Such notification

will not relieve the permit holder from any expense, loss, liability, fines, or penalty which may be incurred as a consequence of the discharge.

(b) **Written Report.** Within 5 days following such occurrence, the user shall provide the Utility with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) **Notice to Employees.** A notice shall be permanently posted on the user's bulletin board or other prominent place advising employers of a contact in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

Section 23-73. Slug Reporting

The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by Section 23-51, by the industrial user.

Section 23-74. Notification of the Discharge of Hazardous Wastes

(a) The industrial user shall notify as soon as practicable the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of any discharge into the POTW of a substance which is a listed or *characteristic waste* under Section 3001 of RCRA (42 USCA §6921). Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes and estimating the volume of hazardous wastes expected to be discharged during the following 12 months. The notification must take place within 180 days after notification by the Utility. This requirement shall not apply to pollutants already reported under the self-monitoring requirements of Section 23-69.

(b) Dischargers are exempt from the requirements of this paragraph during a calendar month in which they generate no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(2), (f), (g), and (j). Generation of more than 100 kilograms of hazardous wastes in any given month requires a one-time notification. Subsequent months during which the industrial user generates more than 100 kilograms of hazardous waste do not require additional notification, except for the acute hazardous wastes specified in 40 CFR 261.5(3), (f), (g), and (j).

(c) In the case of new regulations under Section 3001 of RCRA (42 USCA §6921) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW of the discharge of such substance within 90 days of the effective date of such regulations, except for the exemption in Paragraph (b) of this section.

(d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

Section 23-75. Notification of Changed Discharge

All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes, for which the industrial user has submitted initial notification under Section 23-74.

Section 23-76. Provisions Governing Fraud and False Statements

The reports required to be submitted under this division shall be subject to the provisions of 18 U.S.C. §1001 relating to fraud and false statements and the provisions of Sections 309©(4) and (6) of the Act (33 USCA §1311), as amended, governing false statements, representation, or certifications in reports required under the Act.

Section 23-77. Signatory Requirements for Industrial User Reports

The reports required by this division shall include a certification statement as follows:

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.

The reports shall be signed as follows:

(a) By a responsible corporate officer if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a *responsible corporate officer* is (1) a president, secretary, treasurer, or 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 (2) the manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the industrial user submitting the reports required by this section is a partnership or sole proprietorship, respectively.

(c) By a duly authorized representation of the individual designated in Paragraph (a) of this section if:

(1) The authorization is made in writing by the individual described in Paragraph (a).

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field Utility, or a person in position of equivalent responsibility or with overall responsibility for environmental matters for the company.

(3) The written authorization is submitted to the Control Authority.

(d) If an authorization under Paragraph © of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Paragraph © of this section must be submitted to the Utility prior to or in conjunction with any reports to be signed by an authorized representative.

Section 23-78. Reporting of Violation

If sampling performed by an industrial user indicates a violation, the user shall notify the Utility within 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 Utility within 30 days after becoming aware of the violation. The industrial user is not required to resample if one of the following criteria is met:

(a) The Utility performs sampling at the industrial user at a frequency of at least once per month.

(b) The Utility performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Section 23-79. Reporting of All Monitoring

If an industrial user subject to the reporting requirements by this division of this article monitors any pollutant more frequently than required by the Utility using approved procedures prescribed in this article, the results of this monitoring shall be included in the report unless otherwise exempted by the utility.

Section 23-80. Notice of Bypass

(a) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Utility. If possible, this should be submitted at least 10 days before the date of the bypass.

(b) An industrial user shall submit oral notice to the Utility of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial 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 Utility may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

Section 23-81. Maintenance of Records

Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples.**
- (b) The dates analyses were performed.**
- (c) Who performed the analyses.**
- (d) The analytical techniques/methods.**
- (e) The results of the analyses.**

Section 23-82. Retention Period

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make these records available for inspection and copying by the Utility, TDEC Director of the Division of Water Pollution Control, and EPA. The retention period shall be extended during the course of any unresolved litigation regarding the industrial user or upon request from the Utility, the Director, or the EPA.

