

THE EFFECTIVE DATE OF THIS ORDINANCE IS JANUARY 15, 2013

ORDINANCE NO. 12-33-628

Re: TO REPEAL AND REENACT WITH AMENDMENTS
THE FREDERICK COUNTY INDUSTRIAL
WASTEWATER PRETREATMENT ORDINANCE

RECITALS

Pursuant to the authority contained in, inter alia, the Public Local Laws of Frederick County, Sec. 2-13-30, the Annotated Code of Maryland, Art. 25, §3D, and the authority delegated from the Federal Government Environmental Protection Agency through the Maryland Department of the Environment, to the County, the Board of County Commissioners of Frederick County, Maryland has determined that it is necessary and appropriate to revise the previously enacted Industrial Waste Ordinance (Ordinance No. 92-12-047), and to enact as its replacement the document set forth as Exhibit A hereto.

A Public Hearing was held on the proposed Industrial Waste Ordinance on December 18, 2012, at which time the public had the opportunity to comments on the proposed revised Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the Frederick County Industrial Wastewater Pretreatment Ordinance is revised as shown on the attached Exhibit A.

AND BE IT FURTHER ENACTED AND ORDAINED, that this Ordinance shall take effect on January 15, 2013.

AND BE IT FURTHER ENACTED AND ORDAINED, that Exhibit A hereto shall not be incorporated into the Frederick County Code, but shall be reproduced as a separate

publication and made available to interested persons through the Division of Utilities and Solid Waste Management.

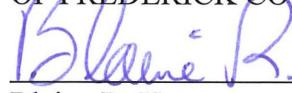
The undersigned hereby certifies that the foregoing Ordinance was approved and adopted on the 18th day of December, 2012.

ATTEST:



Lori L. Depies
Lori L. Depies, CPA
County Manager

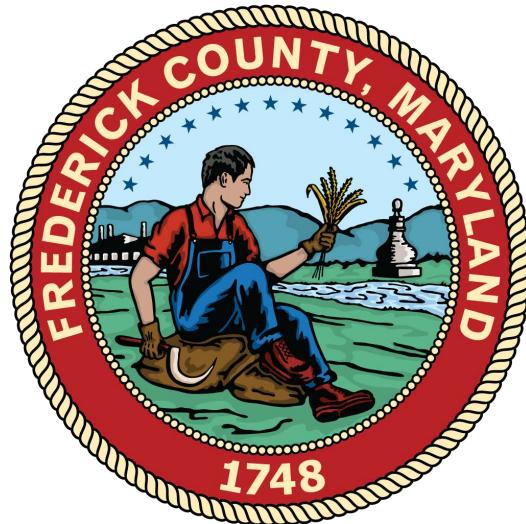
BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY



Blaine R. Young
Blaine R. Young
President


12/18/12

Frederick County Industrial Wastewater Pretreatment Ordinance



Ordinance: 12-33-628

Effective Date: January 15, 2013

FREDERICK COUNTY INDUSTRIAL WASTE ORDINANCE

TABLE OF CONTENTS

ARTICLE – I -	OBJECTIVES AND PURPOSE	Page 1
ARTICLE – II -	DEFINITIONS AND ABBREVIATIONS	Page 3
ARTICLE – III -	PROHIBITIVE SUBSTANCES	
	GENERAL PROHIBITIVE STANDARDS	Page 13
	SPECIFIC PROHIBITED SUBSTANCES	Page 13
	LOCAL LIMITS AND ANALYTICAL PARAMETERS	Page 15
	FATS, OILS, AND GREASES (FOG)	Page 15
ARTICLE – IV -	PRETREATMENT REQUIREMENTS	
	GENERAL PRETREATMENT REQUIREMENTS	Page 18
	SPECIFIC PRETREATMENT REQUIREMENTS	Page 18
	SPILL CONTROL AND MANAGEMENT	Page 19
	DISCHARGE AND FACILITY MODIFICATIONS	Page 20
	SIGNATORY REQUIREMENTS FOR ALL INDUSTRIAL USERS	Page 21
	RIGHT OF INSPECTION AND ENTRY	Page 21
	CONFIDENTIAL INFORMATION	Page 22
	SAMPLING AND ANALYTICAL REQUIREMENTS	Page 22
	SPECIFIC NOTIFICATION REQUIREMENTS	Page 24
	UPSET PROVISIONS AND MODIFICATIONS	Page 25
	HAZARDOUS SUBSTANCE NOTIFICATION	Page 26
	REPORTS AND RECORD KEEPING	Page 27
	PERIODIC COMPLIANCE REPORTS	Page 28
	BASELINE MONITORING REPORTS	Page 28
	NINETY (90) DAY COMPLIANCE REPORTS	Page 30
	COMPLIANCE SCHEDULE REPORTS	Page 30
ARTICLE – V -	APPLICATIONS FOR DISCHARGE PERMITS	
	INDUSTRIAL WASTE SURVEYS	Page 31
	REQUIRED APPLICATIONS (WHO MUST APPLY)	Page 31
	PERMIT APPLICATION	Page 32
	FOOD SERVICE ESTABLISHMENT (FSE) WASTEWATER DISCHARGE PERMIT	Page 32
ARTICLE – VI -	INDUSTRIAL WASTEWATER DISCHARGE PERMITS	
	GENERAL	Page 34
	INDUSTRIAL WASTEWATER DISCHARGE PERMITS	Page 34
	PERMIT CONTENTS	Page 34
	PERMIT MODIFICATIONS	Page 35
	PERMIT APPEALS	Page 35
	PROCEDURES FOR DETERMINATION OF USER COMPLIANCE	Page 36

INSPECTION REPORTING AND DOCUMENTATION	Page 37
COMPLIANCE MONITORING	Page 39
PERMITTED NON-SIUS	Page 41
INCREASED MONITORING	Page 41
pH MONITORING	Page 42
FLOW MONITORING	Page 42
POTW MONITORING	Page 42
REPORT MONITORING AND TRACKING	Page 43
COMPLIANCE TRACKING	Page 44
SIGNIFICANT NON-COMPLIANCE (SNC) EVALUATIONS	Page 44
ANNUAL PUBLICATION OF SIGNIFICANT VIOLATORS AND VIOLATIONS	Page 45
 ARTICLE – VII - SEPTIC AND SLUDGE DISPOSAL	
GENERAL	Page 46
WASTE DISPOSAL PERMITS	Page 47
 ARTICLE – VIII - FEES AND CHARGES	
STANDARD FEES AND CHARGES	Page 48
SEWER USE BASE CHARGE	Page 48
SURCHARGES FOR EXCESSIVE STRENGTH WASTEWATER	Page 49
SURCHARGE BASIS	Page 49
SURCHARGE FORMULA	Page 49
VIOLATION AND ENFORCEMENT FINES/PENALTIES	Page 51
 ARTICLE – IX - ENFORCEMENT ACTION	
GENERAL	Page 51
DOCUMENTING NON-COMPLIANCE	Page 51
NOTICES OF VIOLATION	Page 51
INITIATING ADDITIONAL ENFORCEMENT ACTION	Page 53
TYPES OF ADDITIONAL ENFORCEMENT ACTION	Page 53
CRIMINAL ACTION	Page 55
ADMINISTRATIVE ORDERS/COMPLIANCE ORDERS	Page 56
SUSPENSION AND/OR TERMINATION OF SERVICES OR PERMITS	Page 57
ENFORCEMENT APPEAL	Page 58
 ARTICLE – X - EFFLUENT LIMITATIONS	
LOCAL LIMITS	Page 60
AUTHORITY TO CHANGE	Page 62

ARTICLE I: OBJECTIVES AND PURPOSE

- 1.0 It is the objective and purpose of the Frederick County Board of County Commissioners, through the enactment of this Ordinance, to generally establish the responsibilities of all Users that have cause to discharge non domestic wastewater to the Publicly Owned Treatment Works (POTWs) of Frederick County. This Ordinance will allow Frederick County to implement the National Pretreatment Standards and administer Frederick County's Pretreatment Program, as approved by Maryland Department of the Environment. This Ordinance shall enable Frederick County, Maryland to comply with all applicable Federal and State laws that relate to the General Pretreatment Regulations (40 CFR part 403). Specifically the general objectives of this Ordinance are to establish uniform requirements for all wastewater contributors, direct and indirect, public and private, and thereby prevent the introduction of pollutants into the wastewater collection systems of Frederick County which will:
 - 1.1 interfere with the operation of any wastewater treatment system of Frederick County;
 - 1.2 contaminate the sludge produced by any wastewater treatment system of Frederick County;
 - 1.3 pass through any wastewater treatment system, inadequately treated, into the receiving waters of this State; or
 - 1.4 otherwise be incompatible with any wastewater treatment facility of Frederick County.
- 1.5 This Ordinance also seeks to establish the guidelines and procedures by which Frederick County shall enforce and carry out Federal, State, and local pretreatment regulations, including but not limited to any regulation or requirement within an issued permit or orders issued to a permitted User, to improve the opportunity to recycle and reclaim wastewater and sludge from the wastewater treatment systems of Frederick County, and to provide for the fair and equitable distribution of all costs associated with the administration, operation and maintenance of, and improvements to, the wastewater treatment and collection systems of Frederick County.
- 2.0 This Ordinance shall not preclude the Division from entering into any specific agreement with a User in which special terms are set out under which the User may discharge to the POTW. In no case however, shall the National Pretreatment Standards be waived.
- 3.0 The Division reserves the right to establish more stringent standards or requirements on the discharge to the POTW of Frederick County by revision of this Ordinance, or by revisions within the Wastewater Discharge Permits, if deemed necessary to comply with the objectives set forth in *Section 1* above.
- 4.0 Where a property owner leases any or all of a property to any other person as a tenant under any rental or lease agreement, and if either the property owner or the tenant is an

Industrial User as defined by this Ordinance, both shall be held responsible for compliance with all provisions in this Ordinance.

- 5.0 All non-domestic wastewater contributors, both direct and indirect, and including both public and private Users, whether permitted or not, shall be subject to this Ordinance, when applicable.
- 6.0 All septage haulers and treatment facilities disposing of septage and/or sludge at any designated Frederick County septage receiving point shall also be subject to this ordinance, as is any User whose regulated discharge is conveyed by the Division collection system, but treated by a non-County treatment facility.
- 7.0 If an Industrial User's facility is served by a private sewer, then the Industrial Discharge Permit shall be issued to the property owner, who shall be responsible for ensuring that the discharge from the property into the POTW shall always meet the performance standards set by local limitations. Any business or facility whose regulated discharge is directly conveyed by the Division collection system must install and maintain a monitoring manhole within the property boundary before the point of connection with the POTW system.
- 8.0 The National Categorical Pretreatment Standards found in 40 CFR chapter I subchapter N Parts 405 – 471 are hereby incorporated in this document.
- 9.0 The State Pretreatment requirements located in COMAR, Title 26 are hereby incorporated in this document.

ARTICLE II: DEFINITIONS AND ABBREVIATIONS

1.0 The following abbreviations and acronyms, whenever and wherever used within this document, shall have the following designated meanings, except when the context clearly requires otherwise.

BOD ₅	Biochemical Oxygen Demand (BOD ₅)
°C	Celsius (the unit of metric temperature measure)
CFR	Code of Federal Regulations
COMAR	Code of Maryland Regulations
DUSWM	Frederick County Division of Utilities and Solid Waste Management (or “the Division”)
EPA	Environmental Protection Agency
FOG	Fats, Oils, and Grease
FSE	Food Service Establishment
GPD	Gallons per Day
GPM	Gallons per Minute
°F	Fahrenheit (the unit of US temperature measure)
IWS	Industrial Waste Survey
kg	Kilogram (Metric weight measure)
l	Liter (metric volume measure)
LEL	Lower Explosive Limit
MDE	Maryland Department of the Environment
mg	Milligram (metric weight measure)
mg/l	Milligrams per liter (ppm)
MG	Million Gallons
MSDS	Material Safety Data Sheet
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
PCR	Periodic Compliance Report
pH	The hydrogen ion concentration of a solution used to indicate acidity or alkalinity
ppm	Parts per Million (mg/l)
O&M	Operations and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation & Recovery Act
SSO	Sanitary Sewer Overflow
SWDA	Solid Waste Disposal Act
TRC	Technical Review Criteria
TSS	Total Suspended Solids
TTO	Total Toxic Organics
UEL	Upper Explosive Limit
WWTP	Wastewater Treatment Plant
<	Less than
>	Greater Than

2.0 The following terms and phrases, whenever and wherever used within this document, shall have the following designated meanings, except when the context clearly requires otherwise.

ADMINISTRATIVE ORDERS: Enforcement documents issued by the Division that direct a User to undertake or to cease specific activities in order to achieve or maintain compliance with County, State and/or Federal regulations. These documents constitute a formal directive from the Division to a User concerning significant or repeated non-compliance. Administrative Orders used by the Division include, but are not limited to: Consent Orders, Show Cause Orders, and Compliance Orders. Administrative Orders may include fines for cited violation(s).

AUTHORIZED SIGNATORY REPRESENTATIVE OF THE INDUSTRIAL USER:

1. A principal executive officer of at least the level of Vice President for a corporation.
2. A general partner or proprietor in the case of a partnership or proprietorship.
3. A duly authorized representative of the individual or entity described in parts 1. and 2. of this definition IF:
 - (a) this authorization is made to the Division by the individual or entity described in parts 1. and 2. of this definition; and
 - (b) this authorization specifies either an individual, or a position having the responsibility for the overall operation of the facility from which the discharge originates, including, but not limited to the position of, plant manager or superintendent, or a position of equivalent responsibility, having overall responsibility for environmental matters for the entity; and
 - (c) the above authorization is submitted to the Division, in writing.
4. If the Industrial User is a Federal, State, or Local governmental facility, an authorized representative shall mean a director or the highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or his/her designee.
5. If the authorization delegated under part 3. of this section is no longer valid, because of a change in the individual, the position no longer has the responsibility for overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying all requirements in part 3. of this section must be submitted to the Division prior to or together with any reports to be signed by an authorized representative

BEST MANAGEMENT PRACTICES: A schedule of activities, prohibited practices, maintenance procedures, and/or other management policies enforced to prevent and reduce pollutants from entering the waters of the State.

