

industrial user shall collect samples required for periodic compliance reports. Monitoring locations may be changed only after prior written permission by the assistant to the city manager for public services.

- (6) Sampling and analytical requirements for periodic compliance reports shall be performed in accordance with section (o) of this section. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis.

- (7) Together with every periodic compliance report, the permittee shall submit the following certification statement, signed by an authorized representative of the industrial user or designee. The exact wording of this statement shall be 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 gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed 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 fines and imprisonment for knowing violation."

(e) *Report of changed conditions.* All industrial users are required to notify the assistant to the city manager for public services of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

- (1) The assistant to the city manager for public services may require the industrial user to submit such information as may

be deemed necessary to evaluate the changed condition, including the submission of an IWDP application.

- (2) The assistant to the city manager for public services may issue a new IWDP or modify an existing IWDP as required.
- (3) No industrial user shall implement the planned changed condition until and unless the assistant to the city manager for public services has responded to the industrial user's report.
- (4) For purposes of this requirement flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants shall be deemed significant.

(f) *Reports of potential problems.* All industrial users shall submit reports of potential problems and accidental spills/slug loads to the assistant to the city manager for public services as detailed in subsection 78-136(l) of this article. Failure to notify the city of potential problem discharges shall be deemed a separate violation of this article.

(g) *Reports from unpermitted users.* Any industrial user who is not required to obtain an IWDP, shall, if required, submit a report to the assistant to the city manager for public services containing specified analyses of its wastewater discharge.

(h) *Notice of violation/repeat sampling and reporting.* If sampling performed by an SIU for a periodic compliance report indicates any violation as defined herein, the SIU shall submit the report and shall notify the assistant to the city manager for public services within 24 hours after becoming aware of the violation. The permittee shall repeat the sampling and analysis and submit the results of the repeat analysis to the assistant to the city manager for public services within 30 days after becoming aware of the violation. Where the city has performed the sampling and analysis in lieu of the SIU, the city must perform the repeat sampling and analysis unless it notifies the SIU of the violation and requires the SIU to perform the repeat analysis. Resampling by the SIU is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user between the time

when the initial sampling was conducted and the time when the user or the city receives the results of this sampling.

(i) *Notification of the discharge of hazardous waste.* This subsection refers to all industrial users:

- (1) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous waste constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (e) above. The notification requirement in this section does not apply to pollutants already reported under the reporting requirements of subsections (a), (b) and (c) above.
- (2) Dischargers are exempt from the requirements of subsection (i)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are

acute hazardous wastes as specified in 40 CFR Part 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR Part 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

- (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing and additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (4) 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 hazardous wastes generated to the degree it has determined to be economically practical.

(j) *Change of authorized representative of an industrial use.* Should the permittee's authorized representative change during the permit period because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the user, a completed copy of the approved authorization form (attached to the IWDP) for the new representative or position must be submitted to the assistant to the city manager for public services.

(k) *Maintenance of records.* Any SIUs subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with BMPs. Such records shall include for all samples:

- (1) The date, exact location, method and time of sampling, the names of the persons taking the samples, and chain of custody of the samples;

- (2) The dates analyses were performed;
- (3) The person that performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(l) *Retention of records.* Any SIU subject to the reporting requirements established in this section, including documentation associated with BMPs, shall be required to retain for a minimum of three years records of all submitted periodic compliance reports and any other such monitoring activities and/or analytical data pertaining to these reports (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the assistant to the city manager for public services, state or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the assistant to the city manager for public services, the state or EPA upon reasonable notice to the permittee.

(m) *Confidentiality.* Information and data on a user obtained from reports, questionnaires, IWDP applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user stamps the words "confidential business information" on each page containing such information at the time of submission, and is able to demonstrate to the satisfaction of the assistant to the city manager for public services that the release of this specific material, would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Those portions of any document identified in writing by the permittee as disclosing trade secrets or secret processes shall not be made available to the public pursuant to Section 308(b) of the Act unless determined by a court of competent jurisdiction to be subject to disclosure. These documents shall, however, be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40

CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(n) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern. Faxed copies of the report will only be accepted if the complete original report is received by the city within five working days of the fax copy.

(o) *Sampling and analytical requirements.* The following regulations apply to all wastewater sampling and analytical methods and techniques required by this article:

- (1) Except as indicated in subsection (2) below, wherever wastewater sampling is required by the terms of this article or IWDP, such sampling shall be performed using flow proportional composite collection techniques in order to collect a representative wastewater sample throughout the total daily period of effluent discharge by the user. Alternatively, the city may authorize the use of time proportional sampling or a minimum of eight grab aliquots composited into a single sample where the SIU demonstrates that this will provide a representative sample of the effluent being discharged. Where time-proportional composite sampling or aliquot grab sampling is authorized by the city, the decision to allow the alternative sampling must be documented in the industrial user file for that facility.
- (2) Samples for oil and grease, temperature, specific conductance, pH, cyanide, total phenols, sulfides and volatile organic compounds shall be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in Chapter 62-160, F.A.C., and DEP-SOP-001/01, multiple grabs collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the