Section 23-83. Confidential Information

Any records, reports, or information obtained under this division shall (1) in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition, and (2) available to the public to the extent provided by 40 CFR, Part 2.302. If, however, upon showing satisfactory to the Utility by any person that, if made public, records, reports, information, or particular parts (other than effluent data) to which the Utility has access under this section, would divulge methods or processes entitled to protection as trade secrets of such person, the Utility shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this article. Such record, report, or information may be disclosed to

officers, employee, or authorized representatives of the United States or the State of Tennessee concerned with carrying out the provisions of the CWA or when relevant in any proceeding under this article or other applicable laws.

Section 23-84. Reserved

Division 10. Enforcement

Section 23-85. Complaints and Orders

(a) Should the Utility have reason to believe that a violation of any provision of the ordinance or orders of the Board issued pursuant thereto has occurred, is occurring, or is about to occur, the Utility may order that a written complaint be served upon the alleged violator(s).

(b) The complaint shall specify the provision(s) of the pretreatment program or order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, and may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the Utility Board.

(c) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the Board as provided in Section 23-88, no later than 30 days after the date such order is served; provided, however, that the Board may review such final order on the same grounds upon which a court of the state may review default judgments.

Section 23-86. Additional Remedies

In addition to other remedies provided herein, the Utility may issue a show-cause notice to any user who appears to be violating any provision of this article to show cause why sewer service should not be discontinued. The notice shall include the nature of the violation with sufficient specificity as to the character of the violation and the date(s) which such violation(s) occurred to enable the user to prepare a defense. Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least 20 days prior to the proposed action, except in the event of an emergency. At the show-cause hearing, the user may present any defense to such charges, either in person or through submission of written or documentary proof. Following the hearing or opportunity for a hearing, the Board may at the Board's discretion order termination of sewer service if satisfied from all available proof that the violation was willful and the termination is necessary to abate the offending condition or to prevent future violations. The Board may terminate service for a period not to exceed 1 year for a willful violation and may terminate service indefinitely to abate offending conditions or prevent future violations subject to the correction of such conditions or violations by the user.

Any violation of provisions of this ordinance that is not corrected or abated following a notice and opportunity for a hearing shall be grounds for termination of water service and/or plugging of the sewer line.

Section 23-87. Emergency Termination of Service

(a) When the Utility finds that an emergency exists in which immediate action is required to protect public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or the facilities of the POTW of the pretreatment agency, the Utility may, without prior notice, issue an order reciting the existence of such an emergency and requiring that certain action(s) be taken as the Utility deems necessary to meet the emergency.

(b) If the violator fails to respond or is unable to respond to the Utility's order, the Utility may take such emergency action as deemed necessary or contract with a qualified person(s) to carry out the emergency measures. The Utility may assess the person(s) responsible for the emergency condition for actual costs incurred by the Utility in meeting the emergency.

(c) In the event such emergency action adversely affects the user, the Utility shall provide the user an opportunity for a hearing as soon as practicable thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the Utility may take any such authorized action should the proof warrant such action.

Section 23-88. Hearings

(a) Any hearing or re-hearing brought before the Board shall be conducted in accordance with the following:

(1) Upon receipt of a written petition from the alleged violator pursuant to this section, the Utility shall give the petitioner 30 days written notice of the time and place of the hearing, but in no case shall the hearing be held more than 60 days from the receipt of the written petition unless the Utility and the petitioner agree to a postponement.

(2) The hearing provided may be conducted by the Board at a regular or special meeting. A quorum of the Board must be present at the regular or special meeting in order to conduct the hearing.

(3) A verbatim record of the proceedings of the hearings shall be made and filed with the Board in conjunction with the findings of fact and conclusions of law made pursuant to Paragraph (6) of this section. The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the Utility to cover the costs of preparation.

(4) In connection with the hearing, the chairman shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Bradley County shall have jurisdiction upon the application of the Board or the Utility to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such an order of the court is punishable by the court as contempt.

(5) Any member of the Board may administer oaths and examine witnesses.

(6) On the basis of the evidence produced at the hearing, the Board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than 30 days following the close of the hearing by the person or persons designated by the chairman.

(7) The decision of the Board shall become final and binding on all parties unless appealed to the courts as provided in Paragraph (b).

(8) Any person to whom an emergency order is directed pursuant to Sections 23-87 shall comply therewith immediately but on petition to the Board shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than 3 days from the receipt of such petition by the Board.

(9) Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under said rules.

