CHAPTER 70. UTILITIES

Cross reference(s)—Buildings and building regulations, CHAPTER 18; poles, wires and conduits, § 62-91 et seq.

State law reference(s)—Municipal authority to operate public utilities, G.S. 160A-312.

ARTICLE I. IN GENERAL

70-1. Management and control of water and sewer systems.

A. *Generally.* The management and control of the water and sewer systems is vested in the city manager, to be governed by the provisions of this chapter and of CHAPTER 2, Article V, Division 3, and the policies established from time to time by the city council.

B. *Distribution and collection systems.* The city manager shall appoint a superintendent who shall have operational control of the water and sewer distribution and collection systems under the general supervision of the city manager.

C. *Treatment plants and pumping facilities.* The city manager shall appoint superintendents who shall have operational control of the water and wastewater treatment plants and pumping facilities under the general supervision of the city manager.

D. *Financial operation.* The finance director of the city is authorized, under the supervision of the city manager, to administer the financial operation of the water and sewer systems. Any person aggrieved by a decision of the finance director shall have the right of appeal to the city manager, who shall have authority to make a final decision on any appeal.

(Code 1980, § 17-1)

70-2. Pertinent provisions of Code to be part of terms of service.

All pertinent provisions of this chapter and of CHAPTER 2, Article V are hereby made a part of the terms and conditions whereby the city shall provide water, sewer and/or garbage and refuse collection service to any consumer, or whereby the city shall make any water or sewer connection or perform work of any kind in connection with the providing of such services.

(Code 1980, § 17-3)

70-3—70-30. Reserved.

ARTICLE II. WATER SYSTEM

70-31. Created.

The city, by virtue of the authority granted by its Charter and by the General Statutes of the state, is authorized and empowered to acquire, provide, construct, establish, maintain and operate a water system for the city and to extend those systems beyond the corporate limits. In accordance with such authority, there is hereby created a water supply and distribution system for the city.

(Code 1980, § 17-21)

70-32. Connection to city system required.

A. All developed property within the city limits and located within 300 feet of a city water line shall be connected therewith and the property owner shall be charged the prescribed tap fee for all such connections. Request for relief from this requirement for the construction of one single-family home may be made in writing to the city manager. Such relief shall be granted only in situations of demonstrated hardship by the property owner.

B. Improved property served by wells and annexed by the city shall be connected to the city water system, if within 300 feet, within five years of the effective date of annexation.

(Code 1980, § 17-22; Ord. No. 2018-27, § 1(Att. A), 9-17-18)

70-33. Application for connection.

Any person desiring connection to be made with the city water system shall make application in writing to the finance director, stating the name of the owner of the lot, the location of the lot, the number of the building if there is a number, the number and kind of connections desired and the character of the surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee. Approval of an application for connection shall be issued in the form of a service permit.

(Code 1980, § 17-23)

70-34. Installation of connections; connections to substandard property.

A. All connections to water lines and the installation of lateral connections to the edge of the public right-of-way in which the main line is located shall be performed only by city personnel or, if specifically approved by the city manager, by a licensed contractor under the supervision of the superintendent of the water and sewer department.

B. Water connections will not be made to any existing vacant substandard property or any substandard property becoming vacant until such time as the property has been inspected and brought into compliance with the city codes and a certificate of occupancy issued.

(Code 1980, § 17-24)

70-35. Connection charges.

A. Applicable water tap, meter setting, and capacity system development fees, which are set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, shall be paid in advance of the tapping of any water main. The specific policies and procedures for the assessment and collection of such fees shall be established by the city manager.

B. All residents of areas statutorily annexed to the city shall qualify for waiver of the foregoing standard water tapping fees and charges provided such residents make proper application and complete connections within 12 calendar months of the date water utilities are available for tapping. The public ~~services~~works director shall provide written certification to city council of the date such utility lines become available for connection, thereby, fixing the date from which residents are allowed to connect without payment of connection charges. All residents who do not connect within the 12-month waiver period must pay all fees and charges as prescribed herein.

C. Water capacity system development fees are to be deposited in the city's capital reserve fund to recover costs associated with water system capacity development.

D. For purpose of assessing water capacity system development fees, the assumed usage for a residential unit shall be 375 gallons per day. The term "residential unit" shall be deemed to be an individual single family living unit whether such unit shall be a freestanding house, an apartment, a condominium or any other residential structure.

E. Non-residential users will be assessed water capacity system development fees based on the number of 375 GPD units of water consumed and will pay the full cost for any fraction of a residential equivalent. Water capacity system development fees may be assessed utilizing the best available information, including but not limited to historical use data for similar uses, and an engineer's signed and sealed estimate of projected water use. In the absence of such information, the administrator shall base sewer capacity impact such fees upon North Carolina Administrative Code 15A NCAC 02T.0114 Wastewater Design Flow Rates.

(Code 1980, § 17-25; Ord. No. 6-97, § 2, 3-3-97; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11; Ord. No. 2013-08, § 01(Exh. A), 8-19-13; Ord. No. 2014-02, § 01, 2-17-14; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20)

70-36. System extensions.

Extensions of the water system shall be in accordance with CHAPTER 2, Article V, Division 3. Connections shall be in accordance with CHAPTER 2, Article V, Division 3, or as elsewhere set forth in this article.

(Code 1980, § 17-26)

70-37. Meters.

A. *Required.* A water meter shall be installed at every point of delivery of water from the city water system, the meter to be of such size and type as will most nearly meet the requirements of the service in which it is to be installed. Individually metered service connections shall be required for each individual living unit, whether in a single- or multiple-unit building or mobile home park, and for each commercial or business unit, whether situated in a single- or multiple-unit building.

B. *Master meters.* However, when a multiunit building or development cannot reasonably accommodate individually metered service connections, master metered service connections may be permitted if the applicant for service can show evidence from the state utilities commission that the proposed multiunit building or development is exempt from state building code requirements prohibiting master meters for utilities. Where master metered service connections are permitted, the applicant for service shall be responsible for all costs associated with master metered connections as determined by the city manager or his designee, all meters shall become the property of the city, all consumption of water and treatment of wastewater shall be paid for by the applicant in accordance with this article, and all utility lines beyond the master meters shall be considered service lines not owned or maintained by the city except that city requirements for fire protection shall be enforced.

(Code 1980, § 17-27)

70-38. Deposit required; amount.

A. *Deposit required.* Upon receipt of the required application for connection, the applicant shall be required to pay a utility deposit or satisfactorily establish credit with the city before utility service will be approved. Customer utility deposits shall be required as set forth in this section.

B. *Schedule.* Utility deposit fees shall be set forth in the Schedule of Taxes, Fees and Charges.

C. *Residential deposits.*

1. The city may waive the payment of a cash deposit in lieu of and based upon an applicant establishing credit with the city in such cases whereby:
    a. The applicant owns the premises to be served or other real estate within the city utilizing city utilities, unless the applicant is an unsatisfactory credit risk;
    b. The applicant demonstrates that he is a satisfactory credit risk by appropriate means which may be quickly and inexpensively confirmed by the city;
    c. The applicant has been a customer of the city for a similar type of service within a period of 24 consecutive billings preceding the date of application and during the last 12 consecutive billings for that prior service has not had service discontinued for nonpayment of bill or had more than two occasions in which a bill was not paid when it became due; provided the average periodic bill for such previous service was equal to at least 50 percent of that estimated for the new service; and provided further that the credit of the applicant is unimpaired; or
    d. The applicant furnishes a satisfactory guarantor agency acceptable to the city council to secure payment of bills for the service requested in an amount as prescribed in the city's utility deposit rate fees. If an applicant elects to offer a guarantor agency in lieu of paying a deposit, the city will require a written commitment from the guarantor agency in an amount as mentioned in this subsection. If an applicant becomes delinquent in his utility payments and he is utilizing a guarantor agency, payment will be required of the guarantor agency within 15 days from notice to the guarantor agency that the customer has been delinquent.
2. The establishment of credit under the provisions of this section shall not relieve the applicant for service or customer from compliance with the reasonable regulations of the city, including but not limited to the prompt payment of bills and the rules for discontinuance of service for the nonpayment of bills due for service furnished. Other applicants for new residential utility service shall be required to make a deposit guaranteeing payment of charges for utility service as provided in this section.
3. The city shall require a deposit from a customer who was not required to make a deposit when he applied for the obtained new residential utility service if during any consecutive 12 billings for that prior service the customer:
    a. Had service discontinued for nonpayment of bill;
    b. Had more than two occasions in which a bill was not paid when it became due; or
    c. Had one of his checks given in payment of a bill dishonored.

    The city may require any customer who has had a check dishonored in payment of a bill to pay all utility bills in cash only.

D. *Business, commercial and industrial deposits.* Applicants for new business, commercial or industrial utility service shall be required to make a deposit guaranteeing payment of charges for utility service or for reestablishment of service. In accordance with subsection (b) of this section, the city shall have the right to require such customers to adjust such deposits after the expiration of any four consecutive billing periods to reflect actual rather than estimated usage.

E. *Exemptions.* Colleges, public schools, hospitals and public agencies customers shall be exempt from furnishing deposits.

(Code 1980, § 17-28; Ord. No. 32-97, § 1, 8-18-97; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-39. Refund of deposits.

A. Existing residential customers may apply for and receive refunds of their deposit, or have their deposits credited to their accounts, if such customer during the last 12 consecutive billing periods for prior service has not:

1. Had service discontinued for nonpayment of bill;
2. Had more than two occasions in which a bill was not paid when it came due; or
3. Had one of his checks given in payment of a bill dishonored.