BIOCHEMICAL OXYGEN DEMAND (BOD₅): The quantity of oxygen utilized in the biochemical oxidation of organic matter, during incubation at 20° C for a period of 5 days, expressed in mg/l. This test shall be made in accordance with 40 CFR part 136.

BYPASS: The intentional diversion of any waste stream from any portion of a user's treatment facility.

CODE OF FEDERAL REGULATIONS, ARTICLE 40, PART 403 (40 CFR 403): General Pretreatment Regulations for Existing and New Sources of Pollution; regulatory basis for pretreatment compliance monitoring.

CLEAN WATER ACT: The Federal Water Pollution Control Act, also known as the "Clean Water Act, as amended, 33 U.S.C. 1251 et seq."

COMMERCIAL USER: a business or facility that is issued a Wastewater Discharge Permit but is not classified as a Significant or Categorical Industrial User.

COUNTY: Frederick County, Maryland

DAYS: Unless otherwise stated, all references in this Ordinance to "days" refer to calendar days and not business days.

DIVISION OF UTILITIES AND SOLID WASTE MANAGEMENT (DUSWM, or DIVISION): The agency of Frederick County that maintains and operates the POTWs of Frederick County and has the authority to administer and enforce this Ordinance and the Pretreatment Program of Frederick County that has been approved by the Maryland Department of Environment (MDE).

DOMESTIC WASTEWATER: The liquid waste originating from private residences and containing those pollutants and pollutant concentrations that are associated with normal household activities. (See also the definition for "non-domestic wastewater")

FATS, OILS AND GREASE (FOG): Liquid and semi-liquid animal and vegetable waste products which are typically recovered from oil and grease handling and separation equipment, installed and maintained by restaurant and food preparation facilities for the segregation of grease and oil from other domestic sources of waste. FOG means the total amount of oily, non-miscible matter that floats on the surface, or is suspended in water or wastewater, that can collect in and eventually block water and sewer lines.

FOOD SERVICE ESTABLISHMENT (FSE): A place where food or drink is prepared for sale or service on the premises or elsewhere, including bakeries, cafeterias, churches, grocery

stores, hospitals, hotels, motels, nursing homes, restaurants, and school kitchens but excluding residential kitchens and such temporary facilities as farmer's markets and bake sales.

FSE WASTEWATER DISCHARGE PERMIT: Generic document issued to Food Service Establishments that contains requirements necessary to assess and ensure compliance.

INDUSTRIAL USER: Any Person, Facility, or User who is engaged in a manufacturing or commercial enterprise. Also included shall be those members of any class of significant producers of pollutants identified under the rules and regulations adopted by the State or the EPA, or any other user as determined by the Division to require the issue of a discharge permit.

INDUSTRIAL USERS DISCHARGE PERMIT: Document issued to a specific user for a wastewater discharge from a specific industrial or commercial process for a specific site. This permit shall include any Categorical Standards, or User specific limitations that may apply, including but not limited to any applicable local POTW limitations.

INDUSTRIAL WASTE SURVEY (IWS): Initial questionnaire document which is completed by each business operating in Frederick County, submitted to the Division, and used to determine whether a user is to be issued a permit to discharge wastewater to the POTW and the monitoring requirements to be imposed on the user. The IWS requests information on the specific nature of a User's operational processes, including but not limited to a User's raw materials, products, and wastewater discharge amounts and characteristics. This information must be supplied prior to any connection to the POTW. The Division shall specify the terms, measurements, and form in which this information shall be supplied.

INSPECTIONS: May be either "complete and comprehensive", or "limited and specific". The Division may conduct unannounced inspections of any type as it deems necessary. A report will be entered into a user's file including, but not limited to any observations, drawings, photos, or copies of records made during an inspection.

- Complete and Comprehensive Inspection: (also referred to as annual or routine inspections) the inspection of a User's entire facility, including but not limited to record keeping, production, and /or process areas, chemical and raw material storage areas, waste treatment areas, and all related appurtenances. If applicable, inspections may also be made of sampling and analysis areas, including the observation of sample collection and laboratory analysis methods and/or techniques.
- Limited and/or Specific Inspections: The inspection of one or more specific areas(s) of a User's production, manufacturing, storage, and/or treatment facility, generally in response to a specific need.

INTERFERENCE: Any discharge which, alone or in conjunction with a discharge or discharges from other sources, causes both:

1. An inhibition or disruption of any POTW, its treatment processes, or operations, or its sludge processes, use, or disposal; and

2. Therefore is a cause of a violation of any requirement of the POTW's NPDES discharge permit (including an increase in the magnitude or duration of a violation), or that prevents the POTW from using or disposing of its sewage sludge according to the following statutory provision, regulations, or permits issued thereunder (including more stringent State or local regulations):Section 405 of The Clean Water Act, the SWDA (including Title II, more commonly referred to as RCRA, and State regulations contained in any State sludge management plan prepared according to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

LOWER EXPLOSIVE LIMIT (LEL): The lowest fuel to air ratio in which an explosion might occur.

MILESTONE DATE(S): Incremental date(s) mandated by the Division and specified within an Administrative Order by which the permit holder must take specific action. Milestone dates could apply to actions, installation of equipment, additional sample collection and analysis, compliance with specific limits, or achieving complete compliance with all applicable regulations. Past and current milestone date compliance will be considered in the Division's assessment of the 'good faith' efforts of the user.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT): A permit issued to the POTW pursuant to Section 402 of the Clean Water Act, or Title 9, Section 9-323 and 9-324 of the Environmental Article of the Annotated Code of Maryland. NPDES permits authorize the operation of Frederick County's wastewater treatment plants and are issued by the Maryland Department of Environment.

NATIONAL PRETREATMENT STANDARD, STANDARD, PRETREATMENT STANDARD: Any regulation containing pollutant discharge limits, promulgated by the EPA in accordance with Section 307 (b) and (c) of the Clean Water Act (33 U.S.C. 1347) that applies to a specific category of industrial user. This term includes prohibitive discharge standards and local limits.

NEW SOURCE:1. Any building, structure, facility or installation from which there is, or may be a discharge of any pollutants, the construction of which commenced after the publication of proposed Pretreatment standards under section 307(c) of the Clean Water Act, which will be applicable to such source if the standards are thereafter promulgated in accordance with that section, provided that:

- (a) the building, structure, facility, or installation is constructed at a site which no other source is located; or
- (b) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

- (c) the production or wastewater generating process 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 engaged in the same general type of activity as the existing source should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of this section but otherwise alters, replaces, or adds to the existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner operator has:
 - (a) begun or caused to begin as part of a continuous on-site construction program: (i) Any placement, assembly, or installation of facilities or equipment; or (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that 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 that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

NON-COMPLIANCE: The violation of Ordinance, Permit, Enforcement Order, or other control mechanism requirements, including, but not limited to discharge limits, reporting violations, and missed milestone dates.

NON-DOMESTIC WASTEWATER: The liquid sanitary and process waste originating from establishments engaged in some form of business, commercial or industrial activity. (See also the definitions for "Domestic Wastewater" and "Industrial User").

NON-PERMITTED INDUSTRIAL USER: An Industrial or Commercial User discharging wastewater to the POTW who is not currently required to conduct periodic monitoring of wastewater discharge.

NON-SIGNIFICANT INDUSTRIAL USER: An Industrial or Commercial User required to monitor its wastewater discharge and file reports with the Division on a periodic basis, but not considered to be a Significant Industrial User as defined in this Ordinance.

NOTICE OF VIOLATION (NOV): A written notice, issued by the Division to a specific User, citing specific violations of Federal, State, or local regulations, this Ordinance, or the User's Industrial Discharge Permit issued under this Ordinance. This notice may also include an invoice for fines and penalties assessed for each of the specific violations cited within the NOV.

PASS THROUGH: A discharge that exits the POTW into the receiving waters of the State, in quantities or concentrations that alone, or in conjunction with a discharge or discharges from other sources, is the cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERIODIC COMPLIANCE REPORT (PCR): A document filed with the Division by a User on a periodic basis as specified by the Division, but not less than four (4) times a year, transmitting specific industrial process-related and/or monitoring data as set forth in the User's Industrial Discharge Permit requirements for that specific industrial or commercial facility.

PERSON: Any individual, partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns of any wastewater contributor.

pH: pH concentration indicates the intensity of acidity and alkalinity on a scale of 0-14. A pH of 7.0 represents neutrality with values above 7.0 being alkaline and below 7.0 being acid.

POLLUTANT: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial and agriculture waste or any other contaminant.

PRETREATMENT REQUIREMENTS: Any substantive or procedural pretreatment requirement, other than a National Categorical Pretreatment Standard, imposed on an Industrial User by the EPA, the State of Maryland, or the local POTW.

PRETREATMENT OR TREATMENT: The reduction, elimination, or the alteration of pollutant properties to a less harmful state prior to, or in lieu of, the discharge or introduction into a POTW. This reduction or alteration can be accomplished by a physical, chemical, or biological process, a process change, or any other means except by diluting the concentration of the pollutants.

PRIVATE DOMESTIC TREATMENT FACILITIES: Wastewater Treatment Facilities that are owned and operated by a private Person or a Corporation as an enterprise, and treat only domestic wastewater.

PUBLICLY OWNED TREATMENT WORKS (POTW): Any collection of devices and systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage and industrial wastes as defined in the "Clean Water Act". These systems may include but are not limited to the sewers, pipes, equipment, the treatment plant, and the sludge handling equipment. This term also shall include the agency or Person authorized to operate such facilities in accordance with the Maryland Department of the Environment. Within this Ordinance, POTW shall specifically refer to the wastewater treatment facilities operated and maintained by the Frederick County Division of Utilities and Solid Waste Management.

RECEIVING WATERS OF THE STATE:

1. Both the surface and underground waters within the boundaries of this State and subject to its jurisdiction, including, but not limited to that part of the Atlantic Ocean, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, ditches, drainage systems within this State, other than those designed and used to collect, convey or dispose of sanitary sewage.
2. The floodplain of waters determined by the Department of Natural Resources on the basis of one hundred-year flood frequency.

SAMPLING VISITS: Visits made by Division representatives and used for POTW compliance monitoring. The Division may choose to use data collected during these events to satisfy a User's self-monitoring requirements. Sampling visits may also be part of limited or specific inspections.

SEPTAGE, (DOMESTIC): The liquid and semi-liquid wastes which originate from the septic tanks that are used to treat wastes of domestic origin.

SEPTAGE AND SLUDGE HAULERS (HAULERS): Any Person or Persons who engage in or contract for the transportation and disposal of septage, sludge and waste products from sources other than the POTW waste collection systems.

SEPTAGE RECEIVING POINT: The point(s) designated by the POTW that is capable of receiving septage, sludge, and other liquid waste from septage and sludge haulers.

SEVERE PROPERTY DAMAGE: Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which cannot reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SIGNIFICANT INDUSTRIAL USER (SIU): An Industrial or Commercial user required to monitor its wastewater discharge and to file reports with the Division on a periodic basis, as defined in this Ordinance, by MDE or EPA, and:

1. is subject to the National Categorical Pretreatment Standards, or;
2. discharges an average of 25,000 GPD or more of process wastewater or, contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the receiving treatment facility, NOTE The Division reserves the right to require special evaluations of sanitary wastewater and/or boiler blowdown concentration to determine if a specific user is defined as a significant Industrial user. or;
3. has toxic pollutants as defined pursuant to Section 307 of the Clean Water Act in their wastewater, or;

4. is found by the Division, the State of Maryland, or the EPA to have an impact either singly or in combination with other industries contributing to the POTW, on the quality of the sludge produced by the POTW, the POTW's effluent quality, or air emissions generated by the wastewater treatment system.

SIGNIFICANT NON-COMPLIANCE (SNC): An Industrial User is in significant non-compliance if its violation(s) meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, i.e., violations in which sixty-six (66%) or more of all of the measurements taken during a six-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, i.e., those violations in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD₅, TSS, FOG and 1.2 for all other pollutants except pH);
3. Any other violation of a pretreatment effluent limit (daily maximum or the average) that the Division determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personal or the general public);
4. Any other pollutant discharge that has caused imminent endangerment to the health and welfare of humans, an endangerment to the environment, or has resulted in the POTW's exercise of its emergency authority within this Ordinance to halt or prevent such a discharge;
5. Failure to meet a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining compliance within 90 days after the schedule date;
6. Failure to provide required reports within 30 days after the due date, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to report non-compliance in an accurate or timely manner;
8. Any other violation or group of violations that the Division determines will adversely affect the operation or implementation of the local pretreatment program.

SLUDGE: semi-liquid wastes which originate from wastewater treatment plants that receive and treat primarily domestic sewage. The sludge is considered to be the waste products from the wastewater treatment plant.

SLUG LOAD: Any discharge of significant quantities of water, sewage, or industrial waste that contains sufficient concentrations of any given constituent in significant quantity of flow that could cause an interference with or pass-through the POTW, endanger any worker's safety, contaminate the sludge, or cause a violation of any Permit issued to Frederick County. A slug load is defined as a discharge that contains concentrations of pollutants equal to or greater than four (4) times permitted limits.

TOTAL SUSPENDED SOLIDS (TSS): The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering. This test shall be made in accordance with 40 CFR part 136.

TOTAL TOXIC ORGANICS (TTO): the sum of quantifiable toxic organic concentration values greater than 0.01 mg/l for each of the toxic organic compounds listed in 40 CFR 433.11(e).

TOXIC POLLUTANT: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under Section 307 (a) of the Federal Water Pollution Control Act or other Federal statutes or in other regulations promulgated by the Maryland Office of Environmental Programs under State law.

UPPER EXPLOSIVE LIMIT (UEL): The highest fuel-to-air ratio in which an explosion might occur.

USER: Any Person or Facility, private or commercial; who contributes to, or who causes or permits the contribution of wastewater, domestic and/or non-domestic (industrial) into any of the Division's POTW.

WASTEWATER: The liquid and water-carried domestic, non-domestic, and industrial wastes from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated.

ARTICLE – III – PROHIBITIVE SUBSTANCES

1.0 GENERAL PROHIBITIVE STANDARDS

No users shall contribute or cause to be contributed, directly or indirectly, to the POTW any: pollutant, substance, or wastewater that will cause interference with the operation of, or pass-through the POTW facilities or the wastewater treatment process.