(10) The party at the hearing bearing the affirmative burden of proof shall first call witnesses, which shall be followed by witnesses called by other party. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the Utility, his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(11) Any person aggrieved by any order or determination of the Utility where an appeal is not otherwise provided by this section may appeal said order or determination to be reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the Utility and the chairman, and said notice shall set forth with particularity the action or inaction of the Utility complained of and the relief being sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may, at members' discretion, suspend the operation of the order or determination of the Utility on which is based the appeal until such time as the board has acted upon the appeal.

(12) The vice chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his place.

(b) An appeal may be taken from any final order or other final determination of the Utility or board by any party who is or may be adversely affected thereby to the chancery court pursuant to the common law writ of *certiorari* set out in Tennessee Code Annotated (T.C.A.) §27-8-101, within 60 days from the date such order or determination is made.

Section 23-89. Civil Penalty

(1) Any person, including, but not limited to, industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to \$10,000 per day for each day during which the act or omission continues or occurs:

(i) Violates any effluent standard or limitation imposed by a pretreatment program.

(ii) Violates the terms or conditions of a permit issued pursuant to a pretreatment program.

(iv) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of a pretreatment program.

(v) Fails to pay user or cost recovery charges imposed by a pretreatment program.

(vi) Violates a final determination or order of the board.

(2) Any civil penalty shall be assessed in the following manner:

(i) The Utility may issue an assessment against any person or industrial user responsible for the violation.

(ii) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the Utility a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the board. If a petition for review of the assessment is not filed within 30 days of the date the assessment is served, the violator shall be deemed to have consented to the assessment, and it shall become final.

(iii) When any assessment becomes final because of a person's failure to appeal the Utility's assessment, the Utility may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.

(iv) In assessing the civil penalty, the Utility may consider the following factors:

A) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.

B) Damages to the Utility, including compensation for the damage or destruction of the facilities of the POTW, which also includes any penalties, costs, and attorneys' fees incurred by the Utility as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages.

C) Cause of the discharge or violation.

D) The severity of the discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters.

E) Effectiveness of action taken by the violator to cease the violation.

F) The technical and economic reasonableness of reducing or eliminating the discharge.

G) The economic benefit gained by the violator.

(v) The Utility may institute proceedings for assessment in the name of the Cleveland Utilities Board in the chancery court of the county in which all or part of the pollution of violation occurred.

(3) The board may establish by regulation a schedule of the amount of civil penalty which can be assessed by the Utility for certain specific violations or categories of violations.

(i) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Environment and Conservation for violations of T.C.A. §69-3-115(a)(a)(F). Provided, however, the sum of penalties imposed by this section and by §69-3-115(a) shall not exceed \$10,000 per day for each day during which the act or omission continues or occurs.

Section 23-90. Assessment for Noncompliance with Program Permits or Orders

(a) The Utility may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person(s) or industrial user(s) pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program. T.C.A. §§ 69-3-123, 69-3-124, or 69-3-125, or Sections 23-89 or 23-93.

(b) If an appeal from such assessment is not made to the board by the polluter or violator within 30 days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or T.C.A. §§ 69-3-123 through 69-3-129 or Sections 23-89 through 23-93, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the Utility may apply to the appropriate court for a judgment and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.

Section 23-91. Judicial Proceedings and Relief

The Utility may initiate proceedings in the chancery or circuit court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, T.C.A. §§ 69-3-123 through 69-3-129, Sections 23-89 through 23-93, or orders of the board. In such action, the Utility may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

Section 23-92. Administrative Enforcement Remedies

(a) **Notification of Violation.** When the Utility finds that any industrial user has violated or is violating this article, or a wastewater permit or order issued hereunder, the Utility or his agent may serve upon said user written notice of the violation. Within 15 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Utility. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(b) **Consent Orders.** The Utility 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. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to Paragraph (d) below.

(c) **Show-Cause Hearing.** The Utility may order any industrial user which causes or contributes to a violation of this article or wastewater permit or order issued hereunder, to show cause why a 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 this 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 10 days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(d) **Compliance Order.** When the Utility finds that an industrial user has violated or continues to violate this article or a permit or order issued thereunder, he may issue an order to the industrial user responsible for the discharge 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 such other requirements deemed reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) **Cease and Desist Orders.** When the Utility finds that an industrial user has violated or continues to violate this ordinance or any permit or order issued hereunder, the Utility may issue an order to cease and desist all such violations and direct those persons in noncompliance to do one of the following:

(1) Comply with the order.

