

**TITLE 18****WATER AND SEWERS****CHAPTER**

1. SEWER USE.
2. UNDERGROUND UTILITY LINE SPECIFICATIONS.

**CHAPTER 1****SEWER USE****SECTION**

- 18-101. General provisions.
- 18-102. Abbreviations.
- 18-103. Definitions.
- 18-104. General sewer use requirements.
- 18-105. Pretreatment of wastewater.
- 18-106. Individual wastewater discharge permits.
- 18-107. Individual wastewater discharge permit issuance.
- 18-108. Reporting requirements.
- 18-109. Compliance monitoring.
- 18-110. Confidential information.
- 18-111. Publication of users in significant noncompliance.
- 18-112. Administrative enforcement remedies.
- 18-113. Judicial enforcement remedies.
- 18-114. Supplemental enforcement action.
- 18-115. Affirmative defenses to discharge violations.
- 18-116. Miscellaneous provisions.

**18-101. General provisions.** (1) Purpose and policy. This chapter sets forth uniform requirements for users of the publicly owned treatment works for the Town of Unicoi and enables Unicoi to comply with all applicable state and federal laws, including the state pretreatment requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 U.S.C. §§ 1251, *et seq.*) and the General Pretreatment Regulations (40 CFR part 403). The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable Unicoi to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This chapter shall apply to all users of the publicly owned treatment works. This chapter authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the pretreatment coordinator shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the pretreatment coordinator may be delegated by the pretreatment coordinator to a duly authorized Erwin Utilities' employee. (Ord. #2013-225, June 2013)

**18-102. Abbreviations.** The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD – Biochemical Oxygen Demand.

BMP – Best Management Practice.

BMR – Baseline Monitoring Report.

CFR – Code of Federal Regulations.

CIU – Categorical Industrial User.

COD – Chemical Oxygen Demand.

EPA – U.S. Environmental Protection Agency.

gpd – gallons per day.

IU – Industrial User.

mg/l – milligrams per liter.

NPDES – National Pollutant Discharge Elimination System.

POTW – Publicly Owned Treatment Works.

RCRA – Resource Conservation and Recovery Act.

SIU – Significant Industrial User.

SNC – Significant Noncompliance.

TSS – Total Suspended Solids.

U.S.C. – United States Code. (Ord. #2013-225, June 2013)

**18-103. Definitions.** Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

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

(2) "Approval authority." The Tennessee Division of Water Pollution Control Director or his representative(s).

(3) "Authorized or duly authorized representative of the user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in subsections (3)(a) to (3)(c) above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Erwin Utilities.

(4) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees (20°) Celsius, usually expressed as a concentration (e.g., mg/l).

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-104(1) and (2) below (Tennessee Rule 1200-4-14-.05(1)(a) and (2)). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(7) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(8) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(9) "Control authority." Town of Unicoi Board of Public Utilities or Erwin Utilities.

(10) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(11) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(12) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the regional administrator, or other duly authorized official of said agency.

(13) "Existing source." Any source of discharge that is not a "new source."

(14) "Grab sample." A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(15) "Indirect discharge or discharge." The introduction of pollutants into the POTW from any nondomestic source.

(16) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(17) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its

treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(18) "Local limit." Specific discharge limits developed and enforced by Erwin Utilities upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(19) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(20) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(21) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(22) "New source."

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

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

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

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

(b) 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 subsections (a)(ii) or (a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

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

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(23) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(24) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Erwin Utilities' NPDES permit, including an increase in the magnitude or duration of a violation.

(25) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

(26) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(27) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(28) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(29) "Pretreatment coordinator." The person designated by Erwin Utilities to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the pretreatment coordinator.

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(31) "Pretreatment standards or standards." Prohibited discharge standards, categorical pretreatment standards, and local limits.

(32) "Prohibited discharge standards or prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-104(1).

(33) "Publicly Owned Treatment Works" or "POTW." A treatment works, as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned by the Town of Unicoi, Board of Public Utilities. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(34) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(35) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(36) "Significant Industrial User (SIU)." A significant industrial user is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(iii) Is designated as such by Erwin Utilities on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(37) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-104(1). A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause

interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(38) "Stormwater." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(39) "Total suspended solids or suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(40) "Town." The Town of Unicoi or Board of Mayor and Aldermen for the Town of Unicoi, Tennessee.