2.0 SPECIFIC PROHIBITIVE STANDARDS

The following substances are specifically prohibited. Any User found to be discharging any substance listed herein shall be in direct violation of this Ordinance and shall be subject to any and all enforcement actions listed within Article IX of this Ordinance.

- 2.1 Wastewater having a pH of less than 5.0 or greater than 12 is strictly prohibited. The Division will accept wastewater with a pH range of 5.0-12.0 pH units. The Division may, periodically and as necessary, check the pH of all Users' discharge for its ability to cause deposits and obstructions within the collection system.
- 2.2 Petroleum oil, non biodegradable cutting oil, or products of mineral oil origin in the amounts that will cause an interference within the collection system.
- 2.3 Fats, wax, grease, or oil, whether emulsified or not, in excess of the receiving POTW's established local limit. These include discharges which may solidify or become viscous thereby causing an obstruction to the flow to, or within the treatment facility; or would in any way would inhibit, or interfere with the receiving facility's grease handling equipment, or the treatment process itself.
- 2.4 Pollutants that create a fire or explosion hazard within the POTW; including but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21. Also prohibited shall be those pollutants which would cause the LEL to exceed 10% at any point within the POTW.
- 2.5 Wastewater at such temperatures that the biological activity within the receiving POTW will be inhibited to the point that interference with the treatment process results. In no case shall wastewater be discharged in such quantities and temperatures that the temperature at the POTW treatment facility will exceed 104°F (60°C) unless the Division has received a previously approved alternate temperature limit from MDE.
- 2.6 Any slug load, including but not limited to the release of any pollutant in concentrations that would cause an interference with the POTW operational process, including but not limited to slugs of oxygen-demanding pollutants.
- 2.7 Any discharges containing detergents, surface active agents, or other substances which may cause excessive foaming within the POTW.

- 2.8 Any solid or viscous substance capable of causing obstructions to or interferences with the proper operation of the treatment system, including but not limited to the following substances; garbage that has not been properly comminuted or shredded, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar plastics, wood or paunch manure.
- 2.9 Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- 2.10 Noxious or malodorous gases or substances that either singly or by interaction with other waste has the capability of creating a public nuisance, create a hazard to human or animal life, or, for any reason, prevent the entry of POTW personnel into the sewers for maintenance, repairs, and/or sampling.
- 2.11 Solids or liquids of such a character and quantity that special or unusual attention is required for their handling.
- 2.12 Pollutants that may affect the POTW's final effluent such that it would cause a violation of the NPDES permit requirements, including, but not limited to the failure of a toxicity test.
- 2.13 Pollutants in amounts that would cause the POTW's treatment plant to be in non-compliance with sludge use, recycling, or disposal criteria pursuant to the guidelines and regulations developed under section 405 of the Clean Water Act, the SWDA, the Clean Air Act, the Toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the State, and as may be amended from time to time.
- 2.14 Wastewater containing color that is not removed in the treatment process. This shall include color in such amounts that the regulation of the biological, chemical, or physical treatment process could be affected.
- 2.15 Medical or infectious wastes that, in the opinion of the Division, could impact the operation or efficiency of the POTW in any way.
- 2.16 Trucked or hauled pollutants with the exception of those substances which are received and disposed of at septage receiving points as designated by the Division. (See Article VII of this Ordinance – Septic and Sludge Disposal)
- 2.17 Wastewater having effluent characteristics in excess of those limits listed within this document or in excess of the limits listed within Users current Permit.
- 2.18 Users applying for a discharge permit for a process that produces waste of a radiological nature shall adhere to the State of Maryland waste disposal regulations on ionizing radiation.

- 2.19 Portable toilet waste except as authorized and delivered at septage receiving points designated by the Division. (See Article VII- Septic and Sludge Disposal)
- 2.20 Storm water runoff and sump pump discharge.

3.0 LOCAL LIMITS AND ANALYTICAL PARAMETERS

- 3.1 The County shall calculate the maximum allowable limits and regulate such pollutants as are necessary to comply with NPDES discharge permits issued by MDE. Wastewater discharged to the Frederick County POTW shall not contain pollutants in excess of the limits set forth below or as specified within the User's Industrial Discharge Permit.
- 3.2 Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS) shall be monitored with composite sampling techniques in accordance with 40 CFR 403.
- 3.3 Instantaneous grab sampling techniques shall be used to monitor Fats, Oils, and Grease (FOG) and pH in accordance with 40 CFR 403.
- 3.4 All Categorical pollutants as defined by 40 CFR 403 shall be self-monitored by the Industrial User. The County shall conduct such monitoring as is deemed necessary to provide and maintain safe and proper levels of such pollutants from the discharges subject to this Ordinance.
- 3.5 The Division may require any User to install monitoring and sampling equipment at the expense of the User for the purpose of determining compliance with all applicable pretreatment regulations and requirements as they relate to the specific User.

4.0 FATS, OILS, AND GREASE (FOG)

- 4.1 All Food Service Establishments (FSE) will operate under a generic FSE Wastewater Discharge Permit. These establishments may include restaurants, cafeterias, grocery stores, hotel, church or school kitchens, bars, or any other commercial or industrial operation that discharges grease-laden wastewater. All FSEs shall apply to the Division for a FSE Wastewater Discharge Permit within 30 days of receiving an application. Failure to return the completed application shall subject the FSE to enforcement action. New FSEs shall obtain a Discharge Permit prior to discharging.
- 4.2 All wastewater discharges shall be kept in compliance with Frederick County's local limitations. The property owner shall ensure that tenants install and maintain grease traps or other pretreatment devices so that discharges from property are compliant with the County's discharge requirements. Owners shall be responsible for meeting all performance standards contained in this Ordinance, and shall be held responsible for non-complying discharges into the sewer system. Article VIII specifies the maximum limits of pollutants, including FOG, prohibited from entering the sewer system.

4.3 The Division shall not regulate the installation of grease traps, nor require that a particular treatment device or grease trap system size be installed. Installations should follow guidelines found in the Frederick County Plumbing Code. Sanitary sewers are designed and installed with sufficient diameter to carry normal waste discharges from a residence or business. When FOG is discharged to the sewer, it cools and accumulates on the sidewalls of the sewer pipes. Over time, this accumulation of grease restricts the flow and causes blockages in the sewer which may result in overflowing manholes or basement backups.

4.4 Best Management Practices and Prohibitions Relating to Discharge of FOG

- 4.4.1 No user shall discharge FOG in concentrations that will cause an obstruction to the flow in a sewer, or pass through and interfere with the wastewater treatment facility.
- 4.4.2 No User shall discharge grease, improperly shredded garbage, animal guts or tissues, paunch manure, bones, hide, hair, fleshings, or entrails. These materials in combination or alone can cause blockages and other operations and maintenance problems in the wastewater collection and treatment system.
- 4.4.3 No User shall discharge wastewater with temperatures in excess of 140°F (60°C) to any grease trap. This includes water from mechanical dishwaters that have a minimum required temperature of 160°F (72°C). Temperatures in excess of 140°F will dissolve grease, but grease can re-congeal as the water cools and thereby cause blockages farther downstream in the sanitary sewer collection system.
- 4.4.4 No User shall discharge waste from a food waste disposal unit to any grease trap. The food waste will greatly reduce the capacity of the grease trap for retaining grease and can cause problems with blockages.
- 4.4.5 No User shall discharge caustics, acids, solvents, or other emulsifying agents that can dissolve solidified grease. The grease can re-congeal farther downstream in the sanitary sewer collection system and caustics, acids, and solvents can have other harmful effects on the collection system itself, and create hazards to employees working there.
- 4.4.6 No User shall discharge fats, wax, grease, or oils containing substances that will become viscous between 32°F (0°C) and 150°F (65°C). Those temperatures can occur in the wastewater collection and treatment system, causing these substance to congeal, solidify, or become too viscous and can create blockages and other operational and maintenance issues.

4.5 No User shall utilize biological agents for grease remediation without permission from the Division. The biological agents used may disrupt the biological treatment process at the wastewater treatment plant.

- 4.6 All food service establishments are subject to routine inspections and may be inspected at any time or in response to complaints or reports of sewer blockages. The inspector will verify that all required fixtures are properly connected to a grease treatment device and that the grease treatment device is adequately sized and installed according to applicable codes and regulations.
- 4.7 External in-ground grease traps must be cleaned and pumped according to the manufacturers specification or at least when they are at 25% of total capacity. If an internal grease trap is installed, it must be cleaned and pumped at least as often as specified by the manufacturer. Maintenance records or other documents related to the operation of the grease treatment device must be available on-site for review during an inspection.
- 4.8 Based upon observed failures by a FSE to comply with any effluent limitations or performance requirements, the Division will issue a specific written wastewater discharge permit at its own discretion.
- 4.9 Failure to comply with any condition of a FSE Wastewater Discharge Permit, including effluent limitations or performance requirements, will subject the User to penalties and other enforcement. These enforcement actions may include Notices of Violation, Compliance Directives, Civil Citations, or termination of water and/or sewer service.

ARTICLE – IV – PRETREATMENT REQUIREMENTS

All Industrial Users contributing wastewater discharge to any POTW owned, operated and maintained by Frederick County shall abide by any and all of the following applicable Pretreatment Requirements.

GENERAL PRETREATMENT REQUIREMENTS

- 1.0 All Users shall provide the necessary wastewater treatment as required to comply with this Ordinance, the National General Pretreatment Regulations (40 CFR part 403) and all applicable National Categorical Pretreatment Standards (in 40 CFR subchapter N parts 401 through 471), the local limits and all prohibitions within this Ordinance. The more stringent of any regulation shall apply and be enforced.
- 2.0 Any Facility pretreating wastewater shall properly operate and maintain the treatment facility and processes at the User's expense. Any User intending or required to pretreat its effluent shall provide, prior to any implementation and/or construction, detailed plans for Division review and approval. These plans shall show, and describe all pretreatment facilities, processes and operational procedures. Plan Review and approval by the Division shall not relieve the User of the responsibility for complying with all provisions of this Ordinance, Federal and State regulations or Standards, and any condition within a discharge permit issued to the User. Any subsequent changes in the pretreatment facilities or process methods shall be reviewed and approved by the Division prior to the User's initiation of the proposed changes.
- 3.0 Users who contribute a wastewater flow which is conveyed by the Division's collection system, but is treated by a non-County operated WWTP shall be required to meet the more stringent limitations and prohibitions of either POTW.

SPECIFIC PRETREATMENT REQUIREMENTS

4.0 DILUTION PROHIBITION

Users or Facilities shall not increase the use of process water or in any other way attempt to dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with any Federal, State or local discharge standard or limit. Frederick County may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or where the imposition of mass limitations is appropriate.

5.0 BYPASS

5.1 Prohibition

Bypasses are prohibited and the POTW may take enforcement action against a user for a bypass, unless:

- 5.1.1 The bypass was unavoidable to prevent the loss of life, personal injury, or severe property damage;
- 5.1.2 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 back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- 5.1.3 The User submitted notification as required under subsection 5.2 of this section.
- 5.1.4 Bypasses for essential maintenance, not violating any Pretreatment standards or requirements, are allowed only if it is to assure the proper and efficient operation of the User's treatment facility.

5.2 Notice of Bypass

- 5.2.1 Users knowing in advance of the need for a bypass shall submit notice to the Division no less than ten (10) days prior to the anticipated and planned bypass.
- 5.2.2 In the event any User experiences an unanticipated or emergency bypass, immediate, oral notification to the Division shall be made. All oral notifications shall be made within twenty four (24) hours of the start of a bypass. All oral notifications shall be followed by a complete written notice and report no later than five (5) business days after the start of the bypass. The written notification shall include the following: a complete description of the bypass; including the cause and duration of the bypass, the exact date and times of the bypass; and if the bypass has not been corrected, the anticipated time of correction shall also be included. All measures taken or planned to reduce, eliminate, and prevent a recurrence of the bypass also need to be listed and explained. The POTW may chose to waive this written report on a case-by-case basis. The failure of any User to notify the Division of any bypass occurrence shall be grounds for enforcement action.

6.0 SPILL CONTROL AND MANAGEMENT

Accidental Discharge Plans shall include but not be limited to the following: Slug Control Plans, Toxic Organic Management Plans, or Spill Management and Notification Plans.

- 6.1 All Users, permitted or otherwise, shall provide protection from the accidental or slug discharge of all prohibited substances and materials by the development and implementation of an accidental spill management/prevention and slug control plans. Such plans and procedures shall include, but are not limited to, the inspection and maintenance of all storage areas, the proper handling and transfer of materials, including

loading and unloading operations, the control of plant site run-off, worker training, the building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. Any equipment and facilities necessary to implement the procedures shall be provided, implemented, and maintained at the Owner's or User's expense.

6.2 When deemed necessary by the Division, the Division may require any User, including but not limited to those Users that use, store, or create hazardous substances, to develop and implement plans which address the management of accidental spill/slug or discharges. At a minimum of once every two (2) years, the Division shall evaluate whether the current plan is sufficient and/or is still needed. Any User required to develop and implement an accidental spill plan shall submit a plan to the Division. The submitted plan shall address at the minimum the following:

- 6.2.1 A description of all disposal and discharge practices, including but not limited to both routine and non-routine and disposal and discharges.
- 6.2.2 A description (including the submission of MSDS if requested) of all manufactured, stored, and used chemicals.
- 6.2.3 The Facility's procedures for immediately notifying the POTW in the event of any accidental spill or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges as listed in Article III of this ordinance.

7.0 DISCHARGE AND FACILITY MODIFICATIONS

- 7.1 All Users shall notify the Division of any and all planned significant changes or modifications to the User's process operations including, but not limited to, remodeling and additions to facilities that might alter the nature, quality, or volume of its wastewater. This notification must be in writing and provided at least 30 days prior to the start of any scheduled change. Significant modifications to discharge shall include, but are not be limited to a 10% or greater increase of the flow or any pollutant concentration discharged to the POTW, or the discharge of any pollutant which was previously unreported.
- 7.2 Normally, the submission of a properly completed Industrial Waste Survey and Application serves as adequate notification of a planned modification. The Division may require the User to submit any and all information that it deems necessary to evaluate the changed condition, including the submission of a baseline monitoring report.
- 7.3 In the event of a facility or discharge modification, the Division reserves the right to modify the existing permit or issue a new permit if it deems necessary. A permit may also be issued to a User previously exempt from permit issuance in the event of facility or discharge modification.