(2) Take appropriate remedial or preventive action needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Section 23-93. Assessment of Damages to Users

When the discharge of waste or any other act or omission causes an obstruction, damage, or any other impairment to the Utility's facilities which causes an expense or damages of whatever character or nature to the Utility, the Utility shall assess the expenses and damages incurred by the Utility to clear the obstruction, repair damage to the facility, and otherwise rectify any impairment, and bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the Utility. If the person responsible refuses to pay, then the Utility shall forward a copy of the statement and documentation of all expenses to the Utility's attorney who shall be authorized to take appropriate legal action.

Section 23-94. Disposition of Damage Payments and Penalties

All damages and/or penalties assessed and collected under the provisions of Sections 23-89 through 23-93 shall be placed in a special fund by the Utility and allocated and appropriated to the sewer system for the administration of its pretreatment program.

Section 23-95. Reserved

Division 11. Wastewater Volume Determination

Section 23-96. Metered Water Supply

Charges and fees related to the volume of wastewater discharged to the Utility's sewer system shall be based upon the user's total water consumption from all water supply sources. The total amount of water used shall be determined from public meters installed and maintained by the Utility and/or private meters installed and maintained at the expense of the user and approved by the Utility

Section 23-97. Actual Wastewater Volume

When charges and fees are based upon water usage and/or discharge and where, in the opinion of the Utility, a significant portion of the water received from any metered source does not flow into the community sewer because of the principal activity of the user or removal by other means, the charges and fees will be applied only against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user and approved by the Utility.

The users may install a meter of a type and at a location approved by the Utility to measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the Utility.

Section 23-98. Estimated Wastewater Volume

For users where, in the opinion of the Utility, it is unnecessary or impractical to install meters, charges and fees may be based upon an estimate of the volume to be discharged. The estimate shall be prepared by the user and approved by the Utility. The number of fixtures, seating capacity, population equivalent, annual production of goods and services, and other such factors as deemed rational by the Utility shall be used to estimate the wastewater discharge volume.

Section 23-99. Domestic Flows

For the separate determination of the volumes of domestic and industrial flows from industrial users for purposes of calculating charges based upon industrial wastewater flows alone, users shall install a meter of a type and at a location approved by the Utility. For users where, in the opinion of the Utility, it is unnecessary or impractical to install such a meter, the volume of the domestic and industrial wastewater shall be based upon an estimate prepared by the users and approved by the Utility.

Section 23-100. Reserved

Division 12. Wastewater Charges and Fees

Section 23-101. Purpose of Charges and Fees

A schedule of charges and fees shall be adopted by the Utility which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program in order that sufficient revenues are collected to defray the Utility's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for equipment replacement, capital outlay, bond service costs, capital improvements, and depreciation.

Section 23-102. Abutting Property Owners; to Pay Charges

The owner or occupant of each lot or parcel of land which abuts upon a street or other public way containing a sanitary sewer upon which lot or parcel a building has been or may hereafter be constructed for residential, commercial, or industrial use shall pay the sewer service charges as provided in this article. The Utility or his designee shall make the determination whether or not a lot or parcel abuts upon a segment of street, alley, easement, or other public way in which there is a sewer for the purposes of levying service charges; provided that he or she may waive the collection of such charges where the connection is infeasible based upon engineering or hydraulic principles, the connection would not comport with applicable plumbing or building codes, or the connection would not comport with other applicable codes, laws, or regulations.

Section 23-103. Contracts for Disposal of Sewage Authorized; Charges

The Utility may (subject to approval by the city council) enter into contracts with any municipality, county, incorporated district or person for the treatment and disposal of sewage collected and pumped or delivered to some part of the sewer system; provided, however, that the charges to be paid for the treatment and disposal of such sewage shall not be less than an amount which is fair and equitable, taking into account the cost to the city of such treatment and disposal and the cost of the sewage disposal system. All revenues received pursuant to such contract shall be deemed to be revenues of the sewer system, and shall be applied and accounted for in the same manner as other revenues derived from the operation of such system.