(41) "User" or "industrial user." A source of indirect discharge.

(42) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(43) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord. #2013-225, June 2013, modified)

**18-104. General sewer use requirements.** (1) Prohibited discharge standards. (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(i) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees (140°) F (sixty degrees (60°) C) using the test methods specified in 40 CFR 261.21;

(ii) Wastewater having a pH less than 5.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(iii) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

(iv) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;



(v) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104°) F (forty degrees (40°) C);

(vi) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

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

(viii) Trucked or hauled pollutants, except at discharge points designated by the pretreatment coordinator in accordance with § 18-105(4);

(ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(x) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Erwin Utilities' NPDES permit;

(xi) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the pretreatment coordinator in compliance with applicable state or federal regulations;

(xii) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the pretreatment coordinator;

(xiii) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(xiv) Medical wastes, except as specifically authorized by the pretreatment coordinator in an individual wastewater discharge permit;

(xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(xvi) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW; or

(xvii) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single

reading over ten percent (10%) of the lower explosive limit of the meter.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405 to 471. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the pretreatment coordinator shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(3) State pretreatment standards. Users must comply with the Tennessee Pretreatment Requirements codified at Tennessee Rule 1200-4-14.

(4) Local limits. (a) The pretreatment coordinator is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

| <i>Parameter</i>    | <i>Sample Type</i> | <i>Daily Max.<br/>mg/l</i> | <i>Average<br/>discharge limits<br/>mg/l</i> |
|---------------------|--------------------|----------------------------|--|
| Cadmium             | Composite          | 0.024                      | 0.012  |
| Total Chromium      | Composite          | 0.564                      | 0.423  |
| Copper              | Composite          | 0.768                      | 0.384  |
| Lead                | Composite          | 0.593                      | 0.445  |
| Nickel              | Composite          | 0.490                      | 0.245  |
| Silver              | Composite          | 0.076                      | 0.038  |
| Zinc                | Composite          | 0.615                      | 0.493  |
| Cyanide             | Grab               | 0.170                      | 0.114  |
| Phenol              | Grab               | 0.47                       | 0.228  |
| pH (standard units) | Grab               | Min. 5; Max. 9             |  |
| Oil and grease      | Grab               | -----                      | 100  |
| Toluene             | Grab               | 0.193                      | 0.145  |
| Benzene             | Grab               | 0.114                      | 0.057  |

| <i>Parameter</i>               | <i>Sample Type</i> | <i>Daily Max.<br/>mg/l</i> | <i>Average<br/>discharge limits<br/>mg/l</i> |
|--------------------------------|--------------------|----------------------------|--|
| 1,1,1<br>Trichloroethane       | Grab               | 0.193                      | 0.096  |
| Ethylbenzene                   | Grab               | 0.304                      | 0.152  |
| Carbon<br>Tetrachloride        | Grab               | 0.150                      | 0.032  |
| Chloroform                     | Grab               | 0.017                      | 0.0084                                       |
| Tetrachloroethylene            | Grab               | 0.380                      | 0.190  |
| Trichloroethylene              | Grab               | 0.030                      | 0.015  |
| 1,2 Trans-<br>Dichloroethylene | Grab               | 0.380                      | 0.190  |
| Methylene chloride             | Grab               | 0.170                      | 0.011  |
| Naphthalene                    | Composite          | 0.0760                     | 0.038  |
| Total phthalates               | Composite          | 0.935                      | 0.468  |
| Mercury                        | Composite          | 0.0048                     | 0.0024                                       |
| Temperature                    | Grab               | Max. 40°C<br>(104°F)       |  |
| Biochemical oxygen<br>demand   | Grab               |                            | Surcharge in<br>excess of 200 mg/l           |
| Total suspended<br>solids      | Grab               |                            | Surcharge in<br>excess of 200 mg/l           |
| Ammonia                        | Composite          |                            |  |
| Gross Alpha                    | Composite          |                            | 300 pCi/L                                    |
| Gross Beta                     | Composite          |                            | 5,000 pCi/L                                  |
| U-234                          | Composite          |                            | 300 pCi/L                                    |
| U-235                          | Composite          |                            | 50 pCi/L                                     |
| U-238                          | Composite          |                            | 50 pCi/L                                     |
| Cobalt 60                      | Composite          | 3E-6 µCi/ml                | 2.25E-6 µCi/ml                               |