7.4 No User shall implement planned changes until and unless the Division has approved the User's planned changes in writing.

8.0 SIGNATORY REQUIREMENTS FOR ALL INDUSTRIAL USERS

Every application, request for information response, or report of any kind submitted to the Division shall be dated and signed by the Person or that Person's duly authorized representative and include the following certification statement:

"I certify under penalty of the 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 fines and imprisonment for knowing violations."

9.0 RIGHT OF INSPECTION AND ENTRY

9.1 The County shall have the right to enter any facility of any User to ascertain whether the purpose of this Ordinance, and any permit or order issued hereunder, is being met, and whether the User is complying with the requirements thereof. All Users shall allow representatives of the Division, MDE or EPA, upon presentation of identification, complete and ready access to all parts of any facility for the purpose of inspection, sampling, records examination and/or copying, and the performance of any additional duties as necessary.

9.2 Where a User has security or safety measures in force that would require identification, clearance, training or the wearing of special protective gear, the User shall make all necessary arrangements, at its own expense, to enable the authorized representatives of the Division, MDE, and/or the EPA to enter and inspect the premises as required by this subsection.

9.3 Any obstruction, either temporary or permanent, which would prevent safe and easy access to any portion of the User's Facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Division, and shall not be replaced. All costs of clearing such obstructions shall be borne by the User.

9.4 All Users shall provide and maintain at all times, in a safe and proper condition, at their own expense, facilities to allow any authorized representative of the POTW, EPA, or the MDE to inspect, sample, monitor, and, or measure flows from the discharges subject to this Ordinance. Ample room in or near such facilities shall also be provided and maintained to allow for accurate sampling and preparation of samples. If locating such facilities on a User's property would be impractical, the User may apply to the POTW for a right-of-way or for permission to construct on public property the appropriate facility.

- 9.5 The Division may require any User to install monitoring and sampling equipment at the expense of the User for the purpose of determining compliance with all applicable pretreatment regulations and requirements as they relate to the specific User.
- 9.6 Any unreasonable delays in allowing Division personnel access to the User's premises shall be considered a violation of this Ordinance and all necessary enforcement shall be taken.

10.0 CONFIDENTIAL INFORMATION

- 10.1 All information and data obtained from reports, wastewater surveys, discharge applications, discharge permits and monitoring programs, County inspection and sampling activities, which are submitted to the MDE, EPA or POTW, shall be available to the public unless the User (submitter) specifically requests and is able to demonstrate to the satisfaction of the Division that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under all applicable State law. Any such claim of confidentiality shall be asserted at the time of submission.
- 10.2 However, any portion of any report shall be immediately available for use by the County in any judicial review or enforcement proceedings involving the Person or User furnishing the report or information. When requested and demonstrated by the User furnishing the report that such information should be held confidential, the portions of that report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. However this information shall be immediately available upon request to all Federal, State and local agencies for uses related to the NPDES program or the Pretreatment Program, and in enforcement proceedings involving the Persons or Facility furnishing the report.
- 10.3 Wastewater constituents, characteristics, and effluent data as defined by 40 CFR 2.302 shall not be recognized as confidential and shall be made available to the public upon request without restriction.
- 10.4 All data generated by the Division from sampling analysis is not confidential and shall be available as records kept by a governmental entity pursuant to the Maryland law governing access to public records.

11.0 SAMPLING AND ANALYTICAL REQUIREMENTS

11.1 General

All data resulting from the sampling and analysis, including sampling techniques, which are to be submitted in support of applications, reports, or evidence required by any permit or order shall be performed in accordance with 40 CFR part 136 unless otherwise specified in the applicable National Pretreatment Standard. Where 40 CFR part 136 does

not contain sampling or analytical techniques for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods approved by the EPA or its designated authority.

11.2 Sample Collection

- 11.2.1 Except as indicated below, all Users shall collect wastewater samples for monitoring purposes using flow proportional composite collection techniques. If flow-proportional sampling is not feasible, the Division may authorize the use of time-proportional sampling or sampling through a minimum of four (4) grab samples over 24 hours, where the User demonstrates that this will provide a representative sample of the effluent being discharged to the POTW. In addition, grab samples may be required for constituents that cannot be collected using composite techniques.
- 11.2.2 Samples for Fats, Oil and Grease (FOG), temperature, pH, Cyanide (CN), Phenols, Sulfides, and Volatile Organic Chemicals (VOC), must be obtained using the grab collection techniques as per 40 CFR 136.
- 11.2.3 All wastewater samples shall be representative of the User's discharge. Wastewater monitoring and flow measurement instrumentation and equipment shall be properly operated, kept clean, and maintained in good working condition at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that the sample results are unrepresentative of its discharge.

- 11.3 A User subject to the sampling and reporting requirements of this Ordinance shall maintain all records containing information resulting from any monitoring activities in accordance with the record keeping section of this Ordinance. Such records shall include the following data for all samples:
 - 11.3.1 The date(s), time(s), and exact place of sampling; the method of sampling and preservation; and the name(s) of the persons taking the samples.
 - 11.3.2 The date(s) of analysis; who and by what methods the analysis were conducted; and the results of all such analysis.
- 11.4 If the required sampling performed by the a User indicates a violation of any section within this Ordinance, or any term of a discharge permit issued to the User, the User shall verbally notify the Division within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis of the discharge and submit the results of this repeat analysis to the Division within 30 days after becoming aware of the violation.

Verbal notification shall minimally include the following:

- 11.4.1 the location of the discharge, and

11.4.2 the type of waste, including the concentration and volume, and

11.4.3 any corrective actions taken by the User.

The User is not required to resample if:

11.4.4 the Division performs sampling for the User at least once per month, or

11.4.5 the Division performs sampling for the User between the time when the User performed the initial sampling and the time when the User receives the results of the sampling.

11.5 The notification of discharge violations as listed above shall not relieve the User of any expense, loss, damage or other liability resulting from discharge, nor shall such notification relieve the User of any fines, civil penalties or other liability that may be imposed under this Article or other applicable Federal, State or local law.

12.0 SPECIFIC NOTIFICATION REQUIREMENTS

12.1 Treatment System Failure or Interruption Notification

In the event of any malfunction, interruption, or the failure of a treatment facility or process, such that process wastewater is not fully treated, and until the treatment facility or process is restored or an alternative method of treatment is provided, the User shall control production and/or all discharges to the extent necessary to maintain compliance with all categorical Pretreatment Standards and all effluent limits within this Ordinance, or the User's permit. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced or fails. Should any engineering process and/or production control fail to maintain and control the User's discharge and violations occur, the following notification procedures shall be followed.

12.1.1 All notifications shall be done immediately and always within 24 hours of discovering the violation. A written notification shall then follow within five (5) days. Such notifications will not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall notification relieve the User of any fines, civil penalties or other liability that may be imposed under this or any other local, State, or Federal law.

12.2 Slug Loading and Potential Problem Notification

12.2.1 In the event of an accidental discharge, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which has the potential to cause problems for the POTW (including a violation of the prohibited discharge standards as listed within this Ordinance), it is the responsibility of the User to immediately provide oral notification to the Division. This notification

shall include the location of the discharge, the type of waste, the concentration and volume, if known, and the corrective action taken by the User.

- 12.2.2 Within five (5) business days following a discharge, the User shall submit to the Division a detailed written report describing the cause(s) of the discharge and all measures taken and planned by the User to prevent similar future occurrences. All such notifications shall not relieve the User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, natural resources, or any other damage to person(s) or property; nor shall such notification relieve the User of any fines, civil penalties, or any other liability which may be imposed by this Ordinance.
- 12.2.3 Failure to promptly notify the Division of all potential problems shall be deemed a separate and deliberate violation of this Ordinance, and all appropriate enforcement action shall be taken.
- 12.2.4 Users shall post in a prominent and appropriate location the proper procedures for the notification of the Division should a discharge violation occur. Employers shall ensure that all employees, who may discover such a discharge are advised of the proper notification procedures.

12.3 UPSET PROVISIONS AND MODIFICATIONS

- 12.3.1 An upset is an exceptional incident in which there is an unintentional and temporary non-compliance with any Pretreatment Standard because of factors beyond the reasonable control of the Industrial User. An upset does not include non-compliance to the extent caused by operational error, improperly designed or inadequate treatment facilities or equipment, the lack of preventive maintenance, or careless or improper operation.
- 12.3.2 An upset shall constitute an affirmative defense to an action for non-compliance with categorical pretreatment standards only if all requirements of that defense, as listed below, are met.
- 12.3.3 An Industrial User wishing to establish the defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the User can identify the cause(s) of the upset,
 - (b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with all applicable operational and maintenance procedures, and
 - (c) The User has submitted the following information to the POTW and the treatment plant operator within 24 hours of becoming aware of the upset

(NOTE: if this information is provided orally, a written submission must be provided within five (5) days)

- (i) A description of the indirect discharge and the cause of noncompliance
- (ii) The period of noncompliance, including the exact dates and times or, if not corrected, the anticipated time that the non-compliance is expected to continue.
- (iii) All steps being taken and/or planned to reduce, eliminate and prevent the recurrence of the noncompliance.

- 12.3.4 In any enforcement proceeding the Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.
- 12.3.5 Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with Categorical Pretreatment Standards.
- 12.3.6 The User shall control production or all discharges to the extent necessary to maintain compliance with all Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

12.4 HAZARDOUS SUBSTANCE NOTIFICATION

- 12.4.1 All Users shall notify the POTW, the EPA Regional Waste Management Division Director and the State hazardous waste authorities in writing of any discharge into the POTW of a substance that, 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 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the User discharges more than 100 kg 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 User: an identification of the hazardous constituents in the waste stream, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after the effective date of this Ordinance. Users who commence discharging after the effective date of this Ordinance shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under

this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted in accordance with this Ordinance.

- 12.4.2 Discharges are exempt from the requirements of paragraph (12.4.1) above during a calendar month in which the discharge includes no more than fifteen kilograms (15 kg) of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than fifteen (15) kilograms (15 kg) of non-acute hazardous wastes in a calendar month, and discharges of any quantity of acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33, require 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.
- 12.4.3 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 waste generated to the degree it has determined to be economically practical.

13.0 AUTHORITY TO REQUIRE THE SUBMISSION OF REPORTS AND DATA

13.1 RECORDS AND RECORD KEEPING

- 13.1.1 All Users shall retain, preserve, and make available, immediately upon request of an authorized representative of the Division, the MDE or the EPA any and all records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to the monitoring activities, sample collection, and chemical analysis made by or on behalf of the User in connection with its discharge, and required by this Ordinance or a Discharge Permit issued to the User.
- 13.1.2 All records as listed above shall be retained for a period of not less than three (3) years.
- 13.1.3 The three (3) year retention period shall automatically be extended during any period of investigation or litigation and shall continue in effect until all appeals have been exhausted. All records that pertain to matters that are subject of administrative action or any other enforcement of litigation activities brought by the Division shall be retained and preserved by the Person until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired, or appeal rights have been exhausted.
- 13.1.4 If any User subject to the reporting requirements in this subsection monitors any pollutant at a rate more frequently than required by the POTW, using the procedures as prescribed in this Ordinance, the results of this sampling and monitoring shall also be retained and preserved for three (3) year period.

13.2 PERIODIC COMPLIANCE REPORTS

- 13.2.1 All Significant Industrial Users shall submit to the Division a report indicating the nature and concentration of pollutants in the wastewater discharge which are limited by any applicable pretreatment standard at a frequency determined by the Division. Unless otherwise determined, such reports shall be submitted to the Division at least quarterly. The measured or estimated average and maximum flows for the reporting period shall also be reported as well as any other information required by the Division to determine User compliance. All periodic Compliance reports shall be signed and certified in accordance with the regulations Article IV Section 8.0 'Signatory Requirements for all Industrial Users'.
- 13.2.2 Categorical Industrial Users using equivalent or concentration limits in lieu of production based limits shall report long term production rates.
- 13.2.3 Any Non-Significant Industrial User shall provide the Division with any and all reports and data, as deemed necessary by the Division upon request.
- 13.2.4 All sampling, monitoring, and reporting for required periodic compliance reports shall be done as specified in the sampling and analytical reporting sections of this Ordinance.
- 13.2.5 If an Industrial User monitors any pollutant more frequently than is required by the Division, using the procedures in accordance with 40 CFR Part 136, the results of this monitoring shall be included in the periodic compliance reports (PCR).
- 13.2.6 All monitoring data collected by all Users shall be submitted to the Division. Analysis, sampling, and monitoring methods shall be listed. Should analysis, sampling and monitoring not be done in accordance with 40 CFR part 136, specific reasons and explanations shall be given and references noted.

13.3 BASELINE MONITORING REPORTS

- 13.3.1 Within either 180 days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision of a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing significant Industrial Users subject to such National Pretreatment Standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit the baseline monitoring report as defined below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall also be required to submit to the Division. A new source shall also be required to report the method of pretreatment it intends to use to meet the

applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity or pollutants discharged.

13.3.2 Much of the required information may be submitted on or with the Industrial Waste Survey form when submitting a Permit Application to the Division. The following information and data shall be submitted to the Division to satisfy the Baseline monitoring report requirement:

- (a) Identifying Information – This is to include the business name and the address of the facility (location, not just PO Box) and the name and of the operator and owners.
- (b) Wastewater Discharge Permit – A list of any environmental control wastewater discharge permits held by or for the Facility.
- (c) Description of Operations – A brief description of the nature, average rate of production, and standard classifications of the operations(s) carried out by the user. This description should include a schematic process diagram which indicates the points of discharge to the POTW from the regulated processes.
- (d) Flow Measurement – Information showing the measured average daily and maximum daily flow in GPD to the POTW from all regulated process waste streams and all other waste streams; as necessary, to allow use of the combined waste stream formula as set out in 40 CFR 403.6(e).
- (f) Measurement of Pollutants in the Waste stream –
 - (i) Identify any National Pretreatment Standards applicable to each regulated process.
 - (ii) Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations shall be included also. All samples shall be representative of the daily operations. All analysis and sampling shall be conducted in accordance with all procedures as set forth within this Ordinance.
- (g) Certification - A statement reviewed by the Industrial User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

- (h) Compliance Schedule – If additional Pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest scheduled by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than compliance date established for the applicable pretreatment standard. The compliance schedule pursuant to this section shall meet the requirements as set out within this Ordinance, or any other agreement entered into with the Division.
- (i) Signature – All baseline monitoring reports shall be signed and certified to in accordance with the certification and signatory requirements within this Ordinance.