Section 23-104. Secondary Metering

Whenever a property upon which a sewer user charge is imposed under this article uses water for an industrial or commercial purpose, which water so used is not discharged into the sewerage system of the Utility, the quantity of water so used and not discharged into the Utility's sewers shall be excluded in determining the sewer user charge of the owner or occupant; provided that the quantity of water so used and not discharged into the Utility sewers is measured by a device or meter (called a secondary meter) approved by the Utility and installed by the owner or occupant without cost to the Utility. The sewer user charge based upon the consumption of water to be paid by the owner or occupant of such property shall be computed at the rates provided in this article less the quantity not discharged into the Utility's sewers. The Utility reserves the right to require calibration of secondary meters when appropriate. A secondary meter shall meet the following requirements:

- (a) Meters should read in 100 cubic feet.
- (b) Meters must be located either in an outdoor meter box or vault, or inside the user's building or structure in a clean, dry, safe place not subject to wide temperature variations so that the meter can be easily examined, read, or removed.
- (c) The user shall, at its expense, provide suitable pipe connections and shut-off valves, one each at the inlet and outlet sides of the meter.
- (d) The meter box or vault may be constructed to protect the meter from freezing and damage by vehicular traffic, and its location and design shall prevent, as far as possible, the inflow of surface water.
- (e) Any changes in location of secondary meters, malfunctions, replacements, or any other changes in the approved secondary meter installation must be reported to the Utility in writing. Also, a copy must be forwarded to the water company containing all pertinent information regarding that particular meter.
- (f) No retroactive credits will be issued if the holder of the secondary meter permit fails to comply with the rules and regulations in force at any particular time.

(g) If any water exempted from the sewer service charge is returned to the sewer system at any time or point, a metering device shall be installed. Any flow registered through such a meter shall be charged for sewer service.

(h) Any secondary meter must be easily accessible by the Utility. If this is not possible, remote read meters shall be installed and protected from any magnetic interference. It is the responsibility of the permit holder to assure the accuracy of the remote read to the installed meter.

(i) All meters must be calibrated and certified for accuracy once every 18 months. The certification of the inspection or a copy thereof has to be forwarded to the Utility.

Section 23-105. Types of Charges and Fees

The charges and fees established in the Utility's schedule of charges and fees may include, but not be limited to, the following:

Connection fees.

User charges and surcharges.

Fees for monitoring requested by user.

Fees for permit applications.

Fees for garbage grinders.

Fees for truck discharge operation permits.

Fees for discharge of holding tank wastes.

Inspection fees.

Section 23-106. Basis for Determination of Charges

Charges and fees shall be based upon a minimum basic charge for each premise, computed on the basis of normal wastewater from a domestic premise with the following characteristics:

BOD5 - 300 mg/l

COD - 600 mg/l

Suspended Solids - 400 mg/l

Volume - 300 gpd per domestic premise

The charges and fees for all users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that user as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, suspended solids, oil and grease, and volume.

Section 23-107. User Charges

Each user of the Utility's sewer system will be levied a charge for payment of bonded indebtedness of the Utility and for the user's proportionate share of the operation, maintenance, and replacement costs of the sewer system. A surcharge may be levied against those users with wastewater that exceeds the strength of normal wastewater.

The user charge will be computed from a base charge plus a surcharge. The base charge will be the user's proportionate share of the costs of operation, maintenance, and replacement for handling its periodic volume of normal wastewater plus the user's share of the bond amortization costs of the Utility.

(a) Operation, Maintenance, and Replacement (OM&R) User Charges. Each user's share of OM&R costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

C_u = User's charge for OM&R per unit of time.

C_t = Total OM&R cost per unit of time, less cost recovered from surcharges.

V_t = Total volume contribution from all users per unit of time.

V_u = Volume contribution from a user per unit of time.

(b) Bonded Indebtedness Charges. Each user's share of bonded indebtedness costs will be based on a schedule which reflects the user's volumetric and/or waste strength contribution to the system.

(c) User Surcharges. The surcharge will be the user's proportionate share of the OM&R costs for handling its periodic volume of wastewater which exceeds the strength of BOD5, SS, and/or other elements in normal wastewater as defined by

Division 12, Section 12-106. The amount of the surcharge will be determined by the following formula:

$$Cs = (Bc \times B + Sc \times S + Pc \times P) 8.34 Vu$$

Where:

Cs = Surcharge for wastewaters exceeding the strength of normal wastewater expressed in dollars per billing period.