The deposits of existing residential customers who are not entitled to a refund of their deposit under this section shall continue to be held by the city until such customer qualifies for refund or until service is discontinued or terminated.

B. The city shall have the right to refund the deposits of residential customers who qualify for refunds but who do not apply for such refunds or to credit their accounts with the amount of the deposit. The deposits of existing business, commercial or industrial customers shall not be subject to refund and shall continue to be held by the city until service is discontinued or terminated.

(Code 1980, § 17-29)

70-40. Disposition of deposits.

Utility deposits shall be placed and kept in a separate account by the finance director and deposited in a separate bank account, and the deposit so made by each person shall be returned to the user whenever the use of city water shall be discontinued; provided, however, that the deposit so made shall be as security to the city for any unpaid water service charges, and, upon discontinuing the use of water or the water being cut off for failure to pay water rent as prescribed in this article, the finance director shall be authorized to pay over to the collector of water rents from the sum so deposited an amount equal to the charges due the city for water. When service is terminated and the account satisfactorily closed, the deposit shall be returned to the person in whose name the account is recorded. The city shall not pay interest on funds held as deposits.

(Code 1980, § 17-30)

70-41. Consumption basis of charges.

All charges for water delivered to any consumer from the city water system shall be based upon the number of gallons per month delivered to the consumer at the point of connection to the city distribution system.

(Code 1980, § 17-31)

70-42. Service charge schedule; billing.

A. The schedule of water and sewer rates, including service outside the corporate limits, shall be set forth in the schedule of taxes, fees and charges. The specific policies and procedures for the collection of water and sewer rates shall be established by the city manager.

B. Meters shall be read in accordance with the schedule of taxes, fees and charges. Bills shall be submitted monthly and shall be payable by the tenth of the month in which the bill is due.

(Code 1980, § 17-32; Ord. No. 40-96, § 1, 11-18-96; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-43. Basis of charges for multiple dwelling units on single connection.

Where more than one family dwelling unit is provided with service through a single service connection, the charges for service shall be the greater of:

A. The number of family dwelling units served times the minimum charge as shown in the current water rate; or

B. The actual charge determined for the quantity of metered water consumed.

(Code 1980, § 17-33)

70-44. Basis of charges for newly constructed condominiums.

For newly constructed condominiums, the total metered consumption serviced by one meter shall be divided by the number of units in the complex and each unit shall be figured separately at the regular metered rate with one total billing being mailed to the person in charge.

(Code 1980, § 17-34)

70-45. Responsibility for payment of charges for premises with multiple water connections.

A. Where there is not provided a separate service connection for each building situated on any given lot or parcel of land, the owner of such lot or parcel of land shall be responsible for the payment of charges for water supplied to all such buildings on the lot or parcel.

B. Where separate service connections are not provided to every occupancy unit or tenant with a multi-tenant building, the owner of the building shall be responsible for the payment of all charges for water service to the building.

(Code 1980, § 17-35)

70-46. Delinquent accounts; disconnection of service.

A. *Generally.* Water customers shall not be contacted personally in an effort to collect overdue bills; rather, on the 21st day of the month, if payment has not been received, the late payment fee approved by the city council and maintained in the office of the city clerk shall be added to the bill; on the 28th day of the month, if payment has not been received, the water shall be subject to being cut off. Water cut off under this section shall not be restored until all overdue bills are paid. Fees to disconnect or restore service shall be set forth in the schedule of taxes, fees and charges.

B. *Dispute of amount of bill.* Any customer disputing the correctness of his utility bill shall have a right to a hearing before the finance director, who shall have authority to delay cutoff and make a determination in any dispute. The customer shall be responsible for all water which passes from the city's water meter to the customer's service line, whether used or wasted. The finance director shall have the authority to adjust a customer's bill when a bona fide leak has occurred and the customer has corrected the malfunction. Before an adjustment is made, the finance director must receive written documentation acceptable to the city of the repair or correction of the malfunction, i.e., a copy of the repair bill for the subject repairs. Any adjustments shall apply to no more than the latest two-month period and be based upon an average bill determined by the finance director from the customer's previous 12-month consumption rate.

C. *Hardships.* The finance director is authorized to extend the time allowed for payment of a delinquent account to avoid cutoff for a period not to exceed 30 days in those instances where a bona fide hardship case exists. A bona fide hardship case shall be deemed to exist if an account holder obtains written confirmation of such hardship, addressed to the city finance director, from an established and recognized social welfare agency such as the county department of social services, church outreach programs, or local charity organizations.

D. *Disconnection fee; forgiveness of charges.*

1. When water service is disconnected due to nonpayment of charges, a cut-off fee shall be charged, which fee shall be set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The cut-off fee shall be charged and collected once the city has dispatched its service person for the purpose of disconnection of utility service, whether or not the service person is intercepted by the customer and whether or not the actual disconnection is performed. A separate returned check fee will further be made for any check received in payment of a utility bill which is dishonored by the bank upon which the check is drawn, which fee shall be set forth in the schedule of taxes, fees and charges.
2. When, upon the request of the customer, water service is discontinued and the customer account is temporarily closed, a cut-on fee shall be charged as approved by city council and maintained on file in the office of the city clerk, for the restoration of service, except that this fee shall not be charged when the temporary interruption of service is needed for repair of the water system on the customer side of the meter. Such fee shall be set forth in the schedule of taxes, fees and charges.
3. The city manager or finance director is hereby authorized to forgive charges for water, sewer or garbage that are less than $100.00.

(Code 1980, § 17-36; Ord. No. 22-96, § 1, 6-3-96; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-47. Turning on water without authority.

It shall be unlawful for any person to turn on the water to any premises when the premises has been cut off by the city for nonpayment of water charges, or for any other reason. All vacant buildings shall be presumed to have the water turned off by the authorities of the city for the purpose of this section, and any person using water in a newly occupied building without authority from the city shall be presumed to have turned the water on without authority from the city.

(Code 1980, § 17-37)

70-48. Unauthorized use of water.

Should any person use water from the city water system from other than a city-approved point of service, a bill will be made against the person or premises for the estimated water used, or the quantity shown to have been used by the meter, and the water turned off and not turned on until the bill is paid, together with applicable cut-off and cut-on fees as set forth in the schedule of taxes, fees and charges. This will apply to any property owner allowing water to be illegally used on his or her premises.

(Code 1980, § 17-38; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-49. Right of city to shut off water in mains.

The city reserves the right at any time to shut off water in the mains in case of accident, or for the purpose of making connections, alterations or repairs. The city will not be liable for any damage that may result to consumers for shutting off water service for any cause whatsoever, even in a case where no notice is given, and no reduction from water bills will be made therefor.

(Code 1980, § 17-39)

70-50. Trespassing on, injuring or polluting watershed or reservoir premises.

It shall be unlawful for any person to go upon the watershed or reservoir premises of the city without permission of the city council, to deposit any excreta or carcass of any dead animal or allow any animal to stray thereon, to set fire to any part thereof, to set fire to any adjoining territory so that such fire may spread and burn over such areas without giving prior notice thereof to the city manager, to damage or remove any post or fence around such areas, to throw any substance whatsoever in the reservoirs or the streams which feed the reservoirs, to go over or along the water line between the intake and the reservoirs without written permission of the city manager, or to interfere with or pollute or attempt to pollute any part of the watershed or water at any point or upon the watershed, the intake, the line between the intake and the reservoirs or the reservoirs. Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

(Code 1980, § 17-40; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

70-51. Damaging or tampering with facilities; obstructed meters.

It shall be unlawful for any person to damage, injure, destroy or tamper with any of the pipes, mains, valves, gates, hydrants, boxes, meters or other fixtures or appurtenances belonging to or connected to the city water system. Meters and meter boxes shall not be covered with dirt, trash or parked vehicles, or be obscured in any other way. Whenever it is necessary that city personnel must search for and uncover a meter box and meter in order to read the meter, a meter location charge as set forth in the schedule of taxes, fees and charges shall be automatically added to the monthly bill. Violation punishable as a misdemeanor with fine up to $500.00 per G.S. 14-4(a).

(Code 1980, § 17-41; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11; Ord. No. 2021-48 , § 1(Exh. A), 11-15-21)

70-52. Wells.

A. *Permit required.* Whenever a property owner desires to install a well within the city for any purpose whatsoever, a permit shall first be obtained from the Transylvania County Department of Environmental Health and the City of Brevard. The city permit fee shall be set forth in the schedule of taxes, fees and charges.

B. *Interconnections with city system.* It shall be unlawful to permit any connection whatsoever, including valved connections, between the well water system and the city water system. The public ~~services~~works director and the code enforcement officer shall have the right and authority to conduct periodic inspection of any well that is situated within 300 feet of any city water line to identify interconnections. Where an interconnection condition is found, water service will be terminated immediately and not restored until such time that the public ~~services~~works director is satisfied that the interconnection has been permanently eliminated.

C. *Compliance with section 70-32 required.* Properties served by wells shall maintain compliance with Section 70-32 of this chapter. Wells within the corporate limits of the City of Brevard, which are situated within 300 feet of any city water line, shall not be utilized for human consumption, which includes drinking, bathing, cooking, dishwashing and maintaining oral hygiene, or other similar uses.

(Code 1980, § 17-42; Ord. No. 12-2011, § 7(Exh. G), 6-20-11, eff. 7-1-11)

70-53. Cross connection control policy.

In compliance with the ~~federal~~Federal Safe Drinking Water Act of 1974, as amended, all cross connections and interconnections of the city water system shall be governed by applicable provisions of this article and the city's cross connection control policy. The city's cross connection control policy, as may be amended from time to time by the city council, is adopted by reference as though fully set forth within this article. This policy shall regulate all such connections and provide for backflow prevention into the system for purposes of protecting the public health of all citizens and utility customers of the city.

