

CITY OF CONCORD

In the year of our Lord two thousand and twenty-six

AN ORDINANCE amending the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains

The City of Concord ordains as follows:

SECTION I: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-1, Definitions by adding a definition for “Best Management Practices,” as follows:

Best Management Practices (BMP). The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR Part 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

SECTION II: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-1, Definitions by amending the definition of “Significant Industrial User,” as follows:

Significant industrial user.

- (1) Except as provided in paragraphs (2) and (3) of this section, the term "significant industrial user" means:
 - a. All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. Chapter I, Subchapter N; and
 - b. Any other industrial user that discharges an average of ten thousand (~~10,000~~)**25,000** gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).
- (2) The control authority may determine that an industrial user subject to categorical treatment standards under [40 C.F.R.] 403.6 and 40 C.F.R. Chapter I, Subchapter N is a nonsignificant industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than ~~one~~**n** one hundred (100) gallons per day

(gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- a. The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - b. The industrial user annually submits the certification statement required in [40 C.F.R.] 403.12(q) together with any additional information necessary to support the certification statement; and
 - c. The industrial user never discharges any untreated concentrated wastewater.
- (3) Upon a finding that an industrial user meeting the criteria in paragraph (1)b. of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 C.F.R. 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SECTION III: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-18, Notification of Discharge Change Required, as follows:

9-6-18- Notification of Discharge Change Required.

The City must be notified sixty (60) days in advance by any person or persons involved in:

- (a) Proposed [~~substantial change~~] **increase** in volume or in the strength or character of pollutants over that being discharged into the treatment works at the time of issuance of the industrial user's permit.
- (b) Proposed new discharges from residential or commercial sources involving loading exceeding fifty (50) population equivalents (five thousand (5,000) gallons per day).
- (c) Proposed new discharge of any industrial wastewaters, [~~discharges of listed or characteristic waste,~~] or any increase in industrial wastewater discharge.
- (d) Any increase in industrial discharge or any proposed new industrial discharge or domestic discharge with fifty (50) population equivalents (five thousand (5,000) gallons per day), approval must be obtained from the NHDES.

Except for special reasons, the City will approve plans for new systems, extensions, or replacement sewers only when designed upon the separate plan, in which rainwater from roofs, streets, and other areas, and groundwater from foundation drains are excluded.

SECTION IV: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-23, Standard Analysis Methods Required, as follows:

9-6-23 - Standard Analysis Methods Required.

All measurements, tests, and analysis of the characteristics of waters and to which reference is made in Sections 9-6-13, 9-6-14, and 9-6-20 shall be determined in accordance with ~~[40 C.F.R. 136]~~ ***the latest edition of "Standard Methods for the Examination of Water and Wastewater"***, and shall be determined at the control structure, provided for in Section 9-6-22 or shall be determined upon suitable samples taken at said control structure. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

SECTION V: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-24, Applicant Agreement Required, as follows:

9-6-24 - ~~[Applicant Agreement Required]~~ ***City Permits.***

Any person obtaining a permit ~~[All applications]~~ to discharge any industrial wastewater, drainage, substances, or wastes directly into any sewer under the control of the City, or tributary thereto, shall ~~[be accompanied by an agreement stating that the applicant agrees to]~~ abide by all ordinances, rules, and regulations of the City; ~~[that the applicant will]~~ provide such works for the preliminary treatment of the wastewater, drainage, substances, or wastes as may be required by the City; and ~~[that the applicant will]~~ permit duly authorized representatives of the City to enter the premises of the industry to sample and measure wastewater, to inspect any monitoring equipment, or to have access to any records as needed to check characteristics of the wastewaters, when so directed by the City. Applications ***for a permit*** are to be accompanied by a plan showing essential characteristics of all wastewater outlets, analysis of existing wastewater, and statements as to existing and expected average and maximum wastewater flows, and must be submitted to and approved by the City prior to initiating discharge into facilities of the City. Required wastewater analyses are listed in Section 9-6-25. ***In accordance with 40 CFR 403.8(f)(1)(B), all permits shall contain a statement of duration (which shall not exceed five years), a statement that the permit shall not be transferred and shall contain the effluent limits.***

SECTION VI: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-31, Powers and Authority of Inspectors, as follows:

9-6-31 – Powers and Authority of Inspectors:

- (a) The Director and duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection,

observation, measurement, sampling, copying of records, and testing pertinent to discharges to the community system in accordance with the provisions of this Article.