Bc = OM&R cost for treatment of a unit of BOD5 expressed in dollars per pound.

B = Concentration of BOD5 from a user above the base level of 300 mg/l expressed in mg/l.

Sc = OM&R cost for treatment of a unit of SS expressed in dollars per pound.

S = Concentration of SS from a user above the base level of 400 mg/l, expressed in mg/l.

Pc = OM&R cost for treatment of a unit of any pollutant which the POTW is committed to

treat by virtue of an NPDES Permit or other regulatory requirement, expressed in dollars per pound.

P = Concentration of any pollutant from a user above a base level. Base levels for pollutants subject to surcharges will be established by the Utility.

Vu = Volume contribution of a user per billing period in million gallons based on a 24-hour average for billing period.

The concentrations of any pollutant of an industrial user and the volume contribution of that user shall be calculated from discharge monitoring reports subject to verification by the Utility, from records maintained by the industrial user, and from reliable information obtained from any other source.

The values of parameters used to determine user charges may vary from time to time. Therefore, the Utility is authorized to modify any parameter or value as often as is necessary. Review of all parameters and values shall be undertaken when necessary, but in no case less frequently than annually.

(d) Pretreatment Program Charges. Industrial users may be required to pay a separate pretreatment program charge. The pretreatment program charge will be based on the user's proportional share of the costs of administering the POTW pretreatment program, which includes costs incurred by the Utility for verification monitoring, analysis, and reporting. Each user's share of the pretreatment program costs will be computed by the following formula:

Ct

$$C_u = \frac{C_t}{V_t} (V_u)$$

V_t

Where:

C_u = User's charge for POTW pretreatment program per unit of time.

C_t = Total POTW pretreatment program costs per unit of time.

V_t = Total volume contribution of permitted industrial users per unit of time.

V_u = Volume contribution from a permitted industrial user per unit of time.

Section 23-108. Review of OM&R Charges

The Utility shall review at least annually the wastewater contribution by users, the total costs of OM&R of the treatment works, and its approved user charge system. The Utility shall revise the user charges to accomplish the following:

Maintain the proportionate distribution of OM&R costs among users or classes of users.

Generate sufficient revenue to pay the total OM&R costs of the treatment works.

Apply any excess revenues collected to the costs of operation and maintenance for the next year and adjust the rate accordingly.

Section 23-109. Charges for Extraneous Flows

The costs of operation and maintenance for all flow not directly attributable to users, e.g., infiltration/inflow, will be distributed proportionally among all users of the treatment works.

Section 23-110. Notification, Billing, and Collection

(a) Notification. Each user will be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the user charges which are attributable to OM&R charges.

(b) Billing. Wastewater charges imposed by this article shall be added to, included in, and collected with the monthly water service bills, and shall be due and payable monthly. This shall not affect the right of the Utility to collect wastewater charges from customers who utilize private or public water supplies from other utilities and who discharge wastewater to the Utility.

(c) Collection. Wastewater charges and fees imposed by this article shall be collected by the Utility in a manner established by the Utilities Board.

(d) Delinquent Accounts. The Utility may discontinue water service to any customer who has a delinquent wastewater charge until such wastewater charge has been paid, except as provided by state or federal law.

(e) Adjustments. The Utility shall make appropriate adjustments in the wastewater charge of sewer customers for over or under registration of Utility meters, leaks, or other recognized adjustments.

(f) Appeals. A user may contest a credit or billing determination by the Utility by paying said bill under protest and within 30 days following the due date of said bill lodging with the Utility a written notice of appeal with the Utility Board. The appeal shall follow the procedures in Section 23-88.

Section 23-111. Reserved

Division 13. Administration of Sewer System

Section 23-112. Utility Board

In addition to any other duty or responsibility otherwise conferred upon the Utility Board by this ordinance, the board shall have the duty and power as follows:

(a) To recommend from time to time to the City Council of the City of Cleveland that it amend or modify the provisions of this ordinance.

(b) To grant exceptions pursuant to the provisions of Section 23-54 hereof, and to determine such issues of law and fact as are necessary to perform this duty.

(c) To hold hearings upon appeals from orders of actions of the General Manager as may be provided under any provision of this ordinance.