(Code 1980, § 17-43)

70-54—70-~~80~~60. Reserved.

ARTICLE ~~IV~~III. WATER SHORTAGE RESPONSE PLAN

70-~~127~~61. Declaration.

Whenever the water supply of the City of Brevard's public water system is low or declining due to conditions which may adversely affect the continued availability of water for human consumption, sanitation, health and fire protection, it will become necessary to declare a water shortage and implement conservation requirements under the standards set forth below. The procedures herein are written to reduce potable water demand whenever drinking water supplies are in danger of being inadequate to meet customer needs.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~128~~62. Authorization.

The City of Brevard City Manager is authorized to enact water shortage response provisions whenever the trigger conditions outlined in Section 70-~~132~~66 are met. In his or her absence the ORC (operator in responsible charge) of the water treatment plant will assume this role.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~129~~63. Notification.

The following notification methods will be used to inform water system customers and employees of a water shortage declaration: employee e-mail announcements and notification from supervisors when reporting for work, notices posted at city hall, notices on water bills, notice posted on city website, notice published in the Transylvania Times, public service announcements on local radio WSQL and via Comporium CATV.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~130~~64. Classification of water uses.

A. *Class I: Essential uses of potable water.*

1. *Domestic:* Water to sustain human and domestic pet life, maintain hygiene and sanitation standards.
2. *Patient care:* Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation as prescribed by medical personnel.

3. *Public safety:* Firefighting and approved flushing of hydrants and sewer mains to ensure public health and safety.

B. *Class II: Socially or economically essential uses of potable water.*

1. *Domestic:* Minimal use for kitchen, bathroom and laundry; minimal watering of vegetable gardens needed to sustain them between the hours of one hour before sunset and one hour after sunrise.
2. *Patient care:* Patient care and rehabilitation, including swimming pools used for patient care and rehabilitation as prescribed by medical personnel.
3. *Public use:* Filling and operation of public swimming pools.
4. *Commercial:* Commercial vehicle washers, laundromats, restaurants, hotels/motels, minimal water usage by commercial nurseries required to sustain stock, minimum amounts required to sustain essential cooling operations.
5. *Agricultural:* Minimal amounts required to sustain crops, livestock and associated activities.
6. *Industrial:* Minimal use necessary to operate production facilities and sustain jobs, minimal amounts required to sustain essential cooling operations.
7. *Institutional:* Efficient use of water by schools, churches, and government facilities.

C. *Class III: Non-essential uses of potable water.*

1. *All:* Ornamental uses (fountains, reflecting pools, artificial waterfalls, etc.) residential and commercial lawn irrigation, non-commercial washing of motor vehicles, wash down of impervious surfaces, filling and operation of recreational swimming pools.
2. *Public use:* Gardens, lawns, parks, city/county playing fields and recreation areas.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~131~~65. Levels of response.

Three levels of response are included in this plan. These levels are: stage 1 water shortage advisory, voluntary restrictions/reductions. Stage 2 water shortage alert, mandatory restrictions/reductions. Stage 3 water shortage emergency, escalated mandatory restrictions/reductions and water rationing. A detailed description of each response level and corresponding water reduction measures are as follows.

A. *Stage 1 water shortage advisory:*

1. Water supply conditions indicate a potential for a shortage. Voluntary restrictions. Water users are encouraged to voluntarily reduce their water use and improve water use efficiency; however, there are no penalties for noncompliance. All water users are requested to adhere to class I and class II uses of potable water.
2. All water users who use in excess of 2,000 gallons during the billing period will be asked to reduce their normal water use by ten percent. Customer education programs (i.e., articles in local publications, city's website, city newsletter, public service announcements on local radio and cable system will encourage water conservation.

B. *Stage 2 water shortage alert:*

1. Water supply conditions are significantly lower than normal and conditions are expected to persist. Mandatory restrictions. Water users must abide by required water use restrictions and reductions. Penalties apply for noncompliance. All customers are required to reduce their water use by an additional

ten percent in comparison to their previous month's water bill. Only water usage as described in class I and class II uses is allowed.

2. Additionally, in stage 2 a water use surcharge of one and one-half times the normal water rate applies to any user (who exceeds 2,000 gallons usage for the billing period) who did not achieve the required ten percent reduction in usage.

C. *Stage 3 water shortage emergency:*

1. Water supply conditions are substantially diminished and pose an imminent threat to human health. Water users must continue actions from all previous stages and further reduce water use by ten percent compared to their previous month's bill. All non-essential uses of drinking water are prohibited. All customers must only use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use.
2. Water rationing, if deemed necessary by the city manager, will be to provide drinking water to protect public health. All customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use and pickup locations for distributing potable water will be announced by the city.
3. Additionally, in stage 3 a water use surcharge of two times the normal water rate applies to any user (who exceeds 2,000 gallons usage for the billing period) who did not achieve the required additional ten percent reduction.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~132~~66. "Triggers" and responses.

The following "triggers" for the city are listed below in relationship to the city's "run of the river" water supply system.

A. *Triggers.* If the city's water source, Cathey's Creek, experiences stream flow reductions as described below, then specific responses will take effect.

1. *Stage 1.* If the flow of water entering the raw water intake becomes inadequate for normal pump operation greater than 1,700 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain normal operation of its water system as determined by the city's manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage advisory.
2. *Stage 2.* If the flow of raw water entering the raw water intake becomes inadequate for normal pump operation greater than 1,500 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain normal operation of its water system as determined by the city's manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage alert.
3. *Stage 3.* If the flow of raw water entering the raw water intake becomes inadequate for normal pump operation greater than 1,300 gallons per minute during seven consecutive days; or if damage, failure or contamination of the city's treatment and/or distribution systems occurs thus restricting or otherwise limiting the city's ability to maintain adequate operation of its water system as determined by the city's

manager or authorized representative; or for other reasons as may be determined by the city manager, then the city manager may declare a water shortage emergency.

B. *Responses.*

1. In stage 1, water shortage advisory, all water users will be asked to reduce their normal water use by ten percent. Conservation and efficiency measures will be encouraged by outreach programs such as articles in the Transylvania Times, PSAs on local radio and cable TV and the city's website. Irrigating landscapes should be at the minimum required and should only be done between the hours of one hour before sunset and one hour after sunrise. Identify and repair all water leaks. Consider installing water-saving devices on showers. Avoid watering or washing impervious surfaces such as driveways and sidewalks. Minimize vehicle washing.
2. In stage 2, water shortage emergency, all water users are expected to reduce their water use by an additional ten percent in comparison to their previous month's water bill if that bill shows usage of more than 2,000 gallons. In addition to continuing the steps which were encouraged during the water shortage advisory, the following restrictions apply: Irrigation activities must be done at the minimum required to sustain plant life and must be done only between the hours of one hour before sunset and one hour after sunrise. Washing of vehicles is prohibited except at commercial car washes. Watering or washing impervious surfaces such as driveways and sidewalks is prohibited. All use of city fire hydrants will be limited to that required for public health and safety and done only by personnel authorized by the city manager or his representative. All customers are only permitted to use water at the minimum required for public health protection as outlined in class I and class II water uses. Additionally, in stage 2, a water use surcharge of one and one-half times the normal water rate will apply for all users who use more than 2,000 gallons during the billing period.
3. In stage 3, water shortage emergency, all water users must continue actions from all previous stages and further reduce water by ten percent compared to their previous month's water bill if that bill shows usage of more than 2,000 gallons. All non-essential uses of drinking water as outlined in class III are prohibited. Water rationing, if deemed necessary by the city manager, will be to provide drinking water to protect public health. All customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use. Additionally, in stage 3, a water use surcharge of two times the normal water rate will apply for all users who use more than 2,000 gallons during the billing period. "Essential uses of potable water" is defined as: water to sustain human and domestic pet life, maintain hygiene and sanitation standards; patient care and rehabilitation as prescribed by medical personnel; firefighting and approved flushing of hydrants and sewer mains to ensure public health and safety and comply with monitoring requirements.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~133~~67. Public comment.

Water users will have the opportunity to comment on the provisions of the water shortage response plan. Notices disclosing the locations where the draft plan may be viewed by the public will be published in the Transylvania Times and on the City of Brevard website (www.cityofbrevard.com). A public hearing will be scheduled with notice given as to the time and place of the hearing. All subsequent revisions to the plan will be published at least 30 days prior to an adoption vote by the City of Brevard Council.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~468. Variance protocols.

Applications for water use variance requests are available at Brevard City Hall. All applications must be submitted to the Brevard City Manager or his or her designee. A decision to approve or deny individual variance requests will be determined within two weeks of submittal after careful consideration of the following criteria: impact on water demand, expected duration of the shortage, alternative source options and social and economic importance.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~569. Effectiveness.

The effectiveness of the City of Brevard Water Shortage Response Plan will be determined by comparing the stated water conservation goals with observed water use reduction data. Other factors include, but are not limited to, the frequency of plan activation, desired reductions attained and evaluation of demand reductions compared to the previous year's seasonal data.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~670. Revision.

The water response plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand, following implementation of restrictions, and at a minimum of every five years, as required by G.S. 143-355(1). Further, a water response planning work group designated by the city manager, will review procedures following any change in restriction status. The city manager is responsible for initiating all subsequent revisions.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~771. Enforcement and penalties.

The provisions of the water shortage response plan will be enforced by the City of Brevard Police Department. Violators may be reported to the city by calling the police department at 883-2212. Citations are assessed according to the following schedule depending on the number of prior violations and the current level of water shortage:

A. *Stage 1:* None.

B. *Stage 2:*

1. *First:* Notice of violation (NOV).
2. *Second:* Disconnection of water service (24-hour shut-off period).
3. *Third:* Up to $250.00 fine and disconnection of water service (48-hour shut-off period).
4. Drought surcharge rates apply.