| <i>Parameter</i> | <i>Sample Type</i> | <i>Daily Max.<br/>mg/l</i> | <i>Average<br/>discharge limits<br/>mg/l</i> |
|------------------|--------------------|----------------------------|--|
| Tritrium         | Composite          | 7E-3 µCi/ml                | 7.5E-4 µCi/ml                                |
| Cesium 137       | Composite          | 1E-6 µCi/ml                | 7.5E-7 µCi/ml                                |
| Gross Gamma Scan | Composite          | (1)                        | (2)  |
| Total Uranium    | Composite          |                            | 300 pCi/L                                    |

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The pretreatment coordinator may impose mass limitations in addition to the concentration-based limitations above.

(c) The pretreatment coordinator may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits to implement local limits and the requirements of § 18-104(1).

(5) Erwin utilities right of revision. Erwin Utilities reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(6) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The pretreatment coordinator may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. #2013-225, June 2013)

**18-105. Pretreatment of wastewater.** (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-104(1) within the time limitations specified by EPA, the state, or the pretreatment coordinator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the pretreatment coordinator for review, and shall be acceptable to the pretreatment coordinator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of

modifying such facilities as necessary to produce a discharge acceptable to Erwin Utilities under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the pretreatment coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the pretreatment coordinator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense.

(b) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/sludge discharge control plans. The pretreatment coordinator shall evaluate whether each SIU needs an accidental discharge/sludge discharge control plan or other action to control slug discharges. The pretreatment coordinator may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the pretreatment coordinator may develop such a plan for any user. An accidental discharge/sludge discharge control plan shall address, at a minimum, the following:

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

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the pretreatment coordinator of any accidental or slug discharge, as required by § 18-108(6); and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the pretreatment coordinator, and at such times as are established by the pretreatment coordinator. Such waste shall not violate § 18-104 or any other requirements established by Erwin Utilities.

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

pretreatment coordinator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

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

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. #2013-225, June 2013)

**18-106. Individual wastewater discharge permits.** (1) Wastewater analysis. When requested by the pretreatment coordinator, a user must submit information on the nature and characteristics of its wastewater within fifteen (15) days of the request. The pretreatment coordinator is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Individual wastewater discharge permit requirement. (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the pretreatment coordinator, except that a significant industrial user that has filed a timely application pursuant to subsection (3) below may continue to discharge for the time period specified therein.

(b) The pretreatment coordinator may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-112 to 18-114. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge permitting: existing connections. Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within thirty

(30) days after said date, apply to the pretreatment coordinator for an individual wastewater discharge permit in accordance with subsection (5) below, and shall not cause or allow discharges to the POTW to continue after forty-five (45) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit issued by the pretreatment coordinator.

(4) Individual wastewater permitting: new connections. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with subsection (5) below, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge permit application contents.

(a) All users required to obtain an individual wastewater discharge permit must submit a permit application. The pretreatment coordinator may require users to submit all or some of the following information as part of a permit application:

(i) Identifying information.

(A) The name and address of the facility, including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises;

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations. (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

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

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(iv) Time and duration of discharges;  
(v) The location for monitoring all wastes covered by the permit;

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 2.2C (Tennessee Rule 1200-4-14-.06(5)).

(vii) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the pretreatment coordinator, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-108(10). Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the pretreatment coordinator or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-108(11).

(viii) Any other information as may be deemed necessary by the pretreatment coordinator to evaluate the permit application.

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

(6) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-108(14)(a).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be



submitted to the pretreatment coordinator prior to or together with any reports to be signed by an authorized representative.

(7) Individual wastewater discharge permit decisions. The pretreatment coordinator will evaluate the data furnished by the user and may require additional information. Within fifteen (15) days of receipt of a complete permit application, the pretreatment coordinator will determine whether to issue an individual wastewater discharge permit. The pretreatment coordinator may deny any application for an individual wastewater discharge permit. (Ord. #2013-225, June 2013)

**18-107. Individual wastewater discharge permit issuance.**

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

(2) Individual wastewater discharge permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the pretreatment coordinator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to Erwin Utilities in accordance with subsection (5) below, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards;

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(vi) Requirements to control slug discharge, if determined by the pretreatment coordinator to be necessary.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(viii) Other conditions as deemed appropriate by the pretreatment coordinator to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(3) Permit modification. The pretreatment coordinator may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to Erwin Utilities' POTW, Erwin Utilities personnel, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection (4) below.