(d) To hold hearings relating to the suspension, revocation, or modification of a wastewater discharge permit and issue appropriate orders relating thereto.

(e) To hold other hearings that may be required in the administration of this ordinance and to make determinations and issue orders necessary to effectuate the purposes of this article.

(f) To request assistance from any officer, agent, or employee of the City government and to obtain any necessary information or other assistance for the board.

(g) The board, acting through its chairman, shall have the power to issue subpoenas requiring attendance, the testimony of witnesses, and the production of documentary evidence relevant to any matter properly heard by the board.

(h) The chairman, vice chairman, or chairman pro tem shall be authorized to administer oaths to people giving testimony before the board.

(i) The board shall hold annual meetings and special meetings as the board deems necessary.

Section 23-113. General Manager

(a) General Manager and Staff. The General Manager and his or her staff shall be responsible for the administration of all sections of this chapter. Administratively, the General Manager shall be appointed by and shall report to the Utilities Board.

(b) Authority of General Manager. The General Manager shall have the authority to enforce all sections of this ordinance. The General Manager shall be responsible and have the authority to maintain and operate the various treatment works, sewer lines, pump stations, and other appurtenances. The General Manager shall be responsible for preparation of operating budgets subject to the normal budgetary processes of the Utility.

(c) Records. The General Manager shall keep in this office or at an appropriate storage facility all applications required under this chapter a complete record thereof, including a record of all wastewater discharge permits.

(d) General Manager to Assist Board. The General Manager shall attend all meetings of the Utilities Board, or when it is necessary for the superintendent to be absent, a designated representative shall be sent to make reports to and assist the board in the administration of this article.

(e) Notice of National Pretreatment Standard. The General Manager shall notify industrial users identified in 40 CFR, Part 403.8(f)(2) of any applicable pretreatment standards or other applicable requirements promulgated by the EPA under the provisions of Section 204(b) of the Act (33 U.S.C. 1284), Section 405 of the Act (33 U.S.C. 1345), or under the provisions of Sections 3001 (42 U.S.C. 6921), 3304 (42 U.S.C. 6924), or 4004 (42 U.S.C. 6944) of the Solid Waste Disposal Act. Failure of the superintendent to notify industrial users shall not relieve the users from the responsibility of complying with these requirements.

(f) Public Participation Notice. The General Manager shall comply with the public participation requirements of 40 CFR, Part 25 in the enforcement of National Pretreatment Standards. The General Manager shall at least annually provide public notification in the largest newspaper published in Bradley County of all significant industrial users which, during the previous 12 months, significantly violated applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, a significant industrial user is in significant violation if its violations meet one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken during a 6-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC=1.2 for toxic pollutants, except pH).

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the superintendent believes has caused, alone or in combination with other discharges, interference, or pass-through, including endangering the health of POTW personnel and the general public.

(4) Any discharge of a pollutant that has caused imminent endangerment to human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(5) Violation by 90 days or more after the schedule date of a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days of the due date.

(7) Failure to accurately report noncompliance.

(8) Any other violation or group of violations which the General Manager considers to be significant.

(g) Regulations and Standards Authorized. The General Manager may promulgate rules, regulations, and design criteria not inconsistent with this chapter and have them printed for distribution. These rules may include requirements for performing wastewater characterizations, analysis, and other measurements by standard methods approved by the Utility. Such rules and regulations shall be ratified and adopted by the Utilities Board.

(h) Sewer Credits. The General Manager shall approve secondary meters and determine other kinds of sewer user charge credits.

(i) Approves New Construction. The General Manager shall give approval in acceptance of newly constructed sanitary sewer lines, pump stations, and other appurtenances.

(j) Emergency Powers. The General Manager shall have the authority to take whatever emergency action he deems necessary whenever a situation occurs that creates danger to the personnel of Cleveland Utilities or the facilities of the system or where there is a danger to public health.

Section 23-114. Reserved

Division 14. Validity

Section 23-115. Conflict

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

Section 23-116. Savings Clause

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

ORDINANCE IN FORCE

Date of Effect

This ordinance shall be in full force and effect 2 weeks from and after its passage, approval, recording, and publication as provided by law, the public welfare requiring it.

Approval of Ordinance

Passed on first reading by the City Council of the City of Cleveland,
Tennessee,

on the ____ day of _____, 1994.

Passed second reading: _____