- (b) The Director or other duly authorized employees are authorized to obtain information concerning industrial processes which have a bearing on the kind and source of discharge to the public sewer., The industrial user may request that the information in question not be made available to the public *in accordance with 40 CFR 403.14* if it can establish that revelation to the public might result in an advantage to competitors. The burden of proof that information should be held confidential rests with the industrial user. However, information about wastewater discharged by the industrial user (flow, constituents, concentrations, characteristics, and similar information) shall be available to the public without restriction.
- (c) While performing the necessary work on private properties referred to in Section 9-6-31(a), above, the Director or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss of damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 9-6-22.
- (d) The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

SECTION VII: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-32, Penalties Defined, as follows:

9-6-32 - Penalties Defined.

The following procedure is set forth to deal with any violation of this Article:

(a) *Notice of Violation.*

- (1) Any person found violating any provision of this Article except Section 9-6-30, may be served with written notice by the City; however, liability for the violation attaches immediately upon the occurrence of the violation. The written notice of violation from the City does not exempt the offender from other enforcement actions by the City.
- (2) If sampling performed by an industrial user indicates a violation, the user shall notify the City within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat

analysis to the City within thirty (30) days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Except that the industrial user is not required to resample if:

- a. The City performs sampling at the industrial user's facility at a frequency of at least once per month; or
- b. The City performs sampling at the industrial user's facility between the time when the initial sampling was conducted [and the] user performs its initial sampling and the time when the industrial user or the City receives the results of this sampling.

(b) *Civil and Criminal Penalties*[v]. Any person who violates any provision of this Article shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of such violation *and/or criminal penalties*. Each day in which any such violation shall continue shall be deemed a separate offense.

(c) *Liability for Damage Stated*. Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. The expense, loss, or damage shall be taken to be the extent determined by a professional engineer registered in New Hampshire particularly skilled in the operation and maintenance of wastewater collection and treatment works.

SECTION VIII: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-39, Investigations, by changing the name of the section and text as follows:

9-6-39 – Investigations *and Enforcement Action*.

The City shall investigate instances of noncompliance with industrial pretreatment standards and requirements. *The City shall take enforcement action as warranted against users who are not in compliance with the City's industrial pretreatment regulations, including but not limited to those actions set forth in the City's enforcement response plan.*

SECTION IX: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 9, Water, Article 9-6, Sewer and Drains, Section 9-6-43, Categorical Compliance Report, as follows:

9-6-43 Categorical Compliance Report.

- (a) Within ninety (90) days after the date for final compliance by existing industrial users with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the public sewer, industrial users shall submit a report indicating the nature and concentration of pollutants in the discharge from the regulated process(es) governed by pretreatment standards and the average and maximum daily flow for these process units. Such report shall state whether the applicable pretreatment standards are being met on a consistent basis. Such industrial users shall also submit during the months of June and December, unless required more frequently, a report indicating the nature and concentration of pollutants in the discharge and violations of applicable categorical pretreatment standards.

Noncompliance with a federal categorical standard deadline will subject the industrial user to appropriate enforcement actions, 9-6-50 - Industrial Discharge Permits.

- (b) *If a user monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City using the prescribed procedures, the results of this monitoring shall be included in the report., and the results of the monitoring shall be included in the report.*

SECTION X: This Ordinance shall take effect upon its passage.

Explanation: Matter added to the current ordinance appears in *bold italics*.
Matter removed from the current ordinance appears in [brackets and ~~struck through~~].