(4) Individual wastewater discharge permit transfer. Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days' advance notice to the pretreatment coordinator and the pretreatment coordinator approves the individual wastewater discharge permit transfer. The notice to the pretreatment coordinator must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur;

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit; and

(d) Includes a provision for providing a copy of the current permit to the new owner/operator.

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

(5) Individual wastewater discharge permit revocation. The pretreatment coordinator may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

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

(b) Failure to provide prior notification to the pretreatment coordinator of changed conditions pursuant to § 18-108(5) of this chapter;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports and certification statements;

(e) Tampering with monitoring equipment;

- (f) Refusing to allow the pretreatment coordinator timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

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

(6) Individual wastewater discharge permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 18-106(5), a minimum of thirty (30) days prior to the expiration of the user's existing individual wastewater discharge permit.

(7) Regulation of waste received from other jurisdictions. (a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the pretreatment coordinator shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (7)(a) above, the pretreatment coordinator shall request the following information from the contributing municipality:

- (i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- (iii) Such other information as the pretreatment coordinator may deem necessary.

(c) An intermunicipal agreement, as required by subsection (7)(a) above, shall contain the following conditions:

- (i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 18-104(4). The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to Erwin Utilities' ordinance or local limits;

- (ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- (iii) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the pretreatment coordinator; and which of these activities will be conducted jointly by the contributing municipality and the pretreatment coordinator;
- (iv) A requirement for the contributing municipality to provide the pretreatment coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (vi) Requirements for monitoring the contributing municipality's discharge;
- (vii) A provision ensuring the pretreatment coordinator access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the pretreatment coordinator; and
- (viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (Ord. #2013-225, June 2013)

**18-108. Reporting requirements.** (1) Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the pretreatment coordinator a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the pretreatment coordinator a report which contains the information listed in subsection (1)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) All information required in § 18-106(5)(a)(i)(A), (5)(a)(ii), (5)(a)(iii)(A), and (5)(a)(vi).

(ii) Measurement of pollutants. (A) The user shall provide the information required in § 18-106(5)(a)(vii)(A) to (5)(a)(vii)(D).

(B) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5), this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with subsection (10) below.

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

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

(iii) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-103 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.

(iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such

additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (2) below.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with subsection (14)(a) below and signed by an authorized representative as defined in § 18-103.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection (1)(b)(iv) above:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the pretreatment coordinator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

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

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the pretreatment coordinator a report containing the information described in § 18-106(5)(a)(vi) and (vii) and subsection (1)(b)(ii) above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-104(2), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14)(a) below. All sampling will be done in conformance with subsection (11) below.

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the pretreatment coordinator, submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the pretreatment coordinator or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with subsection (14)(a) below.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the pretreatment coordinator, using the procedures prescribed in subsection (11) below, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the pretreatment coordinator of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

(a) The pretreatment coordinator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-106(5).

(b) The pretreatment coordinator may issue an individual wastewater discharge permit under § 18-107(7) or modify an existing wastewater discharge permit under § 18-107(4) in response to changed conditions or anticipated changed conditions.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the pretreatment coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.



(b) Within five (5) days following such discharge, the user shall, unless waived by the pretreatment coordinator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the pretreatment coordinator immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the pretreatment coordinator as the pretreatment coordinator may require.

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

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of

such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (5) above. The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (1), (3), and (4) above.

(b) Dischargers are exempt from the requirements of subsection (9)(a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms 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 of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the pretreatment coordinator, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other

applicable sampling and analytical procedures, including procedures suggested by the pretreatment coordinator or other parties approved by EPA.

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

(a) Except as indicated in subsections (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the pretreatment coordinator. Where time-proportional composite sampling or grab sampling is authorized by Erwin Utilities, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by Erwin Utilities, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

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

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsection (1) and (3) (Tennessee Rule 1200-4-14-.12(2) and (4)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the pretreatment coordinator may authorize a lower minimum. For the reports required by subsection (4) above (Tennessee Rule 1200-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this

chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-104(4)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or Erwin Utilities, or where the user has been specifically notified of a longer retention period by the pretreatment coordinator.