13.4 NINETY (90) DAY COMPLIANCE REPORTS

Within ninety days (90) following the date for final compliance with all applicable National Pretreatment Standards, or in the case of a “new source”, following the commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and requirements shall submit to the Division a report containing the information described in subsection 13.3.2 above.

- 13.4.1 For the User subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the User’s long term production rate.
- 13.4.2 For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the Users actual production during appropriate sampling period.
- 13.4.2 All compliance reports must be signed and certified in accordance with this Ordinance.

13.5 COMPLIANCE SCHEDULE REPORTS

- 13.5.1 Users Subject to Compliance Schedules shall file a progress report with the Division no later than ten (10) days following each milestone date.
- 13.5.2 Progress reports shall contain, at a minimum the following information; statement of progress, including whether the current milestone has been met, the reason for any delay if appropriate, and the steps taken to return to the schedule.
- 13.5.3 In no case shall more than six (6) months elapse between such progress reports.

ARTICLE – V –APPLICATIONS FOR DISCHARGE PERMITS

1.0 INDUSTRIAL WASTE SURVEYS

- 1.1 Upon request by the Division, Users shall submit information on the nature of their operational processes and characteristics of their wastewater discharge. This information shall be submitted on a form supplied by the Division within thirty (30) days of the request. The Division may also request users to periodically update the survey information by submitting an updated Industrial Waste Survey. The Industrial Waste Survey initiates application for an Industrial Waste Discharge Permit and therefore must be completed and submitted for review to the Division for all industrial or commercial sewer connections to the POTW. Failure to complete this request is considered a violation of this Ordinance and the appropriate enforcement action shall be taken for all violations.
- 1.2 Any User currently not required to apply for and obtain a permit for its existing process and discharge must file an updated Industrial Waste Survey prior to any change to its discharge in such a manner that the resulting discharge would require a permit. This includes “new sources” (including facility process changes) as defined in Article II of this Ordinance.

2.0 REQUIRED APPLICATIONS (WHO MUST APPLY)

- 2.1 The following Users shall file, with the Division, an Industrial Waste Survey and subsequently will be issued an Industrial Waste Permit by the Division as deemed necessary by the regulations within this Ordinance:
 - 2.1.1 Any users subject to the National Pretreatment Standards.
 - 2.1.2 Any Significant Industrial User as defined in Article II of this Ordinance.
 - 2.1.3 Any User whose discharge would be in violation of Article III or Article X if the user had no permit.
 - 2.1.4 Any user required by State regulations to obtain a Permit
 - 2.1.5 Any other User so directed by the Division. This includes but is not limited to those Users who contract for the hauling transportation and disposal of septage and sludge that utilize the septage receiving facilities of Frederick County. (see Article VII of this Ordinance)
- 2.2 It shall be unlawful for Users identified in 2.1 above to discharge wastewater to any collection system of POTW of Frederick County without first filing an application to do so with the Division. All existing Users required by the subsection above to obtain a permit shall have 90 days from the effective date of this Ordinance to file an Industrial Waste Survey/Permit Application.

2.3 All “New Sources” as defined in Article II and required by 2.1 of this Article must apply for, and receive, an Industrial User Discharge Permit prior to discharging any pollutants into the POTW.

3.0 PERMIT APPLICATION

3.1 All Users required to apply for an Industrial Discharge Permit shall complete and file with the County an application in the form prescribed by the Division. In support of this application, the User shall submit in units and terms appropriate for evaluation, all information deemed necessary by the Division to fully evaluate the facility requesting the permit.

3.2 All applications must contain true and accurate information and the certification statement contained within this Ordinance and must be signed by an authorized representative as defined in Article II of this Ordinance and required by Article IV 8.0 of this Ordinance. Applications not signed and certified shall be considered incomplete.

3.3 The Division shall evaluate all data and information submitted in support of any Industrial Wastewater Discharge Permit Application and may require additional information and data. Incomplete or inaccurate surveys, and/or applications shall not be processed and shall be returned to the User for revision and/or correction.

4.0 FOOD SERVICE ESTABLISHMENT (FSE) WASTEWATER DISCHARGE PERMIT

4.1 All commercial Food Service Establishments (FSE) will operate under a general (non-specific) FSE Wastewater Discharge Permit unless located within a facility for which a specific discharge permit has been issued. These establishments may include restaurants, cafeterias, grocery stores, hotel, church or school kitchens, bars, or any other commercial or industrial operation that discharges grease-laden wastewater. All FSEs shall apply to the Division for a FSE Wastewater Discharge Permit within 30 days of receiving an application. Failure to return the completed application shall subject the FSE to enforcement action. New FSEs shall obtain a Discharge Permit prior to discharging.

4.2 Other routine requirements of the General Discharge Permit include:

- Annual inspection of sewer discharge lines
- Quarterly cleaning with waste disposal and inspection of grease traps, unless a different schedule has been approved by the DUSWM.

4.3 FSE's may opt for and are encouraged to arrange for site-specific testing of their wastewater discharge at their own expense.

4.4 All wastewater discharges shall be kept in compliance with Frederick County's local limitations. The property owner shall ensure that tenants install and maintain grease traps or other pretreatment devices so that discharges from property are compliant with the

County's discharge requirements. Owners shall be responsible for meeting all performance standards contained in this Ordinance, and shall be held responsible for non-complying discharges into the sewer system. Article VIII specifies the maximum limits of pollutants, including FOG, prohibited from entering the sewer system.

- 4.5 The Division shall not regulate the installation of grease traps, nor require that a particular treatment device or grease trap system size be installed. Installations should follow guidelines found in the Frederick County Plumbing Code. Sanitary sewers are designed and installed with sufficient diameter to carry normal waste discharges from a residence or business. When FOG is discharged to the sewer, it cools and accumulates on the sidewalls of the sewer pipes. Over time, this accumulation of grease restricts the flow and causes blockages in the sewer which may result in overflowing manholes or basement backups.
- 4.6 FSE Wastewater Discharge Permit Requirements:
 - 4.6.1 Best Management Practices (BMPs) for controlling FOG discharges.
 - 4.6.2 Grease abatement system operations and maintenance standards, when applicable
 - 4.6.3 On-site record keeping requirements.
 - 4.6.4 Statement of non-transferability.
 - 4.6.5 Other conditions as deemed appropriate by the Division to ensure compliance with all applicable regulations.
- 4.7 Based upon observed failures by a FSE to comply with any effluent limitations or performance requirements, the Division will issue a specific written wastewater discharge permit at its own discretion.
- 4.8 Failure to comply with any condition of a FSE Wastewater Discharge Permit, including effluent limitations or performance requirements, will subject the User to penalties and other enforcement. These enforcement actions may include Notices of Violation, Compliance Directives, Civil Citations, or termination of water and/or sewer service.

ARTICLE – VI – INDUSTRIAL WASTEWATER DISCHARGE PERMITS

1.0 GENERAL

1.1 It shall be unlawful for any User subject to National Pretreatment Standards, or any other User as directed by the Division to discharge wastewater into the POTW except in accordance with the terms and conditions of an Industrial Discharge Permit issued to that specific facility. All commercial Users must have a currently valid Permit to Discharge Wastewater unless located within a facility for which a general or specific discharge permit has been issued.

2.0 INDUSTRIAL WASTEWATER DISCHARGE PERMITS

Any current or potential commercial User may apply for Permission to Discharge Wastewater and be issued a written permit specific to their business facility. Such a Permit will have the contents specified below. An annual permit fee will be assessed to reimburse the Division for the costs of administering the permit.

3.0 PERMIT CONTENTS

3.1 All permits shall minimally contain, but are not limited to the following:

3.1.1 *An effective date and a date of expiration.* – Permits shall be issued for a specified period of time, not to exceed five (5) years. Periodically the Division shall require all Users, regulated and unregulated, to submit updated information regarding operational processes and the characteristics of their wastewater discharge. The Division will request this information through the use of Industrial Waste Surveys (IWS). The IWS shall be used to assess the need for continued or modified permitting. All Users, within thirty (30) days of receipt of the IWS, must submit the completed survey to the Division. The Division will then review the current permit status and make appropriate permit decisions based on this most recent data. Users failing to complete or ignoring the request for survey information and/or data shall be subject to enforcement action including but not limited to fines and/or the revocation of service.

3.1.2 *Statement of Non-transferability* – A discharge permit which has been issued to a specific User for a treatment facility is not transferable. All permits shall be issued to a specific User for a specific operation and are not assignable to another User or transferable to any other location without prior written approval of the Division. In the event of any change in ownership or control of the Facility, the permittee shall give at least (30) thirty days advance written notice to the Division, including written certification by the proposed new owner stating there is no present intent to change the Facilities operations or processes. The new Owner shall acknowledge full responsibility for compliance with the existing permit and identify the specific date on which the transfer is to occur.

- 3.1.3 Limits on the nature, quality and volume of the Users wastewater discharge at specific points as specified within the User's permit. These limits shall be based on any applicable pretreatment standards, including any local or categorical parameters.
- 3.1.4 Self-monitoring, sampling, reporting, notification and record-keeping requirements, including an identification of the pollutants to be monitored, specific sampling locations, sampling frequency, and sample type, based on the applicable general pretreatment standards, categorical pretreatment standards, local limits and/or State and local law.
- 3.1.5 Statements of applicable civil and criminal penalties for violations to pretreatment standards and requirements, and any applicable compliance schedule. Such schedules shall not extend the compliance date beyond applicable federal deadlines.

3.2 In addition to the conditions set forth in subsections 2.1.1 – 2.1.5 above, the Division may include such conditions as deemed appropriate to insure compliance with this Ordinance and all State and Federal Regulations.

4.0 PERMIT MODIFICATIONS

4.1 When necessary, the permits of any and all Users affected by new or revised Pretreatment Standards shall be revised to require compliance within 60 days (or such shorter time as specified within the standard of requirements) after the effective date of the revision.

4.2 A User's permit may be modified by the Division if:

- 4.2.1 the User's discharge exceed, for longer than thirty (30) days, 10%, the average daily limit of any permitted constituent, or
- 4.2.2 the discharge of any previously unreported constituent is detected by the Division during monitoring.

4.3 Any permitted User may apply for a permit modification whenever a user has cause to believe that some of the permit requirements no longer apply to their facility.

5.0 PERMIT APPEALS

Any Industrial User desiring to appeal any term, condition or requirement within their permit may file an appeal petition with the Director of the Division of Utilities and Solid Waste Management within thirty (30) days of the date of issuance of the permit. This petition must be in writing, and must indicate the permit provisions objected to, the reasons for the objection, and the alternate condition, if any, the User seeks to have placed in the permit. The effectiveness of the permit shall not be stayed pending the

appeal. If, after considering the petition of appeal and any arguments put forth by the Division, the Director of the Division of Utilities and Solid Waste Management determines that the reconsideration is proper, it shall remand the permit Division for reissuance. Those provisions being reconsidered by the Division shall be stayed pending re-issue.

6.0 PROCEDURES FOR DETERMINATION OF USER COMPLIANCE

6.1 INSPECTIONS; The Division reserves the right to enter any facility of any User at any time for the purpose of collecting wastewater discharge samples, inspecting and/or photo-documentation of equipment and appurtenances relating to the User's production, treatment of wastewater discharge, and sampling and/or analysis techniques. All Users shall allow complete and ready access to all parts of that user's facility to representatives of the Division, MDE, or EPA for the purpose of inspection as specified within this Ordinance. Any unreasonable delay in allowing access to inspection personnel to any portion of the user's premises shall be considered a violation of this Ordinance and addressed by enforcement action.

6.2 A complete and comprehensive inspection of all Significant Industrial Users (SIUs) shall be conducted at least once per calendar year. Complete and comprehensive inspections of other permitted Industrial Users shall be conducted as necessary, based upon the User's discharge characteristics, including but not limited to the User's wastewater strength, volume, and/or contents. These inspections may include collecting samples of the User's wastewater. Additional inspections, either complete or limited, shall be conducted for any Industrial User meeting one or more of the following criteria:

- 6.2.1 Any SIU in Significant Non-Compliance (SNC) for any reporting period in the previous calendar year;
- 6.2.2 Any Industrial User in non-compliance for the same violation in two (2) or more reporting periods in the previous twelve (12) months;
- 6.2.3 Any User applying for an Industrial Discharge Permit who will use, store, or manufacture hazardous material or any prohibited substances as listed in this Ordinance;
- 6.2.4 Any User who the Division reasonably suspects to have tampered with or falsified sample analysis results, reporting data, or sampling activities;
- 6.2.5 Any User in the process of making production or treatment facility modifications;
- 6.2.6 Any User reasonably suspected by the Division to be discharging non-permitted or prohibited wastes;

- 6.2.7 Any User with a variable operation or discharge of concern to the Division, including but not limited to job shops, and seasonal activities;
- 6.2.8 Users who have the potential to discharge chemical spills or slug loads to the POTW and who have not submitted a satisfactory spill management and slug control plan to the Division;
- 6.2.9 Users employing equipment or methods of treatment known to be, or suspected of being, ineffective or unreliable.

6.3 Additional inspections may be limited to specific areas of non-compliance, or may be complete and comprehensive. Accelerated inspection frequencies may be part of any enforcement action taken by the Division and can be included in Administrative orders or other formal enforcement action.

6.4 The Division will not conduct routine annual inspections of Non-Permitted Industrial Users. Inspections for these Users may be conducted as time, personnel, and circumstances allow or warrant. Non-permitted Industrial Users will be subject to regular inspections at the discretion of the Division, when deemed necessary and appropriate.

6.5 The frequency of Industrial User inspections will be governed by a combination of contributing factors, including but not limited to the criteria listed in this Section 6.0 and the User's 'good faith' effort to return to compliance when non-compliance has been called to that User's attention. The frequency of inspections may be increased or decreased as warranted. The Division reserves the right to inspect any Industrial or Commercial User at any frequency it deems necessary to achieve and maintain compliance with all applicable regulations.