field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- (3) Oil and grease samples shall be collected in accordance with paragraph (2) above unless the sampling location or point cannot be physically accessed to perform a direct collection of a grab sample. In these instances, the sample shall be pumped from the sampling location or point into the sample container using a peristaltic-type pump. All pump tubing used for sample collection must be new or pre-cleaned and must be changed between sample containers and sample points. The pump tubing shall not be pre-rinsed or flushed with sample prior to collecting the sample. The report of analysis shall indicate that a peristaltic pump was used to collect the oil and grease sample.
- (4) All sample preservation procedures, container materials, maximum allowable holding times and analytical techniques to be submitted as part of any application or report required by this article shall be performed in accordance with the procedures and techniques specified in "The Department of Environmental Protection Standard Operating Procedures for Field Activities"(DEP-SOP-001/01) February 2004 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If DEP-SOP-001/01 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with Rule 62-625.600(1)(e)6b and 6c or procedures approved by the EPA.
- (5) All pollutant analyses, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques pre-

scribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority or other parties approved by EPA. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis for all pollutants concerned.

- (6) An SIU may request the control authority to perform all sampling and analysis of its wastewater in lieu of self monitoring by the SIU. This sampling and analysis shall be performed by the control authority according to subsection (3) above following the control authority's FDEP approved written comprehensive quality assurance plan.
- (7) Where an SIU performs its own sampling, the SIU shall develop a written procedure for the sampling based on subsection (4) above and shall submit this to the control authority for approval. The SIU shall be required to demonstrate the complete field sampling procedure at its facility to the satisfaction of the control authority prior to the issuance of approval.
- (8) Where a private contractor is selected by a SIU to perform the necessary sampling and/or laboratory analysis, the SIU shall submit and maintain current copies of the following private contractor's documents to the control authority prior to any sampling or analysis data being accepted by the control authority.
  - a. FDOH Environmental Water Certification Analytes List.



- b. Environmental Water Certificate as issued by the Office of Laboratory Services, Jacksonville, Florida.
- c. The latest FDEP approval correspondence containing the FDEP assigned comprehensive quality assurance plan number.
- d. The sampling protocols contained in the comprehensive quality assurance plan.

The contractor may be required, at the control authority's request, to demonstrate the complete field sampling procedure at the SIU's facility. Analytical results will not be accepted from the SIU or its selected private laboratory until the sampling procedure has been approved by the city.

(Ord. No. 11-38, § I(Exh. A), 12-8-11)

#### **Sec. 78-138. Enforcement procedures.**

(a) *Notice of violation (NOV) and compliance meeting.* When the assistant to the city manager for public services finds that a user has violated, or continues to violate, any provision of this article, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the assistant to the city manager for public services may serve upon that user a written notice of violation. Within ten days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the assistant to the city manager for public services. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the assistant to the city manager for public services to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. The user may also be directed to attend a compliance meeting with representatives of the city. The purpose of the compliance meeting shall be for the industrial user to present and establish such procedures, investigations, studies, and com-

pliance measures as are necessary to control and prevent future violations of this article. The user shall be bound by such procedures, etc., and during the compliance meeting the user shall agree to a date certain beyond which no further violations shall occur. Failure to comply with the compliance meeting procedures, etc., or the date shall be deemed a violation of this article and may be grounds for revocation of the user's wastewater discharge permit and grounds for such other actions, penalties or enforcement or all or any combination of these things as may be authorized for violation of this article.

(b) *Notice of significant noncompliance (NOSNC).* Whenever an SIU has violated the IWDP or any provision of 40 CFR Part 403 or 62-625 F.A.C., a notice of significant noncompliance shall be issued if the city determines the violation to constitute significant noncompliance as defined in section 78-127. The NOSNC shall clearly state the noncompliance and require the SIU, within ten working days of the receipt date of this notice, to respond in writing to the violation and submit a written plan outlining what steps will be taken to gain compliance and prevent reoccurrence of the violation. In addition to the NOSNC the city shall insert an annual public notification of all SIUs in SNC in the daily newspaper with the largest circulation in the immediate area served by the POTW.

(c) *Consent orders.* The assistant to the city manager for public services may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the compliance or cease and desist orders issued pursuant to subsections (d) and (g) of this article and shall be judicially enforceable.

(d) *Compliance orders.* When the assistant to the city manager for public services finds that a user has violated, or continues to violate, any provision of this article, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement,

the assistant to the city manager for public services may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(e) *Emergency suspensions and termination of service.* The city may suspend the wastewater treatment service and an industrial wastewater discharge permit when such suspension is necessary, in the opinion of the assistant to the city manager for public services, in order to stop an actual or threatened discharge which represents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, which causes interference to the POTW or which causes or may cause the city to violate any conditions of its NPDES permit.

- (1) Any person notified of a suspension of the wastewater treatment service or the IWDP or either of these things shall immediately stop or eliminate the discharge. Methods of notice shall include but shall not be limited to personal conversation between the user or his representative and the assistant to the city manager for public services; telephone calls of this same nature; letters, either mailed or hand-delivered; hand-delivered messages; or notices posted at the user's premises or the point of discharge into the city's wastewater system.
- (2) If the person fails to comply voluntarily with the suspension order, the city shall

take such steps as deemed necessary, including but not limited to immediate severance of the sewer connection or water connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.