(14) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-106(7); users submitting baseline monitoring reports under subsection (1)(b)(v) above; users submitting reports on compliance with the categorical pretreatment standard deadlines under subsection (3) above; users submitting periodic compliance reports required by subsection (4)(a) to (4)(c); and users submitting an initial request to forego sampling of a pollutant on the basis of subsection (4)(b)(iv). The following certification statement must be signed by an authorized representative as defined in § 18-103:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (Ord. #2013-225, June 2013)

**18-109. Compliance monitoring.** (1) Right of entry; inspection and sampling. The pretreatment coordinator shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the pretreatment coordinator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the

user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification. The pretreatment coordinator shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The pretreatment coordinator shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The pretreatment coordinator may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the pretreatment coordinator and shall not be replaced. The costs of clearing such access shall be borne by the user.

(e) Unreasonable delays in allowing the pretreatment coordinator access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the pretreatment coordinator has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Erwin Utilities designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the pretreatment coordinator may seek issuance of a search warrant from the Unicoi County General Sessions Court of Unicoi County, Tennessee. (Ord. #2013-225, June 2013)

**18-110. Confidential information.** Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the pretreatment coordinator's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the pretreatment coordinator, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made

available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction. (Ord. #2013-225, June 2013)

**18-111. Publication of users in significant noncompliance.** (1) The pretreatment coordinator shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by Erwin Utilities, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

(2) The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user that violates subsections (1)(c), (1)(d) or (1)(h) below and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-104;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-104 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-104 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the pretreatment coordinator determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

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

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

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

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the pretreatment coordinator determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. #2013-225, June 2013)

**18-112. Administrative enforcement remedies.** (1) Notification of violation. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the pretreatment coordinator. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the pretreatment coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The pretreatment coordinator may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (4) and (5) below and shall be judicially enforceable.

(3) Show cause hearing. The pretreatment coordinator may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the pretreatment coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-103 and required by § 18-106(7)(a).

A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance orders. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Cease and desist orders. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the pretreatment coordinator may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

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

(6) Administrative penalties. (a) When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may assess a penalty to such user in an amount not to exceed one thousand dollars. Such penalties shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation.

(b) Unpaid penalties and charges shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of three percent (3%) per month. A lien against the user's property shall be sought for unpaid penalties and charges.



(c) Users desiring to dispute such penalties must file a written request for the pretreatment coordinator to reconsider the penalty along with full payment of the penalty amount within thirty (30) days of being notified of the penalty. Where a request has merit, the pretreatment coordinator may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The pretreatment coordinator may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

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

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

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

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the pretreatment coordinator prior to the date of any show cause or termination hearing under subsections (3) above or (8) below.

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

(8) Termination of discharge. In addition to the provisions in § 18-107(5), any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit conditions;

- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (e) Violation of the pretreatment standards in § 18-104.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (3) above why the proposed action should not be taken. Exercise of this option by the pretreatment coordinator shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. #2013-225, June 2013)

**18-113. Judicial enforcement remedies.** (1) Injunctive relief. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may petition the Unicoi County General Sessions Court through Erwin Utilities' Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The pretreatment coordinator may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to Erwin Utilities for a maximum civil penalty of fifty dollars (\$50.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The pretreatment coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Erwin Utilities.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00) per violation, per day, or imprisonment for not more than five (5) years, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least fifty dollars (\$50.00), or be subject to imprisonment for not more than five (5) years, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than fifty dollars (\$50.00) per violation, per day, or imprisonment for not more than five (5) years, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than fifty dollars (\$50.00) per violation, per day, or imprisonment for not more than five (5) years, or both.

(4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The pretreatment coordinator may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Erwin Utilities' enforcement response plan. However, the pretreatment coordinator may take other action against any user when the circumstances warrant. Further, the pretreatment coordinator is empowered to take more than one (1) enforcement action against any noncompliant user. (Ord. #2013-225, June 2013, modified)

**18-114. Supplemental enforcement action.** (1) Penalties for late reports. A penalty of fifty dollars (\$50.00) shall be assessed to any user for each day that a report required by this chapter, a permit or order issued hereunder is late, beginning (5) days after the date the report is due. Actions taken by the pretreatment coordinator to collect late reporting penalties shall not limit the pretreatment coordinator's authority to initiate other enforcement actions that may include penalties for late reporting violations.