6.6 The Division will attempt to notify Users at least ten (10) days prior to scheduling an annual or routine inspection. Notification of routine inspections shall normally be done orally by telephone and may be followed by written confirmation. Should the Division be unable to give initial oral notification to a user regarding an annual or routine inspection, written notification will be made by registered mail, return receipt requested. Inspection notifications that are written and sent by registered return receipt mail shall require both an oral and written response from the User within ten (10) days of notification.

6.7 Should the Division determine that it is appropriate or necessary for accurate assessment of a User's compliance, an unannounced inspection may be conducted. These 'non-routine' unannounced inspections may be 'complete and comprehensive' or 'limited and specific' in nature.

7.0 INSPECTION REPORTING AND DOCUMENTATION

7.1 An inspection report will be prepared by the Division's Industrial Pretreatment staff and placed in the User's file within 30 days of the inspection. The report shall incorporate notes, drawings, photographs, and other documentation taken during the inspection. The report will include, but not be limited to, the following:

- 7.1.1 Complete and proper identification of the users, including the legal name of the facility, the contact person, title, telephone number, and facility location;
- 7.1.2 A list of all persons present during the inspection;
- 7.1.3 The reason for the inspection (annual or special/additional);
- 7.1.4 The number of employees, shift information, and hours of operation for the facility;
- 7.1.5 A brief description of the type of operation(s) conducted at the facility;
- 7.1.6 Pretreatment requirements to which the facility is subject (Categorical, Local, or other);
- 7.1.7 A description of all processes generating wastewater discharge to the POTW, daily discharge amounts from each process, and a description of how the flow was measured or estimated;
- 7.1.8 Total wastewater discharge volume from the facility, and the method used for determining the discharge;
- 7.1.9 A description of waste treatment and other relevant wastewater control and treatment equipment and/or activities, including but not limited to conservation techniques, evaporators, etc;
- 7.1.10 An assessment of slug loading and/or accidental spill potential and control measures in place. This assessment shall include but not be limited to any off-site waste disposal or hazardous waste management activities, where applicable;
- 7.1.11 A description of both the Division's and the Permitted User's wastewater monitoring activities, including but not limited to, the appropriateness of the monitoring location, adequacy of monitoring facilities, and the impact of any dilution water on compliance at the monitoring location;
- 7.1.12 A discussion of the compliance status of the User, including wastewater discharge compliance, recording, and reporting and monitoring compliance;
- 7.1.13 If applicable, a description of production levels and other business activities relevant to the quantity and quality of wastewater discharge;

- 7.1.14 If applicable, a description of any significant changes made to the facility and/or the wastewater treatment process that affect the characteristics of the wastewater discharge since the last inspection;
- 7.1.15 Description of the User's permit status and any current or pending enforcement action;
- 7.1.16 An evaluation of the adequacy of the discharge permit and the need for modification of discharges or issues not addressed in the existing permit;
- 7.1.17 List of all pretreatment requirement violations observed during the inspection;
- 7.1.18 Recommendations for necessary further action.

7.2 Non-compliance or violations found during the course of the inspection will be documented and a Notice of Violation (NOV) prepared and issued to the user within thirty (30) working days of the completion of the inspection. Issuing an NOV shall not preclude the Division from taking additional enforcement action. The NOV shall cite the specific violation(s) found during the inspection activity. Users found to be in non-compliance may also be subject to accelerated inspection, sampling, and/or monitoring frequencies.

7.3 In addition to issuing an NOV, the Division may take immediate emergency action as it deems necessary, including but not limited to suspension of water and sewer service to stop an existing or continuing violation. Inspection personnel shall consult with the County Attorney as to the appropriate enforcement action in situations where observations of non-compliance require that immediate action be taken. These situations include but are not limited to, incidents where there is an imminent threat to public health, safety, and welfare, or when extensive or severe infrastructure damage may occur. Documentation of the incident shall be done immediately, including but not limited to pictures, drawings, sample collection, and documentation of any other relevant evidence.

8.0 COMPLIANCE MONITORING

8.1 CATEGORICAL USERS AND NON-CATEGORICAL SIU SELF-MONITORING

- 8.1.1 The frequency of self-monitoring for both Categorical and Non-Categorical SIUs shall be no less than two sampling events per year. Each sampling event shall consist of two (2) consecutive days unless otherwise dictated by the User's operation or discharge. One of these sampling events (one set of two days) shall require the user to monitor for all regulated parameters, including local conventional pollutants and/or any other pollutants of concern. The Division may order and increase a User's self-monitoring requirement(s) when one or more of the following criteria are met:

- 8.1.1.1 Any SIU in SNC for any reporting period in the previous calendar year;
- 8.1.1.2 Any User in non-compliance for the same violation in two or more reporting periods in the previous twelve (12) months;
- 8.1.1.3 Any User applying for an Industrial Discharge Permit who will use, store, or manufacture hazardous material or prohibited substances as listed in this Ordinance;
- 8.1.1.4 Any User who the Division reasonably suspects to have tampered with or falsified sample analysis results, reporting data, or sampling activities;
- 8.1.1.5 Any facility in the process of making production or treatment facility modifications;
- 8.1.1.6 Any facility reasonably suspected by the Division to be discharging non-permitted or prohibited waste;
- 8.1.1.7 Any User with variable operations or discharge of concern to the Division, including but not limited to job shops, and seasonal activities;
- 8.1.1.8 Users having the potential to accidentally or otherwise discharge chemical spills or slug loads to the POTW;
- 8.1.1.9 Users employing equipment or methods of treatment known or reasonably suspected of being ineffective or unreliable.

8.1.2 Categorical SIUs shall be required to conduct self-monitoring of their wastewater discharge no less than the frequency specified in the federal standard applicable to that User. All permitted discharge sites shall be monitored as required.

- 8.1.2.1 Monitored parameters for Categorical users shall include at least those pollutant parameters listed in the Federal Categorical Standards for the industrial category applicable to the User. The Division may also require monitoring for conventional pollutants of concern.
- 8.1.2.2 Users in applicable categories may submit TTO certification in lieu of analysis for TTOs only after the submission and approval of a Toxic Organics Management Plant (TOMP).
- 8.1.2.3 Metal finishers may submit Cyanide Certification if no cyanide containing compound is used.

8.1.3 Non-Categorical SIUs shall be required to conduct self-monitoring of permitted wastewater discharged to the Division collection system.

8.1.3.1 The Division shall require Non-Categorical users to monitor for pollutants known or believed to be contained in the user's discharge due to the nature of the discharge or process.

8.1.3.2 Local limits for conventional and any priority pollutants shall be enforced.

8.2 PERMITTED NON-SIUS

8.2.1 DUSWM may require those Industrial Users not defined as SIUs to submit self-monitoring information and data as necessary to evaluate the User's discharge permit status. When required, these Industrial Users shall submit data on the wastewater characteristics of their facility, minimally including local conventional pollutants and any other regulated pollutants of concern, as determined by the Division. The frequency of self-monitoring shall be determined on a case by case basis by the Division.

8.3 NON-PERMITTED USERS

8.3.1 Should the Division deem it necessary and appropriate, Non-permitted Users may be required to conduct monitoring of wastewater discharge.

8.4 INCREASED MONITORING

8.4.1 The Division will increase User self-monitoring requirements for Users that meet any of the following criteria:

8.4.1.1 Users which have marginal capability or capacity to effectively treat identified pollutants.

8.4.1.2 Users which have variable, seasonal, or batch discharges identified as having the potential for violation.

8.4.1.3 Users which have not submitted an accidental spill or slug control plan

8.4.1.4 Users which have changed or will be changing production or treatment processes.

8.4.1.5 Users which were in SNC for effluent discharge violations during the previous calendar year.

8.4.2 At a minimum, Users that were monitoring at a rate of twice per year shall be increased to quarterly monitoring and users who were required to monitor on a

quarterly basis shall be increased to require monthly monitoring. Should it be deemed necessary, the Division shall impose more frequent monitoring.

8.4.3 When the Division requires a User to increase its self-monitoring, an Administrative Order will be issued, which, by its own terms, shall supersede the self-monitoring requirements of the User's permit. Alternatively, the Division may choose to amend a User's permit to reflect the change in the self-monitoring requirements.

8.5 pH MONITORING

8.5.1 All SIUs shall self-monitor the pH of their discharge. Other Industrial Users, permitted or otherwise, may also be required by the Division to monitor for pH. Unless otherwise specified, pH monitoring shall be conducted simultaneously with other sampling activities. Some Users may be required to monitor the pH of their discharge continuously. As with other monitoring, the Division may increase pH monitoring frequencies as needed. Industrial Users shall submit pH monitoring data as required with other monitoring records.

8.6 FLOW MONITORING

8.6.1 Both Categorical and Non-Categorical SIUs shall be required to monitor and report the amount of wastewater discharged. Unless other methods have received prior approval, actual wastewater discharge flow measurement shall be required. Water consumption data and/or process flow estimates may be submitted in place of actual flow measurements with prior approval from the Division. In all cases, the SIU shall submit wastewater flow data as part of the User's Periodic Compliance Report.

8.7 POTW MONITORING

8.7.1 The Division shall monitor SIUs at their permit-specified wastewater discharge point for all regulated parameters, including conventional pollutants. Monitoring by the Division shall be conducted at least once per calendar year for two consecutive days, unless otherwise determined by the Division. To ensure that all sampling data is admissible in court, all sampling will follow proper chain-of-custody procedures and use approved sampling and analytical techniques.

8.7.2 The Division may monitor Non-SIU permitted Users and non-permitted Users at their wastewater discharge point for any and all regulated parameters. Staff shall evaluate monitoring for conventional parameters and priority pollutants

for each industrial or commercial sewer User as time and personnel allow, and as each individual case warrants.

- 8.7.3 Where measured flow is required by the discharge permit, the Division may perform independent flow verification using portable flow metering devices. Where the discharge permit requires estimated flow, the Division may perform independent flow verification using water use data from the public utility supplying water to the User at those facilities. The Division may choose to monitor and/or verify the flow from any Industrial User.
- 8.7.4 Unless stated in the User's permit, the Division's compliance monitoring results shall not be used to satisfy the self-monitoring requirements established in the discharge permit.

8.8 REPORT MONITORING AND TRACKING

- 8.8.1 The Division will promptly review all submissions collected or received (monitoring data, periodic compliance reports, non-compliance reports, compliance schedule milestones, slug load reports, etc.). The review of reports submitted by the SIU and all compliance and monitoring data collected by the Division shall be documented tracked, and placed in the User's file. Any non-compliance observed during data review shall be noted and followed by the issue of an NOV, and other appropriate enforcement action as necessary. Enforcement action shall be noted in the quarterly report to MDE. A complete review of reports submitted by an SIU will comprise the following:
 - 8.8.1.1 Comparison of analytical results with applicable pretreatment requirements for all required parameters.
 - 8.8.1.2 Verification that all data recording requirements are indicated, including but not limited to the date, time, place, and name of person taking the sample, dates when analyses were performed, the analyst, and analytical method.
 - 8.8.1.3 Verification of sampling and analysis methods.
 - 8.8.1.4 If appropriate, determination that non-compliance was properly reported upon the permit holder becoming aware of the violation.
 - 8.8.1.5 Certification and signatory requirements have been fulfilled.
 - 8.8.1.6 Determination that the report was on time, complete, demonstrated compliance, and any User-specified requirements have been met.

8.8.2 Where compliance monitoring data collected by the Division, or where information contained in reports submitted by the SIU, requires that immediate action be taken, it shall be documented with an immediate NOV. Issuing an NOV does not preclude the Division from telephoning the violator, issuing a citation, or initiating other legal enforcement action after consultation with the County Attorney, which may include, but is not limited to, administrative action, civil fines, and/or termination of service.

8.9 COMPLIANCE TRACKING

8.9.1 The Division will maintain a current inventory of Industrial Users with files to track compliance of each User's facility. Records will be kept in the name of the discharging facility and contain the following information using computer and/or manual systems:

- 8.9.1.1 Baseline monitoring reports and/or 90 day compliance reports
- 8.9.1.2 Periodic compliance reports
- 8.9.1.3 Resampling data where appropriate
- 8.9.1.4 Penalty payments from civil citation issuance
- 8.9.1.5 Compliance schedule milestone reports
- 8.9.1.6 Correspondence including NOV responses and directive responses

8.9.2 Records and reports will be tracked including type, date due, and status, including timeliness, completeness, and compliance. Each user's file shall be maintained and updated by the Division. A quarterly report will be generated and sent to MDE. This report shall indicate the compliance status of all SIUs regarding reporting requirements, discharge limitations, inspection findings, and any other pertinent compliance issues such as the status of any administrative orders.

8.9.3 Any non-compliance which is not reported but is independently observed by the Division shall be initially addressed by issuing an NOV. All NOVs shall be sent by registered mail, return receipt requested, or delivered by hand. A request for a response within a specified timeframe shall normally be included.

8.10 SIGNIFICANT NON-COMPLIANCE (SNC) EVALUATIONS

8.10.1 All submitted data, POTW monitoring data, and the user's reporting status shall be used to evaluate the SNC status of a User. The following types of violations shall be considered SNC violations:

- 8.10.1.1 Violations of effluent limits exceeding the numerical criteria for SNC as defined in this Ordinance, including chronic violations and Technical Review Criteria (TRC) violations.
- 8.10.1.2 Any discharge which the Division or MDE believes to have caused interference or pass-through, and/or has endangered the health of Division personnel or the general public.
- 8.10.1.3 Failure to meet compliance schedule milestone dates in excess of ninety (90) days.
- 8.10.1.4 Failure to report non-compliance in an accurate or timely manner.
- 8.10.1.5 Any other violation, or group of violations that the Division or MDE considers significant.

8.10.2 SNC determinations for pH shall be made when the following criteria are violated:

- 8.10.2.1 Users required to monitor pH on a continuous basis shall be required to document daily maximum and minimum pH values. All violations must also list duration. Continuous pH violations lasting longer than thirty (30) minutes shall be considered SNC.
- 8.10.2.2 Users not continuously monitoring the pH of their discharge shall be in SNC when the pH of their wastewater discharge is less than 5.0 or greater than 12.0 standard pH units.