C. *Stage 3:*

1. *First:* Disconnection of water service (24-hour shut-off period).
2. *Second:* Up to $500.00 fine and disconnection of water service (48-hour shut-off period).
3. *Third:* Up to $500.00 fine and disconnection of water service (72-hour shut-off period).
4. Drought surcharge rates apply.

(Ord. No. 19-10, § 2(Exh. A), 10-4-10)

70-~~13~~872 -, 70-~~13~~980. Reserved.

ARTICLE ~~III~~IV. SEWER SYSTEM

State law reference(s)—Wastewater systems, G.S. 130A-333 et seq.

70-81. Created.

The city, by virtue and authority granted by its Charter and by the general statutes of the state, is authorized and empowered to acquire, provide, construct, establish, maintain and operate sewer systems for the city and to extend those systems beyond the corporate limits. In accordance with such authority, there is hereby created a sewage collection and disposal system for the city.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-82. Purpose and scope of article.

~~A. This article is adopted by the city in compliance with the terms and provisions of public funds used in the construction and installation of the city sewer system, and is intended to ensure beneficial service to users of such system, the prevention of abuse thereof, and a manner of equitably distributing the costs of services among the users thereof, recognizing that the physical facilities of the sewer system, including the trunk sewers, pump stations and force mains, the treatment plant and other support appurtenances are intended to transport, convey and treat sanitary wastewater and compatible industrial wastewater to produce a treated wastewater and byproduct sludge which may be released into the environment without adverse environmental impact.~~

A. This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city, and enables the county to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). This article shall supersede all prior ordinances, but only to the extent that such prior ordinances are inconsistent herewith. To the extent this article conflicts with other ordinances related to the sewer use provisions herein, this article shall supersede such ordinances.

B. The objectives of this article and its elements are as follows:

~~1. Elimination from the sewer system of uncontaminated water, groundwater and stormwater which do not require extensive treatment and unnecessarily increase the operating cost of the sewer system.~~

~~2. To ensure a fair allocation of the cost among the users of the system, based upon voluntary contributions of wastewater of equal strength, and the recovery of capital cost contributions of public monies from industrial and commercial users of the system.~~

~~3.~~1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

~~4.~~2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

~~5.~~3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

~~6.~~4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

~~7.~~5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

~~8.~~6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

C. This article provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

D. This article shall apply to all users of the municipal wastewater system. Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the city manager may be delegated by the city manager to other city personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the county limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

E. No statement contained in this section shall be construed as prohibiting any special agreement or arrangement between the city and other persons whereby an industrial waste of unusual strength or character may be admitted into the system.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-83. Reserved.

(Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the contents of this section to City Code § 1-2.

70-84. Connection to city system required.

A. All developed property within the city limits and located within 300 feet of a city sewer line shall be connected therewith, and the property owner shall be charged the prescribed tap fee for all such connections. Such connection shall be made in accordance with the provisions of this article within 90 days after the date of official notice to connect. Request for relief from this requirement for the construction of one single-family home may be made in writing to the city manager. Such relief shall be granted only in situations of demonstrated hardship by the property owner.

B. Improved property served by wells and annexed by the city shall be connected to the city sewer systems, if within 300 feet, within five years of the effective date of annexation; provided, however, that no connection to the sewer system shall be permitted without also connecting to the city's water system.

C. Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14; Ord. No. 2018-27, § 1(Att. B), 9-17-18)

70-85. Application for connection.

Any person desiring connection to be made with the city sewer system shall make application in writing to the finance director, stating the name of the owner of the lot, the location of the lot, the number of the building if there is a number, the number and kind of connections desired and the character of the surface of the abutting street. Every such application shall be signed by the person making the application and shall be accompanied by the appropriate connection fee. Approval of an application for connection shall be issued in the form of a service permit.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-86. Installation of connections; connections to substandard property.

A. *Connections to be made by city personnel or authorized contractor.* All connections to sewer main lines and the installation of lateral connections to the edge of the public right-of-way in which the main line is located shall be performed only by city personnel, or, if specifically approved by the city manager, by a licensed contractor under the supervision of the city manager's designee.

B. *Connections to substandard property.* Sewer connections will not be made to any existing vacant substandard property or any substandard property becoming vacant until such time as the property has been inspected and brought into compliance with the city codes and a certificate of occupancy issued.

C. *Unauthorized tampering.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance.

D. *Payment of costs of connection.* All costs and expenses incident to the installation and connection of a sewer service line shall be borne by the owner.

E. *Separate service line required for each building; exception.* Unless otherwise authorized by appropriate authority, a separate and independent sewer service line shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the sewer service line from the front building may be extended to the rear building and the whole considered as one sewer service line.

F. *Use of old service lines.* Old sewer service lines may be used in connection with new buildings only when they are found upon examination and test by the city to meet all requirements of this article.

G. *Specifications for connections.* The size, slope, alignment and materials of construction of a sewer service line, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city and the state.

H. *Elevation of service line.* Whenever possible, the sewer service line shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the sewer service line.

I. *Connection to downspouts and sources of runoff.* No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a sewer service line or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

J. *Conformance with rules and regulations.* The connection of the sewer service line into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. All such connections shall be made watertight. Any deviation from the prescribed procedures and materials must be approved by the city manager or the city manager's designee.

K. *Inspection and supervision of connection.* The applicant for a sewer connection shall notify the building inspector when the sewer service line is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city manager or the city manager's designee.

L. *Excavations.* All excavations for sewer service line installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-87. System extensions.

Extensions of the sewer system shall be in accordance with Chapter 2, Article V, DIVISION 3. Extension connections shall be in accordance with Chapter 2, Article V, DIVISION 3, or as elsewhere set forth in this article.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-88 - , 70-8992. Reserved.

~~70-90. Permissive use of system; additional regulations.~~

~~**A.** Persons within or without the city are subject to regulations of the city, the county department of health, and the North Carolina Department of Environment and Natural Resources, for proper handling of wastes and wastewaters accepted into the public sewers.~~

~~**B.A.** Such persons may apply to the city for discharge of sanitary and compatible wastewaters into the sewerage system, by procedures outlined in this article.~~

~~(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)~~

~~70-91. Prohibited discharges.~~

~~No person shall discharge or cause to be discharged any incompatible wastewaters or wastes to any public sewers, including the following:~~

~~**A.** The discharge of sanitary wastewater into a storm sewer system.~~

~~**B.** Stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer. Unpolluted cooling waters may, upon written application and approval by the city manager, be discharged to storm sewers or storm drains.~~

~~**C.** Waters or wastes containing substances which are not amenable to treatment or removal by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent and sludge outputs cannot meet the requirements of the North Carolina Department of Environment and Natural Resources and applicable permits issued therefrom.~~

~~**D.** Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a public nuisance.~~

~~**E.** Any gasoline, benzene, naphtha, fuel oil or other petroleum products or flammable or explosive liquids, solids or gases.~~

F. Any waters or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the city.

Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders

70-92. Restricted discharges.

No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the manager that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the manager

will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

a. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

b. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.

c. Any garbage other than ground residential garbage.

d. Any acidic or alkaline wastewaters having pH values outside the range of 5.0 to 10.0.

B. Heavy metals and toxic, refractory or organic chemicals in concentrations or quantities sufficient to limit treatment plant capability or efficiency, to adversely affect effluent quality by their presence or effects, or to limit the means of disposal or utilization of treatment plant sludge by their presence. The manager may issue lists of prohibited metals and toxic chemicals and guidelines and criteria for limiting their acceptance as required for operation of the treatment system.

C. Any radioactive wastes or isotopes of such half-life or concentration as may exceed public safety limits or cause the plant effluent or sludge to exceed any applicable state or federal regulations.

Any materials which exert or cause:

Unusual oxygen demand or chlorine demand in such amounts as to constitute a significant load or a problem with wastewater treatment plant operations.

b. Excessive discoloration of treatment plant effluent.

c. Unusual odors in the treatment plant effluent or unusual odors in the sewerage system.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-93. Limitations on compatible wastes.

A. No person may discharge large quantities of compatible ~~wastewaters~~wastewater to public sewers which, by reason of volume, flow rate, concentration or total load of compatible constituents, are in excess of the capacity of a part of the sewer system or are inconsistent with the most beneficial use of the system in the opinion of the ~~manager.~~wastewater treatment plant director. In consideration of these factors, the ~~manager~~wastewater treatment plant director will limit the following:

1. Volume and flow rate from any individual source to the capacity of sewers, pump stations and force mains and the treatment system, less the capacity committed to serve the general public and other users and the reserve capacity to serve anticipated needs of the general public until the time of a planned expansion of the facilities.
2. Loads of compatible pollutants, such as BOD, suspended solids, nitrogen and phosphorus, from any individual source, to the capacity of the treatment facilities, less the capacity committed to serve the general public and other users and the reserve capacity to serve the anticipated needs of the general public until the time of a planned expansion of the treatment facilities.
3. ~~The manager~~The wastewater treatment plant director may require flow equalization or pretreatment for load reduction as a condition of service or he may decline to receive high loads or highly concentrated wastewaters into the system if in his opinion this would not be the most beneficial use of the system, by reason of the cost of services, technical considerations relating to operation and maintenance of the system or conflicting alternatives for the provision of services.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-94. Compliance with federal and state standards; dilution of discharge.

A. *Applicability of federal pretreatment standards.* Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article.

B. *Applicability of state requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

C. *Dilution of discharge.* No user shall 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 the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or the state.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-95. Accidental discharges.