(2) Performance bonds. The pretreatment coordinator may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to Erwin Utilities, in a sum not to exceed a value determined by the pretreatment coordinator to be necessary to achieve consistent compliance.

(3) Liability insurance. The pretreatment coordinator may decline to issue or reissue an individual wastewater discharge to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(4) Payment of outstanding fees and penalties. The pretreatment coordinator may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder.

(5) Water supply severance. Whenever a user has violated or continues to violate any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

(6) Public nuisances. A violation of any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the pretreatment coordinator. Any person(s) creating a public nuisance shall be subject to the provisions of the Unicoi Municipal Code governing such nuisances, including reimbursing Erwin Utilities for any costs incurred in removing, abating, or remedying said nuisance. (Ord. #2013-225, June 2013, modified)

**18-115. Affirmative defenses to discharge violations.** (1) Upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (1)(c) below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the pretreatment coordinator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 18-104(1)(a) or the specific prohibitions in § 18-104(1)(b)(iii) to (vii) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge

when Erwin Utilities was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3)(c) and (3)(d) below.

(c) Bypass notifications.

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

(ii) A user shall submit oral notice to the pretreatment coordinator of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The pretreatment coordinator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. (i) Bypass is prohibited, and the pretreatment coordinator may take an enforcement action against a user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering

judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under subsection (3)(c) above.

(ii) The pretreatment coordinator may approve an anticipated bypass, after considering its adverse effects, if the pretreatment coordinator determines that it will meet the three conditions listed in subsection (3)(d)(i) above.

**18-116. Miscellaneous provisions.** Pretreatment charges and fees: Erwin Utilities may adopt reasonable fees for reimbursement of costs of setting up and operating Erwin Utilities' pretreatment program, which may include:

(1) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;

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

(4) Fees for filing appeals;

(5) Fees to recover administrative and legal costs (not included in subsection (2) above) associated with the enforcement activity taken by the pretreatment coordinator to address IU noncompliance; and

(6) Other fees as Erwin Utilities may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by Erwin Utilities. (Ord. #2013-225, June 2013)

## CHAPTER 2

### UNDERGROUND UTILITY LINE SPECIFICATIONS

#### SECTION

18-201. Underground utility line specifications.

**18-201. Underground utility line specifications.** 1. All utilities, including gas, electric, sewer, water, telephone and cable seeking to install underground lines within the Town of Unicoi shall obtain a permit from the town recorder prior to digging on any public right-of-way within the Town of Unicoi, with the exception of a service interruption. In the event of a service interruption, a permit shall be obtained from the city recorder on the first work day after the service interruption.

(2) Upon acceptance of the permit, said utility company or contractor shall be responsible for all damages done to property controlled by the Town of Unicoi.

(3) All underground installation following alongside a town street must be two feet (2') from the edge of the pavement.

(4) Any lines installed must be a minimum of three feet (3') in depth, unless a variance is obtained from the Town of Unicoi Planning Commission.

(5) All laterals will be put under any paved road by pushing the pipe or boring underneath the road at such a depth that it does not disturb the road surface. In the event this cannot be accomplished, a waiver shall be obtained from the Town of Unicoi Planning Commission prior to a cut in the road. Either of these events are subject to obtaining a permit as previously described in subsection (1) above.

(6) In the event a road within the Town of Unicoi is cut or when a pipe is installed by pushing or boring underneath the road by said utility or construction company, it shall be responsible for returning the road to the condition it was before construction began. The maintenance of the road cut shall be the responsibility of the said utility or construction company for a period of one year from completion of construction and paving. The said construction company has sixty (60) days to complete the construction unless weather delays have occurred and a waiver has been obtained from the planning commission.

(7) All utility work performed by said utility or construction company on Town of Unicoi rights-of-way shall be responsible for returning the right-of-way to the condition it was before construction began. This event is also subject to obtaining a permit as previously described in subsection (1) above.

(8) The penalty for each violation of this chapter shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00) per day of violation plus Town of Unicoi Municipal Court costs plus any additional penalties owed for late payment of costs. (Ord. #2013-223, Feb. 2013)