9.0 ANNUAL PUBLICATION OF SIGNIFICANT VIOLATORS AND VIOLATIONS

The POTW shall publish annually, in the largest daily newspaper published in the municipality in which the POTW is located, a list of Industrial Users that at any time in the previous twelve (12) months were in Significant Noncompliance (SNC) with applicable pretreatment requirements. For the purpose of this provision, an Industrial User is in Significant Noncompliance (SNC) if its violation meets one or more of the criteria as listed in Article II of this Ordinance.

ARTICLE – VII – SEPTIC AND SLUDGE DISPOSAL

1.0 GENERAL

- 1.1 All septage haulers and those private domestic treatment facilities desiring to dispose of wastes at receiving sites within Frederick County shall be subject to all of the applicable Articles and Sections within this Ordnance. Under no condition shall an unpermitted hauler or facility be allowed to dispose of septage wastes at any of the Division's septage receiving points.
- 1.2 Only septage and sludge originating from facilities within Frederick County shall be accepted at Frederick County septage receiving points.
 - 1.2.1 Those haulers and treatment facilities desiring to dispose of septage and sludges at any Frederick County septage receiving point shall be required to certify in writing the source of the septage or sludge being disposed of, and that it is solely from sources from within Frederick County. Violation of this subsection shall result in appropriate enforcement action as specified in Article IX of this Ordinance.
 - 1.2.2 Should it be found that a specific septage hauler's load is the cause of a POTW interference, including but not limited to, POTW plant upsets, pass through, and NPDES permit violations, that hauler shall be held solely responsible for all damages and cost incurred, and appropriate enforcement action shall be taken.
 - 1.2.3 Should it be found that a specific treatment facility is the cause of a POTW interference, including but not limited to, POTW plant upsets, pass through, and NPDES permit violations, that facility shall be held solely responsible for all damages and cost incurred, and appropriate enforcement action shall be taken.
- 1.3 Those Haulers and facilities desiring to dispose of "domestic" septage, sludge or grease shall apply to the Division for a permit to do so.
 - 1.3.1 At the request of the Division a chemical analysis of the septage and sludge waste may be required prior to disposal.
 - 1.3.2 All types of waste (domestic and commercial septage, sludge, grease, holding tank, and chemical toilet waste) shall be segregated for disposal. At no time shall septage, sludge, and grease be commingled with each other.
- 1.4 The Division shall have the authority to prohibit the disposal of any waste which, in the opinion of the Division would interfere with the treatment plant processes.
- 1.6 All current haulers and private domestic treatment facilities shall file with the Division an updated Waste Disposal Permit Application no less than ninety (90) days before the expiration date of their permit. Permits are issued for a period of one (1) year.

- 1.7 The Division shall levy surcharges and/or fines to any hauler or facility, found to be the cause of an interference or POTW plant upset. These charges shall be at a rate directly related to the costs incurred during any interference or upset.
- 1.8 Should the Division find enforcement action necessary, violations of this Article and its subsections shall be subject to all appropriate enforcement action as listed within this Ordinance.

2.0 WASTE DISPOSAL PERMITS

- 2.1 It is unlawful for any hauler or private domestic treatment facility to discharge and/or dispose of septage wastes at any Frederick County septage receiving point without a permit.
- 2.2 All permitted haulers and private domestic treatment facilities shall maintain a contemporaneous manifest log, listing: driver, times, dates, and amounts of waste disposed of. This manifest log shall be submitted quarterly on the 15th day of April, July, October, and January, unless specified otherwise in writing. These quarterly reports shall be submitted to:

Frederick County Division of Utilities and Solid Waste Management
4520 Metropolitan Court, Frederick Maryland 21704

- 2.3 All permits issued for the disposal of septage and/or sludge shall contain (but are not limited to) the following information:
 - 2.3.1 An effective and expiration date,
 - 2.3.2 Statements of non-transferability,
 - 2.3.3 Requirements to file, upon request of the Division, periodic reports. These reports shall be for specific information and data concerning the activities during the past reporting period. The format shall be prescribed by the Division. (See also 2.2 in this subsection)
- 2.4 Permits for septage disposal may also contain other requirements such as (but not limited to) the following:
 - 2.4.1 Limitations (i.e., the number, type and size of the disposed loads)
 - 2.4.2 Requirements to submit other reports, data and information to the Division as it relates to septage waste disposal at Frederick County septage receiving points.
 - 2.4.3 Requirements to periodically sample and analyze the characteristics of the septage waste being disposed of and submit such analysis reports to the Division

ARTICLE – VIII – FEES AND CHARGES

1.0 STANDARD FEES AND CHARGES

1.1 Fees

1.1.1 All fees, fines and charges shall be related to the costs incurred by the Division in the administration of its pretreatment program and this Ordinance. The basis for all fees, fines, and surcharges shall be related to the specific activity or service involved. Should excessive cost (beyond those normally expected for like activities) be incurred by the Division for a specific activity, an invoice for the excessive amounts shall be issued to the responsible party. The Division shall periodically adjust and review all related charges as they relate to the administration of Frederick County's Pretreatment Program and the enforcement of this Ordinance.

1.1.2 Fees shall be charged for the following activities:

- (a) Monitoring, inspection and surveillance of Users, Haulers and Treatment Facilities permitted by the Division under this Ordinance;
- (b) Response to spills, upsets, and related violations;
- (c) Routine operation and administration of the Division's approved Pretreatment Program, including the review and filing of all required reports; and
- (d) Other fees as deemed necessary by the Division to carry out the National Pretreatment Regulations, other Federal, MDE regulations and the regulations within this Ordinance.

1.2 SEWER USER BASE CHARGES

1.2.1 Sewer User charges for domestic and non-domestic wastewater generated within the County and discharged into the POTW will be based upon water rental costs and actual metered water supplied to Industrial Users for processing through the POTW. These charges will be determined at the discretion of the County and will be described as part of the User's Industrial Waste Discharge Permit.

1.2.2 Whenever a User discharges non-domestic wastes to the County POTW, the charges for such discharge shall be defined in a contractual agreement between the County and the User. An industrial user shall install a suitable meter or meters at its expense, as may be required to measure the total volume of water used in the industrial plant or shall install, at its expense, a meter on the sewer line leaving the plant so as to measure the entire flow of waste discharged to the sewer system. No meter for the measurement of flow shall be installed until a

plan for such installation is approved by the Division. All meters or other measuring devices installed or required to be used under the provisions of this Ordinance shall be inspected and calibrated annually. The owner of the property upon which such measuring device is installed shall be responsible for its maintenance and safekeeping.

2.0 SURCHARGES FOR EXCESSIVE STRENGTH WASTEWATER

Surcharges are a mechanism to recover costs incurred when treating high strength wastes discharged by some industrial and commercial users to the wastewater system. These additional funds are necessary to cover the cost of operations and maintenance of the wastewater treatment system and are in addition to normal sewer use fees.

2.1 SURCHARGE BASIS

- 2.1.1 Any Industrial User discharging a pollutant within the surcharge range shall not be considered to be in violation of their discharge permit, but shall be surcharged for extra strength wastewater based on the formula below.
- 2.1.2 Those Facilities discharging wastewater in excess of the receiving plant limit shall be considered to be in violation of this Ordinance or the Users Discharge Permit. The appropriate enforcement action shall be taken as set forth within this Ordinance, including the recovery of costs related to treatment of the excessively high strength wastewater.
- 2.1.3 The volume of industrial wastewater used for calculating surcharges from Users discharging to the POTW will be determined either directly by flow meter readings, or may be estimated from quarterly water bills at the discretion of the County.

2.2 SURCHARGE FORMULA

[Quarterly Average. (BOD, TSS, or FOG) mg/l – local limit mg/l] = BOD, TSS, or FOG amounts to be surcharged

$$\begin{aligned} & \times [\text{Total Quarterly Flow (MG}_1\text{)}] \\ & \times [8.34 \text{ (lbs/gal)}] \\ & \times [\text{cost per lb to treat (BOD, TSS, or FOG)}] \\ & = \text{surcharge amount to be invoiced for the quarter} \end{aligned}$$

Surcharge Fees are not cumulative. Of the three parameters subject to surcharge (BOD, TSS, and FOG) the largest individual fee determines the final surcharge fee.

MG = Million Gallons

Parameter	Surcharge Threshold
Biochemical Oxygen Demand (BOD)	300 mg/l
Total Suspended Solids (TSS)	300 mg/l
Fats, Oils, Grease (FOG)	100 mg/l

3.0 VIOLATION AND ENFORCEMENT FINES AND PENALTIES

3.1 Fines and penalties may be levied for violations of this Ordinance or any Industrial Discharge Permit issued hereunder. Violations shall include but are not limited to the following:

- 3.1.1 Violations of any reporting requirements as set forth within this Ordinance including, but not limited to reports received after the close of business hours on the date on which reports are due, shall be subject to the enforcement action as set forth within Article IX of this Ordinance.
- 3.1.2 Violations of the discharge requirements listed within this Ordinance or the User's Permit shall be subject to the enforcement action as set forth within Article IX of this Ordinance.

ARTICLE – IX – ENFORCEMENT ACTION

1.0 GENERAL

- 1.1 The Division shall utilize all enforcement methods available to it to enforce the terms and conditions of this Ordinance, any industrial discharge permits issued by the Division, and any applicable State and Federal laws. The available enforcement methods include, but are not limited to: notices of violations, civil citations, criminal citations, compliance orders, termination of discharge and revocation of permits. Enforcement activities shall be pursued in accordance with the Pretreatment Enforcement Response Plan (ERP). The Division may, however, take such action as it deems necessary in light of the specific circumstances which may arise.
- 1.2 The Division or its duly authorized agents, as stated in Article IV section 9.0 (Right of Inspection and Entry), have the right to enter and inspect any User's production, discharge, or treatment facility at any time a discharge may occur in order to verify that the discharge complies with the provisions of this Ordinance, the permit, State and Federal law. The Division or its agents have the power to take all lawful action to prevent or to abate violations of this Ordinance.

2.0 DOCUMENTING NON-COMPLIANCE (ISSUANCE OF NOTICE OF VIOLATION)

- 2.1 Generally, a Notice of Violation (NOV) shall be used to address violations and non-compliance which are relatively minor, infrequent, or isolated in nature. A NOV will also be used to document the Division's initial attempt to resolve any non-compliance issue. A NOV may be accompanied by imposition of a fine or fines. A NOV may be issued separately or in conjunction with additional enforcement action, when required.

- 2.2 A NOV may be issued in response to any of the following:

- 2.2.1 Receipt of User non-compliance report;
 - 2.2.2 Review of periodic compliance report from a user;
 - 2.2.3 Review of POTW compliance monitoring data
 - 2.2.4 Late or missing reports; or
 - 2.2.5 Upon discovery of non-compliance associated with an inspection of a Users' facility

2.3 NOTICES OF VIOLATION

2.3.1 GENERAL

The Division shall issue a written Notice of Violation (NOV) and levy fines when appropriate based upon a reasonable belief that the User has violated any of the following:

- 2.3.1.1 Any section of this Ordinance
- 2.3.1.2 Any State or Federal requirement or regulation contained by incorporation, in this Ordinance.
- 2.3.1.3 Any Order or permit issued under this Ordinance

Within ten (10) days of the receipt of a NOV the User shall submit to the Division, in writing, an explanation of the violation and a plan for the satisfactory correction and further prevention thereof, including specific actions, both taken and planned.

Submission of this plan does not relieve the User of liability for any violations occurring before or after receipt of the NOV. Nothing in this section shall limit the authority of Frederick County to take any action including emergency actions or any other enforcement action, without first issuing a NOV.

2.3.2 SPECIFIC

2.3.2.1A NOV shall contain the following:

- (a) The specific location of the Facility or monitoring point where the violation has taken place. The business name and address shall also be listed if different from the location of violation.
- (b) A date of issuance.
- (c) The date(s) of violation along with any analytical data in support of the allegation of violation.
- (d) The regulation that has been violated, including the section or Article of the permit or Ordinance specific to the violation.
- (e) A description of the type of violation.

2.3.2.2 Notices of Violation (NOV) may also contain the following:

- (a) Requirements for remedial action.
- (b) An invoice for a fine or penalty assessment.
- (c) A requirement to do additional or repeat analysis, sampling or monitoring.

(f) The requirement to provide a written response to the NOV within ten (10) days of receipt of the notice. Responses shall include the cause(s) and the corrective action taken for the violation.

3.0 INITIATING ADDITIONAL ENFORCEMENT ACTION

3.1 Except for those serious violations that require an immediate response, additional enforcement action shall be initiated when the Division has identified all such violations through User reports, SNC reports generated by the Division, and/or upon direction from MDE or EPA. The Division shall be responsible for determining if additional enforcement action is required, based upon careful consideration of the following factors:

- 3.1.1 Seriousness of the violations, including but not limited to magnitude, duration, and effect of the violation on the wastewater treatment facility or receiving waters;
- 3.1.2 Likelihood that the violation will continue;
- 3.1.3 Effectiveness of initial corrective action taken by the permit holder
- 3.1.4 Good faith effort and/or the compliance history of the permit holder
- 3.1.5 Appropriateness of response from the permit holder;
- 3.1.6 A need to eliminate an economic benefit resulting from the facility's failure to take earlier corrective action;
- 3.1.7 A need to deter similar violations at similar facilities.

4.0 TYPES OF ADDITIONAL ENFORCEMENT ACTION

After documenting non-compliance, the Division may choose one or more of the following additional enforcement actions as it deems necessary and appropriate. The enforcement response selected should be related to the seriousness of the violation, and enforcement should be escalated if compliance is not achieved expeditiously after taking the initial action.

4.1 Civil Infractions

4.1.1 Pursuant to the authority provided in sections 2-2-28 and 2-2-29 of the Frederick County Code, a violation of any of the provisions within this Ordinance, is a civil offense, and shall be called a civil infraction. If, after investigation, a civil infraction is believed to exist, the Director of the Division of Utilities and Solid Waste Management or the Director's authorized agent shall deliver a citation or a warning to the property owner and any other person or persons responsible for

the civil infraction. If the Facility contact or the person responsible for the civil infraction cannot be located, the Director or the Director's agent may post the citation of warning in a conspicuous place on the property and shall mail a copy of the same by registered mail to the Facility contact person. This shall constitute notice sufficient for delivery under this section.