A. *Facilities and procedures.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or ~~users~~users' own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review~~,~~ and shall be approved by the city before construction of the facility. No user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of accidental discharge, it is the responsibility of the user to immediately telephone and notify the wastewater treatment

plant of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

B. *Written notice to ~~manager.~~wastewater treatment plant director.* Within five days following an accidental discharge, the user shall submit to the ~~manager~~wastewater treatment plant director a detailed written report describing the cause 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 may be incurred as a result of damage to the system, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

C. *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent ~~place~~places advising employees whom to call in the event of an accidental or dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-96. User charges.

A. *General.* Sewer user charges are based upon the proposition that costs of service be distributed equitably among users of the services. This principle is embodied in the Federal Clean Water Act and underlies agreements between the city and the United States Environmental Protection Agency in funding the construction of facilities. According to these agreements, there will be two rates for payment for services by users, as follows:

1. Basic users rate.
2. High strength waste surcharges.

B. *Basic users rate.*

1. *Water and sewer users.* Persons discharging only normal sanitary wastewaters who are water customers of the city shall be charged such rates as the city council shall determine through water meter records. Such rates shall be stated in terms of cents per 1,000 gallons of wastewater and shall include any charge which the city may make to cover the costs, etc. Such rates shall be set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of water and sewer charges shall be established by the city manager.
2. *Sewer (no water meter).* Persons discharging only normal sanitary wastewater who are not water customers of the city will likewise be charged with an estimated volume of sewage at the domestic rates stated in terms of cents per 1,000 gallons of wastewater. If there is no meter or method of determining the amount of water consumed by such person, it shall be presumed that there will be a minimum of 60 gallons of wastewater per person residing in the household, per day, discharged into the system. The schedule of rates for basic users that are sewer users (no water meter) shall be the same as those rates set forth in subsection 70-96.B.1.
3. *Adjustments.* The volume of sewage will be estimated to be the same as the volume of water used for basic users if metered, or the assumed amount if unmetered unless it can be demonstrated that the two volumes are substantially different in a greater proportion than is normal. Metered water volume intake will be the usual value used for billing sewer use charges, where applicable. The finance director is authorized to make an adjustment in estimated flow when it can be demonstrated a substantial difference exists as described in this section.

C. *High strength waste surcharge.*

1. Persons discharging high strength wastes will be charged for loads of BOD and suspended solids in the wastewater in concentrations in excess of those normal for domestic sewage and allowed for ~~in~~ the basic users rate. For purposes of establishing the lower limits of the user charge surcharges, normal domestic wastewater shall be characterized according to the following concentrations for domestic waste parameters:
   a. BOD_5: 220 mg/l.
   b. Suspended solids: 220 mg/l.
2. Surcharge rates will be stated in terms of cents per pound for each parameter. Quantities of ~~surchargeable~~surcharge able materials will be determined by flow measurements (or estimates), sampling, analyses and calculations. Sampling and ~~analyses~~analysis will be done by the city using 24-hour composite samples, taken during a representative operating period of the user. Average results of sample analyses will be used for calculating surcharges for each parameter over the billing period.
3. Administration for the high strength waste monitoring program and billings to such accounts will be made by the city and will include statements of base rate billings, surcharge billings and the basis of billings.
4. A schedule of surcharge rates to be charged for the collection and treatment of high strength wastewater shall be set forth in the schedule of taxes, fees and charges. Rate schedules will be revised from time to time to reflect the changing number of users and the ~~varying~~varied operation costs.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-97. Sewer connection charges.

A. Applicable sewer tap and capacity system development fees, which are set forth in the schedule of taxes, fees and charges, shall be paid in advance of the establishment of any sewer connection, including, but not limited to, the extension of pipe, the tapping of a sewer main, or the establishment of a new use on an existing connection. The specific policies and procedures for the assessment and collection of sewer tap and capacity system development fees shall be established by the city manager.

B. All sewer tap fees shall be computed at the sum total of the cost of labor, materials and equipment necessary for completion of the work plus 35 percent of the direct labor charge.

C. No water from the city's water system shall be supplied to any person who has caused a sewer tap to be made until the tap fee has been received by the finance director.

D. All residents of areas statutorily annexed to the city shall qualify for waiver of the standard sewer tapping fees and charges provided such residents make proper application and complete connections within 12 calendar months of the date sewer utilities are available for tapping. The public ~~services~~works director shall provide written certification to city council of the date such utility lines become available for connection, thereby, fixing the date from which residents are allowed to connect without payment of connection charges. All residents who do not connect within the 12-month waiver period must pay all tapping fees and charges as prescribed herein.

E. Sewer capacity system development fees are to be deposited in the city's capital reserve fund for improvements at the sewer plant.

F. For purpose of assessing residential sewer capacity system development fees, the assumed usage for a residential unit shall be ~~375~~240 gallons per day. The term "residential unit" shall be deemed to be an individual

single-family living unit whether such unit shall be a freestanding house, an apartment, a condominium or any other residential structure.

G. Non-residential users will be assessed sewer capacity system development fees based on the number of ~~375~~240 GPD units of water consumed and will pay the full cost for any fraction of a residential equivalent. Sewer capacity system development fees may be assessed utilizing the best available information, including, but not limited to, historical use data for similar uses, and an engineer's signed and sealed estimate of projected water use. In the absence of such information, the administrator shall base sewer capacity impact such fees upon North Carolina Administrative Code 15A NCAC 02T.0114 Wastewater Design Flow Rates.

(Ord. No. 2013-08, § 02(Exh. B), 8-19-13; Ord. No. 2014-02, § 02, 2-17-14; Ord. No. 2014-11, § 01(Exh. A), 5-19-14; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20)

70-98. Responsibility for payment of charges for premises with multiple sewer connections.

A. Where there is not provided a separate service connection for each building situated on any given lot or parcel of land, the owner of such lot or parcel of land shall be responsible for the payment of charges for sewer to all such buildings on the lot or parcel.

B. Where separate service connections are not provided to every occupancy unit or tenant within a multitenant building, the owner of the building shall be responsible for the payment of all charges for sewer service to the building.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-99. Deposits.

Customer utility deposits shall not be required for sewer service apart from deposits required for the city's water system. The customer deposits set forth in the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, and the related regulations set forth in CHAPTER 70, Article II shall serve in all respects to satisfy deposit requirements for sewer service, including deposits, credit, exemptions, refunds, disposition and cutoff of service for delinquency.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-100. Consumption basis of charges.

All charges for wastewater collected from any consumer and discharged to the city sewer system shall be based upon the number of gallons per month delivered by the consumer at the point of connection to the city system. The number of gallons collected shall be determined by the readings of the customer's water meter as required by CHAPTER 70, ARTICLE II of this chapter.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-101. Basis of charges for multiple dwelling units on single connection.

Where more than one family dwelling unit is provided with service through a single service connection, the charges for service shall be the greater of:

A. The number of family dwelling units served times the minimum charge as shown in the current sewer rate; or

B. The actual charge determined for the quantity of metered water discharged.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-102. Basis of charges for newly constructed condominiums.

For newly constructed condominiums, the total metered consumption serviced by one meter shall be divided by the number of units in the complex and each unit shall be figured separately at the regular metered rate, with one total billing being mailed to the person in charge.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-103. Administrative procedures; enforcement; penalties; damaging or tampering with facilities.

A. *Duties and authority of inspectors.*

1. The wastewater treatment plant director or their designee ~~The city manager, his designee, the code enforcement officer and other duly authorized employees~~ properly identified by credentials of appointment and identification shall act as inspectors. Inspection shall also be allowed by appropriate state and federal agencies. It shall be the duty of the inspector to make inspections, observations, measurements, sampling and testing in accordance with the provisions of this article. Such inspector shall have no authority to inquire into any industrial process or to require or request the disclosure of any trade secrets beyond that point having a direct bearing on the kind or source of discharge to the sewers or waterways or other facilities of the city.

~~1.~~2. The inspector is hereby designated as the public officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed

~~2.~~3. Such inspectors shall have the right to enter upon real property over and through which the city has acquired an easement for the installation and maintenance of the sewer lines and facilities, and, in addition, they shall have, along with proper municipal inspectors, the right to go upon the property of individuals or industrial users of the system as provided in the service agreement mentioned in this article, for the purpose of determining compliance with the provisions of this article. All non-municipal sewer users shall execute, as a requirement for service, an agreement allowing sewer inspectors to enter upon the premises for the purpose of inspecting individual sewer collector lines, during reasonable times, so as to verify compliance with the terms and conditions of such service.

4. While performing the necessary work on private properties referred to in this section, any inspector shall observe all safety rules applicable to the premises established by any commercial or industrial user.

B. *Damaging or tampering with facilities.* It shall be unlawful and a violation of this article for any person to damage, destroy or tamper with any gauges, meters, lines, manholes and their covers, equipment, pumps, electrical connections, lift stations, or any appurtenances to the sewer lines of the city, and, in addition to the civil responsibility for any damage caused or occasioned by such person, such offender shall be liable for imposition of the penalties as provided in this section. It shall likewise be a violation of this section for any person to aid, assist, abet or permit a minor child to violate the provisions of this article, and such person shall be liable as a principal and subject to the identical penalties as to which any violator of this article would be liable.

C. *Penalties.* If any person shall violate the provisions of this chapter the wastewater treatment plant director, or their designee~~city manager, his designee or the code enforcement officer~~ shall give notice to the owner or to any person in possession of the subject property in writing and served by personal delivery or the most expeditious means possible, directing that all unlawful conditions existing thereupon be abated within ten days from the date of such notice; provided, that if, in the opinion of the wastewater treatment plant director or their designee ~~city manager, his designee, or the code enforcement officer~~ the unlawful condition is such that it is of imminent danger or peril to public, the public ~~services~~works department may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property.