- (3) The city may reinstate the IWDP and the wastewater treatment service upon proof of the elimination of the noncomplying discharge and demonstration of measures to prevent future occurrences.
- (4) A detailed written statement submitted by the user describing the cause of the discharge and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of the occurrence.

(f) *IWDP revocation.* Any industrial user who violates the conditions outlined in subsection 78-136(j) of this article or other applicable local, regional, state, or federal laws, regulations and case decisions is subject to having the IWDP revoked by the assistant to the city manager for public services.

(g) *Cease and desist order.* When the assistant to the city manager for public services finds that a user has violated, or continues to violate, any provision of this article, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the assistant to the city manager for public services may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(h) *Show cause hearing.* The city may order any user who causes or allows an unauthorized discharge or who otherwise violates this article in any way to show cause before the code enforcement board why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation or on the local representative as identified in the permit application. The code enforcement board may itself conduct the hearing and take evidence or may designate any of its members or any officer or employee of the city to:

- (1) Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.
- (2) Take evidence.
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the code enforcement board for action thereon. After the code enforcement board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or unless existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. The industrial user shall have the opportunity to appear before the code enforcement board prior to its final decision and present oral and written arguments. Nothing in this subsection may prevent the city from taking immediate, appropriate, or emergency actions or all of these things to prevent a violation

or a further violation of this article when, in the city's sole discretion, circumstances warrant an immediate response to any such violation.

(i) *Injunctive relief.* The city may, immediately upon discovering an ongoing or potential discharge of pollutants into the city's POTW which reasonably appears to exceed the requirements or conditions described in this article, petition the circuit court of the county or the federal district court for a temporary restraining order or preliminary injunction to halt or prohibit such discharge. Prior to the filing of such a petition, the assistant to the city manager for public services shall attempt to notify the user of the city's intention to file such action. Notice may be of the type outlined in this section, but shall not be a condition precedent to the city's petitioning for and obtaining such an order or injunction.

(j) *Recovery of costs to city.* In addition to remedies available to the city as set forth elsewhere in this article, if the city is fined by the state or the EPA or any other governmental agency for a violation of water quality standards as the result of a discharge of pollutants, the fine and all city legal, sampling, analytical testing and any other related costs shall be charged to the responsible user. Such charges shall be in addition to and not in lieu of any other remedies the city may have under this article or under any statutes or regulations, at law or in equity.

(k) *Obstructions.* If the discharge from any user causes a deposit, obstruction, or damage to any of the city's wastewater facilities, the assistant to the city manager for public services shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired, at the sole cost of the person or user causing such deposit, obstruction, or damages.

(l) *Remedies non-exclusive.* The remedies provided for in this article are not exclusive. The assistant to the city manager for public services may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the assistant to the city manager for public services may take other action

against any user when the circumstances warrant. Further, the assistant to the city manager for public services is empowered to take more than one enforcement action against any noncompliant user.

(m) *Affirmative relief.* In addition to any fine levied under this article, the city may, where the circumstances of the particular case so dictate, but in the sole discretion of the assistant to the city manager for public services, seek injunctive relief to prohibit the user from discharging any wastewater into the city's sanitary sewer system or to provide such other affirmative relief as may be appropriate.

(n) *Excess flow.* A person or user whose discharge flow exceeds 50,000 gallons per day on the day of the violation or 50,000 gallons as an average during the month that the violation occurs may be assessed up to and including twice the amounts described in this section.

(o) *Administrative fines.* Any industrial user who violates any section of this article shall be subject to a penalty not exceeding \$1,000.00 per day per violation for each day that the user is in violation of this article. Administrative fines shall be issued in accordance with the City of Winter Garden Enforcement Response Plan as approved by the Florida Department of Environmental Protection. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user. The city may provide for larger penalties where appropriate (e.g., where the industrial user has a history of violations, etc.). This minimum penalty shall in no way limit the city's ability to seek larger penalties in appropriate cases or to allow the city to mitigate the penalty depending upon the circumstances of each case or violation.

(p) *City analyses.* If there is a difference in understanding between the city and the user as to the characteristics in the wastewater, the city

reserves the right to use the city analyses and results to thereafter compute any fees that may be assessed.

(q) *Penalties owing.* The city also reserves the right to revoke a discharge permit or disconnect wastewater service to, or both of these things, any user whenever penalties or fees are due and owing for a period of more than 14 days following the date of notification to the user that a chargeable violation has occurred.

(r) *Falsification.* Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article or pursuant to any wastewater discharge permit or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sampling or analysis or information-gathering method required under this article shall be subject to the penalties and costs provided in this section and any other penalty that may be provided under this Code or any other applicable local, state, or federal law or regulation.

(s) *Civil penalties.* A user who has violated, or continues to violate, any provision of this article, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a civil penalty of not less than \$1,000.00 a day for each violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- (1) The assistant to the city manager for public services may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- (2) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, cor-