4.1.2 The citation or warning, as provided for in this section, shall be in writing and shall contain the following:

- (a) The Name and address of the Facility and the designated contact person charged (or warned) with this citation;
- (b) The specific nature of the violation including the times, if known;
- (c) The location of the violation;
- (d) The dates(s) of the violations;
- (e) The amount of the fine assessed (or possible assessment);
- (f) The manner, location, and the time in which the fine may be paid, (or violation corrected, if applicable)
- (g) The person's, or Facility's right to stand trial for the violation (if applicable); and
- (h) A certification by the Director of the Division of Utilities and Solid Waste Management, or the Director's agent attesting to the truth of the matters set forth in the citation.

4.1.3 A fine of up to one thousand dollars (\$1000.00) shall be imposed for each violation. Each day that such a violation is permitted to exist or occur shall be considered a separate civil infraction. All fines shall be payable within twenty (20) days to the Treasurer of Frederick County, Maryland, in the offices of the Division of Utilities and Solid Waste Management, which shall remit same on a daily basis to the County Treasurer.

4.1.4 A Person or Facility who receives a citation may elect to stand trial for the offense by filing with the Director of the Division of Utilities and Solid Waste Management a notice of intention to stand trial. The notice shall be given at least five (5) days before the date of payment as set forth in the citation. Upon receipt of the notice of intention to stand trial, the Director shall forward to the District Court of Maryland for Frederick County, a copy of the citation and the notice of intention to stand trial. Upon receipt of the citation, the District Court shall schedule the case for trial and notify the Defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for civil infractions

shall be remitted to the Board of County Commissioners of Frederick County Maryland, through the County Treasurer.

- 4.1.5 If a Facility receives a citation for an infraction and fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, the Director of the Division of Utilities and Solid Waste Management may request adjudication of the case by the District Court. The District Court shall schedule the case for trial and summon the Defendant to appear. In addition, the Director of the Division of Utilities and Solid Waste Management may order suspension of any Discharge Permits issued under this Ordinance to the Facility and the termination of sewer service to the Facility.
- 4.1.6 Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by criminal conviction.
- 4.1.7 In a proceeding before the District court, the violation shall be prosecuted in the same manner and the same extent as set forth for municipal infractions in Article 23 A, Section 3(b) (8) through (15) of the Maryland Code. However, the County Attorney is hereby authorized to prosecute all civil infractions under this section.
- 4.1.8 If a User or Facility is found by the District Court to have committed a civil infraction, it shall be liable for the cost of the proceedings in the District Court; and the Court may permit the County to abate any such condition at the Facility's expense, the same as provided in Article 23A, section 3(b)(6) of the Maryland Code.
- 4.1.9 Nothing in this section shall prohibit or prevent the Director of the Division of Utilities and Solid Waste Management or anyone else, from seeking other legal remedies, such as injunctions or criminal prosecution.

4.2 CRIMINAL ACTION

- 4.2.1 Any User or Facility that violates any provision of this Ordinance or any permit or order issued hereunder, is upon conviction by a Court of competent jurisdiction, guilty of a misdemeanor and is subject to a fine not exceeding one thousand dollars (\$1,000), or imprisonment not exceeding (6) months or both for each violation with costs imposed in the discretion of the Court. Each day upon which the violation occurs shall constitute a separate offense.
- 4.2.2 Any User or Facility that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage is in violation of this Ordinance. Upon conviction in a Court of competent jurisdiction the User is guilty of a misdemeanor and is subject to a fine not exceeding one thousand dollars (\$1,000), or imprisonment not exceeding six (6) months or both for each

violation with costs imposed in the discretion of the Court. Each day upon which the violation occurs shall constitute a separate offense.

4.2.3 Any User or Facility that knowingly makes false statements, representations, or certifications in any application, record, plan or other documentation filed, or required to be maintained, pursuant to this Ordinance or any permit or order issued hereunder or who falsifies tampers with or knowingly renders inaccurate any monitoring device or method required under this Ordinance, is in violation of this Ordinance. The User, upon conviction in a Court of competent jurisdiction, is guilty of a misdemeanor and subject to a fine not exceeding one thousand dollars (\$1,000), or imprisonment not exceeding six (6) months or both for each violation with costs imposed in the discretion of the Court. Each day upon which the violation occurs shall constitute a separate offense.

5.0 OTHER JUDICIAL REMEDIES

5.1 The County may seek an injunction against any User or Facility which violates or threatens to violate any provision of this Ordinance or any permit issued hereunder.

5.2 As an alternative to a criminal action as provided for under this section, the County may bring a civil action against any User or Facility for any violation of this Ordinance or any permit issued hereunder. The action may seek the imposition of a civil penalty of not more than five thousand dollars (\$5,000) against the User or Facility, an injunction to prohibit the Facility from continuing the violation or both, restitution or compensation for damage to the County property or treatment facilities, and attorney's fees and costs incurred in prosecuting the action. For purposes of civil action, each day during which a violation continues is considered a separate offense.

6.0 ADMINISTRATIVE ORDERS/COMPLIANCE ORDERS

Should the Division find that a User or Facility has violated or continues to violate this Ordinance, its Discharge Permit or Orders issued hereunder, or any other pretreatment standard or requirement, the Division may issue an order to the User or Facility responsible for the violating discharge directing that the User or Facility come into compliance. This order shall specify the time in which the User is required to achieve compliance. Users or Facilities not coming into compliance within this time period shall be subject to further enforcement action, including the discontinuance of service, unless adequate treatment facility devices or other related appurtenances are installed and properly operated. Administrative Orders/Compliance Orders may also contain other requirements to address the issue of noncompliance which may minimize the amount of pollutants discharged into the POTW.

The milestone dates in Administrative Orders/Compliance Orders shall not extend the deadline for compliance established for a National Pretreatment standard or requirements, nor does a compliance order release the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a

prerequisite to taking any other action against the User. Users failing to meet any compliance milestone date within ninety (90) days shall be considered in Significant Noncompliance (SNC). In no case shall a compliance order waive the National Pretreatment Standards or requirements for compliance deadlines, nor does the compliance order release the User of liability for any violation, including any continuing violation.

7.0 SUSPENSION AND/OR TERMINATION OF SERVICES OR PERMITS

7.1 Termination of Water and/or Sewer Services

7.1.1 The POTW may suspend the water service and/or cut off the sewer service connection of any User. Such action may be taken if deemed necessary in order to stop the actual or threatened wastewater discharge, which:

- (a) Presents or may present an imminent or substantial danger to the health or welfare of humans.
- (b) Presents or may present an imminent or substantial danger to the environment.
- (c) May cause or actually causes interferences to the POTW; or
- (d) Causes the POTW to violate any condition of its NPDES or State Discharge Permit.

7.1.2 The POTW may, upon proof of the elimination of the noncomplying discharge, reinstate the water and/or sewer service.

7.1.3 In the event of a suspension of service under this section, within ten (10) days the User shall submit a written report describing the event that caused the suspension and the measures being undertaken to prevent any recurrence.

7.2 Revocation of a User's Permit

The POTW may revoke the permit of any User, Septage Hauler or Treatment Facility if the POTW finds that:

- 7.2.1 The User has falsified any information or records submitted or retained in accordance with this Ordinance.
- 7.2.2 The Permittee has violated any of the conditions in the permit issued to the permit holder.
- 7.2.3 The Permittee has refused the right of entry or inspection as specified within this Ordinance.

- 7.2.4 The Permittee has failed to request a required permit modification.
- 7.2.5 The Permittee has discharged to the POTW any substance in violation of this Ordinance.
- 7.2.6 The Permittee has violated or continues to violate any other provision within this Ordinance.

8.0 ENFORCEMENT APPEAL

8.1 General

The Division of Utilities and Solid Waste Management shall provide Notice to any user of the decision to suspend water service, sewer connection and/or revoke the Industrial Discharge Permit as issued. The Notice shall contain a brief description of the basis for the decision, including the nature of the offense and any sanctions imposed. Every effort shall be made to provide notice prior to taking action on a decision to terminate service. Notice shall be by personal delivery, certified mail or other method reasonably calculated to notify the affected party. If the user or authorized representative cannot be located, the affected property or structure may be posted with the Notice, which will serve as adequate notice to the user. If, in the opinion of the Director of the Division of Utilities and Solid Waste Management, serious injury to health, safety or general welfare may occur before notice can be given, the Division may notify the affected party promptly after the decision has been made and the action taken.

8.2 Appeals

- 8.2.1 Any decision rendered by the Division, with respect to the termination of discharge or other sanctions which result in the deprivation of any right or privilege which was created pursuant to this Ordinance may be appealed by the User aggrieved by that decision to the Director of the Division of Utilities and Solid Waste Management.
 - (a) A request for an appeal, containing a brief description of the decision being appealed, a copy of the written notice if any, and the name, address and telephone number of the appellant, shall be filed with the Director of the Division of Utilities and Solid Waste Management within fifteen (15) days of the date the decision was rendered. The filing of the notice with the Director of the Division of Utilities and Solid Waste Management shall stay the execution of the decision appealed from, unless the Director determines that serious injury to health, safety or general welfare is likely to result from such a stay.
 - (b) The failure to submit a timely request for appeal shall be deemed to be a waiver of the right to an appeal.

8.2.2 Upon receipt of the request for appeal, the Director of the Division of Utilities and Solid Waste Management shall immediately contact the Office of the County Attorney and shall schedule a hearing on the appeal as soon as practical, with due consideration given to the nature of the decision appealed from.

(a) The Director of the Division of Utilities and Solid Waste Management (“Director”) or the Director’s designee shall notify the appellant of the date, time, place, and nature of the proceedings to be held.

(i) The Director shall conduct the hearing de novo at the specified time. A decision may be rendered by the Director after hearing the evidence. The Director shall not be bound by strict rules of evidence but may, in the Director’s discretion, accept such evidence as the Director deems probative, competent and material, and may exclude such evidence as the Director deems incompetent, irrelevant, immaterial or repetitive.

(ii) The appellant and the Division present witnesses, and any party shall have the right to reasonable cross-examination.

(b) The Director may waive or modify any provision of this section in a particular case upon the request of the Division or any party where, in the sole opinion of the Director, the interest of justice would be served by the waiver or modification.

(c) The Director shall render a decision on the evidence presented, and the Director’s decision shall be final. The Director may affirm, reverse, or modify the decision appealed from, and may impose any sanction permitted by law, whether more or less severe than that imposed by the Division. Court review of any Director’s decision shall be taken according to the Maryland Rules §§7-201 et seq.

ARTICLE X EFFLUENT LIMITATIONS

- 1.0 Wastewater discharged to the POTW of Frederick County shall not contain pollutants in excess of the concentrations set forth below or as specified within the User's Industrial Discharge Permit.
- 1.1 Users shall be subject to the most stringent of the following:
 - 1.1.1 National Pretreatment Standards;
 - 1.1.2 State Pretreatment requirements; or
 - 1.1.3 Local limitations which may be calculated by mass balance or any other valid scientific methods, necessary to protect the POTW from the materials described in Article III of this document, in order to comply with Article I of this Ordinance.
- 1.2 Users who contribute wastewater flow which is conveyed by the Division's collection system, but is treated by a non-County operated WWTP, shall be required to meet the more stringent limitations and prohibitions of either POTW.
- 2.0 Local Limits Specific to Frederick County
- 2.1 The wastewater discharged to the POTWs of Frederick County shall not contain pollutants in excess of the concentrations set forth below or as specified within the Users Industrial Discharge Permit.
- 2.2 All discharge to any POTW of Frederick County shall be limited at least as specified below for the Ballenger-McKinney WWTP. Users discharging wastewater with concentrations of pollutants within the specified range or above the violation limit will be surcharged.

<u>BALLENGER-MCKINNEY WWTP</u>	Surcharge Range	Violation Limit
Constituent		
BOD	>300 but <600 mg/l	600 mg/l
TSS	>300 but <600 mg/l	600 mg/l

<u>POLLUTANT</u>	<u>Daily Maximum mg/l</u>
Arsenic	4.35
Cadmium	0.17
Chromium	0.32
Copper	1.27
Cyanide	0.37
Lead	0.69
Mercury	0.027
Nickel	3.98
Silver	0.31
Zinc	2.61
BOD	***
TSS	***
Fats, Oil & Grease (of animal/veg. origin)	250.00
pH	5.0 – 12 pH units

*** Plant Specific Limits (see following page)

2.3 Plant Specific Limits

The following Frederick County POTWs have plant specific limits for BOD and TSS as listed below.

<u>NEW MARKET WWTP</u>			
Constituent		Surcharge Range	Violation Limit
BOD		>250 but <500 mg/l	500 mg/l
TSS		>250 but <500 mg/l	500 mg/l
<u>JEFFERSON WWTP</u>			
Constituent		Surcharge Range	Violation Limit
BOD		>250 but <500 mg/l	500 mg/l
TSS		>250 but <500 mg/l	500 mg/l
<u>POINT OF ROCKS WWTP</u>			
Constituent		Surcharge Range	Violation Limit
BOD		>250 but <500 mg/l	500 mg/l
TSS		>250 but <500 mg/l	500 mg/l

4.0 AUTHORITY TO CHANGE

The local limitations in Article X may be amended by resolution of the Board of County Commissioners as necessary for continued and proper operation of any POTW or for compliance with Maryland or federal recommendations or mandates.

2.3 Plant Specific Limits

The following Frederick County POTWs have plant specific limits for BOD and TSS as listed below.

<u>NEW MARKET WWTP</u>		Surcharge Range	Violation Limit
Constituent			
BOD		>250 but <500 mg/l	500 mg/l
TSS		>250 but <500 mg/l	500 mg/l
<u>JEFFERSON WWTP</u>		Surcharge Range	Violation Limit
Constituent			
BOD		>250 but <500 mg/l	500 mg/l
TSS		>250 but <500 mg/l	500 mg/l
<u>POINT OF ROCKS WWTP</u>		Surcharge Range	Violation Limit
Constituent			
BOD		>250 but <500 mg/l	500 mg/l
TSS		>250 but <500 mg/l	500 mg/l

4.0 AUTHORITY TO CHANGE

The local limitations in Article X may be amended by resolution of the Board of County Commissioners as necessary for continued and proper operation of any POTW or for compliance with Maryland or federal recommendations or mandates.