~~The penalty for the violation of any provisions of this article shall be as prescribed by Section 1-8. In addition to the criminal penalty set forth in Section 1-8, there shall also be levied a civil penalty in the amount of $200.00 per separate offense plus any amount city council shall find appropriate in case of damage to the system or the environment for the purpose of repairs or cleanup.~~

D. *Additional rules and regulations.* In order to carry out the terms of this article, the city may promulgate such rules and regulations as deemed necessary, and the city manager of the city is likewise vested, subject to ratification of the city council, with authority to act on behalf of the city in providing for the safety, maintenance, good order and proper function of the facilities of the city.

E. *Application for connection; service permit.*

1. Potential connectors may be required to submit an application depending on the quantity and characteristics of the waster being produced.

~~1.~~2. Application for connection to the city sewer system shall be made on the city's form, together with supporting reports and data sufficient to ensure compliance with relevant terms of this article. The minimum requirement shall be that all information requested on the application be supplied, and all irrelevant information blanks be marked as "not applicable." The ~~manager~~wastewater treatment plant director may request any additional information he deems necessary, within the scope and intent of this article. Persons requiring guidance in making application may consult the wastewater treatment plant directo~~manager~~. The approval of a sewer connection application shall constitute the issuance of a service permit.

~~2.~~3. An approvable service permit or information necessary to support an approvable application must be submitted to the wastewater treatment plant director~~manager~~ before approval will be issued to any person proposing to discharge industrial wastewaters to public sewers.

~~3.~~4. Service permits shall specify quantities and characteristics of industrial wastewaters which may be sewered and shall be limiting where so specified. Service permits may specify special conditions and agreements between the user and the city. Service permits shall serve as a contract between the user and the city. If deviation from terms of a service permit is anticipated or experienced by the user or the city, each party shall immediately notify the other, in writing, specifying the nature and extent of the change in sufficient detail that a new or modified service permit may be issued, or the service permit cancelled, whichever may be appropriate.

~~4.~~5. Permits for any users, other than normal sanitary wastewater, shall be issued for a specified time period not to exceed five years. The user shall apply for permit reissuance a minimum of 180 days prior to expiration.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-104. Users obtaining water from well.

A. Whenever a property owner desires to install a well within the city for any purpose whatsoever, a permit shall first be obtained therefor as prescribed in article II of this chapter.

B. When any water obtained from a well is to be disposed of into the city sanitary sewer system, a suitable water meter shall be installed by city personnel at the well head and the owner of the well shall be charged the regular sewer charge based on the full amount of the water so metered. The prescribed water tap fee shall be charged for any such meter installation.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-105. Acceptance of wastewater from private or corporate wastewater companies.

A. *General.* Wastewater from private or corporate wastewater companies shall not be accepted for disposal into the city's system. Any discharge of such wastewater, ~~or~~ septage, or digested domestic sludge as defined by this article, into the city's system shall constitute a violation of this article and be subject to such penalties as set forth in Brevard City Code.

B. *Discharge at city septage pretreatment facility.* Notwithstanding the provisions of subsection (a) of this section, septage may be discharged by private or corporate wastewater companies into the city's system through the use of the city's septage and digested sludge pretreatment ~~facility~~facilities, constructed and operated for the purpose of receiving such wastes. Such discharges shall be governed by the provisions of this article and will only be permitted when such discharges do not jeopardize the operation of the city's system and its non-discharge permit, the city having sole authority and discretion to make such determinations.

1. All parties desiring use of the city's pretreatment facility shall be approved in accordance with procedures set forth by the director of the wastewater treatment plant. The director of the wastewater treatment plant shall have full authority and discretion in reviewing, approving or disapproving all requests for use of the septage and digested sludge pretreatment ~~facility~~facilities based upon his professional judgment of the chemical content and constituent composition of the proposed discharge.
2. Fees for the discharge of septage and digested sludge at the city's septage and digested sludge pretreatment ~~facility~~facilities shall be set forth within the schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard. The specific policies and procedures for the collection of such fees shall be established by the city manager or designee thereof.
3. All parties desiring use of the city's pretreatment ~~facility~~facilities shall indemnify and hold harmless the city for the user's discharges into the city's system. The user may also be required to indemnify the county, since the facility will be operated under an agreement between the city and county.
4. For the purpose of this section, no septage or digested sludge other than wastewater derived solely from domestic or residential service, containing no grease or fatty materials collected from grease traps or holding tanks, will be permitted for discharge into the septage pretreatment facility.
5. Discharges at the septage and digested sludge pretreatment ~~facility~~facilities shall be made only under the supervision of wastewater treatment plant personnel, with all such discharges are to logged and recorded for volume and ordination location of discharges via electronic pin code access monitored by plant personnel. Plant personnel may, at their discretion, take samples of the wastewater being discharged for laboratory testing to determine and confirm chemical and constituent content of the waste being discharged. Any discharges found to be in noncompliance with the provisions of this article shall be cause for termination of authorization to discharge and further penalties as prescribed by this article.
6. While it is the intent of this section to provide for the use of the city's septage and digested sludge pretreatment ~~facility~~facilities for the disposal of wastewaters purely from domestic sources, principally

septic tanks, and package plant it is recognized that special circumstances may exist whereby wastewaters originating from commercial sources should be eligible for disposal at the pretreatment facility. Therefore and notwithstanding the applicable provisions of subsection (b)(4) of this section, the director of the wastewater treatment plant and the city manager are authorized upon a case-by-case basis to permit the disposal of wastewaters from commercial sources; provided such wastewaters conform to all other requirements of this chapter and the disposal of the wastewater may adequately be treated by the wastewater treatment plant without negative impact upon the city's non-discharge permit for the plant. Otherwise, the disposal of wastewaters at the septage pretreatment facility shall at all times conform to the rules, regulations and restrictions applied by this section and this chapter.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-106. Private sewage disposal systems.

A. *General.* Where a public sanitary sewer is not available, the sewer service line shall be connected to a private sewage disposal system complying with the provisions of this section.

B. *Permit.* Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the county health sanitarian. The application for such permit shall be made on a form furnished by the county, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the sanitarian.

C. *Inspection.* A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the sanitarian. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the sanitarian when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the sanitarian.

D. *Specifications.* The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department ~~of natural resources and community development~~of environmental quality, division of environmental management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer, open drain, ditch, stream or well penetrating water-bearing formations.

E. *Connection to public sewer.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 70-84, a direct connection shall be made to the public sewer in compliance with this article at the first malfunction of the private system; and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

F. *Operation and maintenance.* The owner shall always operate and maintain the private sewage disposal facilities in a sanitary manner ~~at all times~~, at no expense to the city.

G. *Additional requirements.* No statement contained in this section shall be ~~construed~~made to interfere with any additional requirements that may be imposed by the county sanitarian.

(Ord. No. 2014-11, § 01(Exh. A), 5-19-14)

70-107—70-~~126~~139. Reserved.

ARTICLE V. SEWER USE ORDINANCE

70-140. General provisions.

A. *Purpose and policy.* This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brevard, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by G.S. 160A-312 and/or 153A-275. The city manager shall designate an administrator of the POTW and pretreatment program hereafter referred to as the ~~POTW~~ director ~~or director~~who will also serve as the Control Authority for the Sewer Use Ordinance. Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the director may be delegated by the director to other city personnel.

By discharging wastewater into the city wastewater system, industrial users located within or outside the city limits agree to comply with the terms and conditions established in this ordinance, as well as any permits, enforcement actions, or orders issued hereunder. Users subject to this ordinance are also subject to the City of Brevard Code of Ordinances, CHAPTER 70 - utilities.

1. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the wastewater system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
3. To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
4. To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
5. To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
6. To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

B. *Abbreviations.*

1. The following abbreviations, when used in this ordinance, shall have the designated meanings:
   a. BOD: Biochemical oxygen demand;
   b. CFR: Code of Federal Regulations;
   c. COD: Chemical oxygen demand;

d. EPA: Environmental Protection Agency;
e. gpd: Gallons per day;
f. l: Liter;
g. mg: Milligrams;
h. mg/l: Milligrams per liter;
i. G.S.: North Carolina General Statutes;
j. NPDES: National Pollution Discharge Elimination System;
k. O&M: Operation and maintenance;
l. POTW: Publicly owned treatment works;
m. RCRA: Resource Conservation and Recovery Act;
n. SIC: Standard industrial classification;
o. SWDA: Solid Waste Disposal Act;
p. TSS: Total suspended solids;
q. TKN: Total Kjeldahl nitrogen; and
r. U.S.C.: United States Code.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

Editor's Note—Ordinance 2023-43 transferred the definitions from this section to City Code § 1-2.

70-~~90~~141. Permissive use of system~~; additional regulations~~.

A. Persons within or without the city are subject to regulations of the city, the county department of health, and the North Carolina Department of Environment Quality~~and Natural Resources~~, for proper handling of wastes and wastewaters accepted into the public sewers.

B. Such persons may apply to the city for discharge of sanitary and compatible wastewaters into the sewerage system, by procedures outlined in this ~~article~~chapter.

~~70-141. General sewer use requirements.~~

70-142. Prohibited discharge standards.

A. ~~***Prohibited discharge standards.***~~ ***General prohibitions.*** No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass-through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

B. ***Specific prohibitions.*** No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
2. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.

3. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
4. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
5. Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
6. Any wastewater having a temperature greater than 139° F (59.4° C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
7. Any 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.
8. Any trucked or hauled pollutants, except at discharge points designated by the director in accordance with subsection 70-~~141.I~~148 of this ordinance.
9. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
10. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
11. Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
12. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable state or federal regulations.
13. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the director.
14. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the director.
15. Any sludges, screenings or other residues from the pretreatment of industrial wastes.
16. Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.
17. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
18. Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the director.

19. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
20. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
21. Recognizable portions of the human or animal anatomy.
22. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
23. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the wastewater system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.

C. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW. When the director determines that a user is contributing to the POTW, any of the above-enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass-through, the director shall:

1. Advise the user(s) of the potential impact of the contribution on the POTW in accordance with subsection 70-1554~~7~~.B; and
2. Take appropriate actions in accordance with section 70-~~143~~ 151 for such user(s) to protect the POTW from interference or pass-through.

70-143. Restricted discharges.

A. No person shall discharge or cause to be discharged the following described prohibited substances, materials, waters or wastes if it appears likely in the opinion of the director that such wastes can harm either the sewers, wastewater treatment process or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the director will give consideration to such factors as quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or that causes wastewater entering the wastewater treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
2. Any waste or water containing fats, wax, grease or oil in excess of 100 mg/L, as determined by results of the Freon extractable test, and the reasonable interpretation of test results, and/or auxiliary tests, to exclude from the measurement values which do not represent fats, wax, grease and oil.
3. Any garbage other than ground residential garbage.
4. Any acidic or alkaline wastewater having pH values outside the range of 5.0 to 10.0.
5. Heavy metals and toxic, refractory or organic chemicals in concentrations or quantities sufficient to limit treatment plant capability or efficiency, to adversely affect effluent quality by their presence or effects, or to limit the means of disposal or utilization of treatment plant sludge by their presence.

The director may issue lists of prohibited metals and toxic chemicals and guidelines and criteria for limiting their acceptance as required for operation of the treatment system.

6. Any radioactive waste or isotopes of such half-life or concentration may exceed public safety limits or cause the plant effluent or sludge to exceed any applicable state or federal regulations.

B. Any materials which exert or cause:

1. Unusual oxygen demand or chlorine demand in such amounts as to constitute a significant load or a problem with wastewater treatment plant operations.
2. Excessive discoloration of treatment plant effluent.
3. Unusual odors in the treatment plant effluent or unusual odors in the sewerage system.

70-144. Categorical pretreatment standards.

A. ~~***National categorical pretreatment standards.***~~ Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

70-145. Limits to wastewater discharge.

A. ***Local limits.*** An industrial waste survey is required prior to a user discharging wastewater (containing in excess of the following average discharge limits):

TABLE 70-14 A: LOCAL LIMITS TO WASTEWATER DISCHARGE		
BOD	220	mg/l
TSS	220	mg/l
NH_3	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l
Chromium	0.05	mg/l (total chromium)
Copper	0.061	mg/l
Cyanide	0.015	mg/l
Lead	0.049	mg/l
Mercury	0.0003	mg/l

Nickel	0.021	mg/l
Silver	0.005	mg/l
Zinc	0.175	mg/l

B. Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for pollutants of concern. User-specific local limits for pollutants of concern shall be included in wastewater permits. The director may impose mass based limits in addition to, or in place of, concentration based limits.

C. *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this ordinance.

D. *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in subsection 70-140.A of this ordinance or the general and specific prohibitions in subsection 70-1421.A of this ordinance, as is allowed by 40 CFR 403.4.

E. *Dilution.* No user shall 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 the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.

70-146. Pretreatment of wastewater.

~~**F.** *Pretreatment of wastewater.*~~

A. ***Pretreatment facilities.*** Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under subsection 70-~~143~~151.B of this ordinance and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in subsection 70-1421.A of this ordinance within the time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.

B. ***Additional pretreatment measures.***

1. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
2. The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
3. Additional pretreatment measure for Fats, Oil and Grease (FOG) control as detailed in section 70-149.

~~3.~~4. Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the director, 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 type and capacity approved by the director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

~~4.~~5. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

70-147. Accidental discharge / slug control plans.

~~**B.** *Accidental discharge/slug control plans.*~~

A. The director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1-2. All SIUs must be evaluated within one year of being designated an SIU. The director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the director may develop such a plan for any user.

B. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see subsections 70-~~144~~152.E and 70-~~144~~152.F.

C. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slug discharge, as required by subsection 70-~~144~~152.F of this ordinance; and
4. 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.

70-148. Hauled wastewater.

~~**D.** *Hauled wastewater.*~~

A. Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate the provisions ~~section 70-141~~ of this ~~ordinance~~ article or any other requirements established by the city. The director may require septic tank waste haulers to obtain wastewater discharge permits.

B. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

C. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director 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.

70-149. Fats, oils, and greases control policy.

70-149.1. Purpose and applicability.

A. ***Purpose:*** The objective of this section is to prevent the introduction and accumulation of fats, oils, and greases into the POTW which will, or tend to, cause or contribute to sanitary sewer blockages and obstructions, as well as the prevention of wastewater treatment caused by interference at the POTW treatment plant.

B. ***Applicability:*** This section applies to each user that causes or permits the contribution or discharge of wastewater into the POTW, including, but not limited to, property owners who provide common interceptors for one or more independent establishments (including tenants). Applies to, but is not limited to:

1. Any FSE, commercial establishment, or industrial establishment (including, without limitation, any establishment primarily engaged in the business of serving or preparing cooked or precooked food, cold dairy, or frozen food) that generates wastewater containing FOG, or similar products.
2. Any other commercial establishment that the director determines that a grease collection device is necessary to prevent contribution or accumulation of FOG in the POTW (collectively referenced in this section, as FOG users").
3. All Food Service Establishments shall have grease-handling facilities approved by the director. Establishments whose grease-handling facilities or methods are not adequately maintained to prevent floatable oils, fat or grease from entering the sewerage system shall be notified in writing of any noncompliance and required to provide a schedule whereby corrections will be accomplished. (For example, a collapsed or deteriorated baffle wall, leaks, *infiltration* and *inflow*, improperly located or missing tees, and any other deficiencies that will prevent the *grease interceptor or trap* from working properly.)
4. All Food Service Establishments grease-handling facilities shall be subject to review, evaluation, and inspection by City of Brevard representatives during normal working hours. Results of inspections will be made available to facility owner, leaseholder or operator City of Brevard may lend assistance and make recommendations for correction and improvement.

~~3.~~5. Food Service Establishments receiving two (2) consecutive unsatisfactory evaluations or inspections may be subject to penalties or other corrective actions as provided for in the Sewer Use Ordinance.

~~4.~~6. Food Service Establishments who continue to violate the City of Brevard Grease Trap Policy Requirements may be considered grounds for discontinuance of sewer service.

~~5.~~7. Food Service Establishments whose operations cause or allow excessive grease to discharge or accumulate in the City of Brevard collection system may be liable to City of Brevard for costs related to City of Brevard service calls for line blockages, line cleanings, and line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service-related charges may also be grounds for sewer service discontinuance.

6.8. Regular scheduled maintenance of grease-handling facilities and equipment is required to ensure adequate operation. All grease traps must be cleaned *(by a* City of Brevard *approved grease handling and hauling company)*, maintained and repaired as needed. All grease traps must be pumped out completely. Outside traps should be pumped quarterly and small under the sink grease traps should be pumped monthly or at the discretion of the director. In the maintaining of grease interceptors, the owner, lease-holder or operator shall be responsible for approved grease removal and disposal, and shall maintain on-site records of dates, and means of disposal.

9. The introduction of emulsifying agents such as chemicals, solvents or enzymes directly or indirectly into the grease interceptor, other than what is considered typical business operational practices such as dishwashing or sanitation, is strictly prohibited. By approval from the director, products which reduce Fats, Oil and Grease (FOG), such as bacteria, may be used in addition to the regular grease interceptor maintenance program, but shall not be a consideration in determining grease interceptor sizing or maintenance frequency. In any case, the discharged waste shall comply with all applicable provisions of Section 70-151 and all State and Federal Laws.

70-149.2. Control requirements.

A. FOG users shall install, operate, and maintain each grease collection device at the FOG user's expense. All grease interceptors required by this section shall be of a type, design, and capacity approved by the director. Each installed grease collection device shall be easily accessible for maintenance and repair, including cleaning.

B. All FOG users shall adopt and apply a kitchen waste control plan for the proper disposal of FOG and food solids. Each FOG user must have a delegated lidded storage container for used fryer oil storage.

C. Each FOG user shall adopt and apply kitchen best management practices, as such kitchen best management practices may be detailed through procedures set forth by the director, for handling all sources of FOG that are used or generated by the FOG user so as to reduce and prevent the discharge of FOG into the POTW.

D. Director may inspect any FOG user to ensure compliance with all requirements of this section, as set forth in section

1. All grease collection devices shall be serviced and emptied of accumulated waste content as required to maintain its design features and its ability, and the volume required, to effectively intercept and retain FOG and settled solids from FOG-laden wastewaters. Such service shall occur as need, but such service shall in no case occur less often than every 90 days (unless a modification permitted by the city manager). The owner of the property on which a common grease interceptor is located shall be primarily responsible for the maintenance, upkeep, and repair of the common grease interceptor.

2. FOG users shall maintain a written record of grease collection device maintenance and service for three years, as required by this section and section. 70-152.-M. All such records must always be available for inspection by the director.

3. For each grease interceptor, access manholes shall be required and shall be installed over each chamber and each sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The access manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

4. Upon notification from the director that a FOG user is subject to the terms of an enforcement action under this article related to the failure of a grease collection device to function properly by reducing

FOG levels within the acceptable levels required by this article, said FOG user shall not allow wastewater discharge concentration from the subject grease collection device to exceed the acceptable levels set forth in this article.

5. Non-FOG sources shall not be allowed to be connected to sewer lines intended to be attached to the grease collection device for pretreatment.

6. Users with the potential to discharge one or more of the following pollutants into the POTW, shall be required to install an oil/water separator and grit interceptor: oil, kerosene, gasoline, naphtha, wax, any light-density and volatile liquid, or any material with a higher viscosity that causes impact or flow resistance. Substances that will emulsify oil or grease shall not be used in any oil/water separator required by this section.

7. Vehicle wash facilities shall install an oil/water separator and a grit interceptor. A grit interceptor required by this section or other applicable law shall be installed in a drainage line so that wastewater flows into the grit interceptor before entering an oil/water separator installed in accordance with this section.

8. Vehicle wash facilities shall be designed, constructed, operated and maintained to prevent direct or indirect stormwater from entering the POTW.

9. In consultation with the wastewater treatment plant director the city planning department, may make determinations of grease collection device, oil/water separator and grit interceptor need, adequacy, efficiency, size, design, application, location, modification(s), and conditional usage as provided herein and by all other applicable law. These determinations will be based upon review of all relevant information regarding device performance, the facility site, and the associated building. These reviews may be conducted as part of an establishment's application for a zoning permit.

10. The city manager may establish reasonable procedures regarding FOG that address the requirements of this section and are not inconsistent herewith. Under any such procedures, a FOG user may request modification of any required grease collection device pumping frequency and/or maintenance and service procedures. Such request for a modification shall conform to the stipulations and requirements set forth in any such procedures. Any modification must be approved by the city manager in written form before implementation by the FOG user or the FOG user's FOG service provider.

70-149.3. Design standards.

A. ***Construction standards***

1. New Facilities
    1. All new Food Service Establishments shall be required to install a grease interceptor, according to the director and the City of Brevard Grease Trap Policy and guidelines. Grease interceptors shall be adequately sized, with no interceptor less than 1,000 gallons total capacity unless otherwise approved by the director. All as-built drawings must be on file at the facility or readily accessible from an alternative location for the life of the grease trap at the food service establishment.
    2. No new Food Service Establishments will be allowed to initiate operations until grease-handling facilities are installed and approved by the director.
    3. All grease interceptors, whether singular or two tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptor in working and operating condition.

4. A basket, screen or other intercepting device shall prevent passage into the drainage system of solids 1/2 inch or larger in size. The basket or device shall be removable for cleaning purposes.
5. Where food waste grinders connect to grease traps, a solids interceptor shall separate the discharge before connecting to the grease trap. Solids interceptors and grease interceptors shall be sized and rated for the discharge of the food waste grinder

2. Existing Facilities
   1. All existing Food Service Establishments shall have grease-handling facilities, approved by the director. Food Service Establishments without any grease-handling facilities will be given a compliance deadline not to exceed six (6) months from date of notification to have approved and installed grease-handling equipment in compliance with this Policy.
   2. Failure to come into compliance within the specified time frame will be considered a violation of the City of Brevard Sewer Use Ordinance and may subject the facility to penalties and corrective actions or service discontinuance. Said installations shall meet the same requirements for design as for new facilities as described herein.
   3. In the event an existing Food Service Establishment's grease-handling facilities are either under-designed or substandard in accordance with this policy, the owner(s) will be notified in writing of the deficiencies and required improvements, and given a compliance deadline not to exceed six (6) months.
   4. For cases in which "outdoor" type grease interceptors are infeasible to install, existing Food Service Establishments will be required to install adequate and approved "under-the-counter" grease traps for use on individual fixtures including dishwashers, sinks, and other potentially grease-containing drains. Sizing of "under-the-counter" grease trap units will be in accordance with recommended commercial grease traps.
   5. The grease retention capacity rating in pounds shall be at least two (2) times the GPM flow rate of the type fixture which it serves. Flow control fittings must be provided to the inlet side of all "under-the-counter" units to prevent overloading of the grease trap and to allow for proper operation.
   6. The director approval of flow control devices and grease trap design must be obtained prior to installation.
   7. The location of "under-the-counter" units must be as near the source of the wastewater as physically possible.
   8. Wastewater from garbage grinders should not be discharged to grease traps/interceptors.
   9. In maintaining grease traps/interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by City of Brevard
   10. The exclusive use of enzymes, grease solvents, emulsifiers, etc. is not considered acceptable grease trap maintenance practice.

3. New Food Service Establishments in Existing Buildings
   1. Where practical, new Food Service Establishments locating in existing buildings will be required to comply with the grease trap Standards applicable to new facilities as described herein.
   2. Where physically impossible to install "outdoor" units, "under-the-counter" units may be allowed as with existing food service establishments provided prior approval of unit type, size, location, etc. is obtained from City of Brevard

B. *Sizing of Grease Interceptors and Separators.*

1. North Carlina Plumbing Code, 1003.1- 1003.3.4, mandates that interceptors and separators be installed to prevent substances like oil, grease, sand, and other harmful/hazardous materials from discharging into a buildings drainage system, public sewers, or private sewage disposal systems.
2. Sizing method based on pipe diameter size and slope.
    a. When the final configuration of fixtures in a facility is not known, or to allow for additional fixtures in the future, this method shall be used to size the interceptor for the maximum flow that the drain line from the facility can carry.

TABLE 70-149.3(A): SIZING BASED ON PIPE DIAMETER SIZE AND SLOPE			
Pipe Size (inches)	**Full Pipe Flow @ ¼ Slope**	**Interceptor Size - 1 Minute Drain**	**Interceptor Size - 2 Minute Drain**
2 inches	19.44 gpm	20 gpm	10 gpm
3 inches	58.67 gpm	75 gpm	35 gpm
4 inches	125.77 gpm	-	75 gpm

3. Sizing indoor grease interceptors.
    a. The table below provides the standard formula and steps for sizing grease interceptors to suit requirements of specific fixtures.

TABLE 70-149.3(C): PROCEDURE FOR SIZING INDOOR GREASE INTERCEPTORS		
Step	**Formula**	**Example**
1	Determine cubic content of fixture. Multiply length × width × depth.	A sink 48" long by 24" wide by 12" deep. Cubic content = 48 × 24 × 12 = 13,824 cubic inches.
2	Determine capacity in gallons. 1 gallon = 231 cubic inches.	Content in gallons: 13,824 ÷ 231 = 59.8 gallons.
3	Determine actual drainage load. The fixture is normally filled to about 75% of capacity with water. The items being washed displace about 25% of the fixture content; thus actual drainage load = 75% of fixture capacity.	Actual drainage load: 0.75 × 59.8 = 44.9 gallons.
4	In general, good practice dictates a 1-minute drainage period; however, where conditions permit, a 2-minute drainage period is acceptable. Drainage period is the actual time required to completely drain the fixture. Flow Rate = Actual Drainage Load ÷ Drainage Period	Calculate flow rate and drainage period: **1-minute period:** 44.9 ÷ 1 = 44.9 GPM **2-minute period:** 44.9 ÷ 2 = 22.5 GPM
5	From Table 6.2 select the interceptor corresponding to the calculated flow rate. Select the next larger size when the flow rate falls between two listed sizes.	**1-minute period:** 44.9 GPM requires PDI size 50. **2-minute period:** 22.5 GPM requires PDI size 25.

4. Sizing by known compartment sizing.

a. Standard PDI-certified grease interceptors applicable to various size fixtures commonly used in domestic, commercial, and institutional installations. The selections listed are based on the PDI sizing formula by GPM.

TABLE 70-149.3(C): PDI SIZE GREASE INTERCEPTOR				
Fixture Compartment Size (inches)	Number of Compartments	Drainage Load (Gallons)	1-Minute Drainage Period	2-Minute Drainage Period
18 × 12 × 8	1	4.2	7	4
16 × 14 × 8	1	5.8	7	4
20 × 18 × 8	1	9.4	10	7
18 × 18 × 8	2	15.0	15	10
20 × 18 × 8	2	18.7	20	10
30 × 20 × 8	1	15.5	20	10
24 × 20 × 12	1	18.7	20	10
22 × 20 × 12	2	23.0	25	15
22 × 20 × 12	2	34.0	35	20
24 × 24 × 12	2	44.9	50	25
22 × 20 × 12	3	51.4	70	35
(2) 22 × 20 × 12	4	68.0	75	50
(2) 24 × 24 × 12	4	89.8	100	75

5. Sizing outdoor grease interceptors.

a. Sizing shall be determined using the approved manning formula:

TABLE 70-149.3(D): OUTDOOR GREASE INCEPTOR SIZING MANNING FORMULA
Interceptor Size = [Flow Rate per sink or fixture × Sum of Fixture Ratings + Discharge Rate from Mechanical Washers] × 24-minute Retention Time Or, I = [(Fr × R) + D] × T Where: I = Interceptor size (gallons) Fr = Flow rate (GPM) R = Fixture rating D = Discharge rate from mechanical washers T = Retention time (24 minutes)

b. *Flow rates:* Flow rate, measured in gallons per minute (GPM), is determined based on the slope, pipe texture, and pipe diameter. The following rates are pre-calculated:

TABLE 70-149.3(E): OUTDOOR GREASE INCEPTOR FLOW RATES

Pipe Diameter	Flow Rate
0.5”	0.8 GPM/fixture
1.0”	5.0 GPM/fixture
1.5”	15 GPM/fixture
2.0”	33 GPM/fixture
2.5”	59 GPM/fixture
3.0”	93 GPM/fixture

c. *Fixture ratings*: Fixture ratings of grease-laden waste streams are pre-determined values for specific kitchen drainage points, such as sinks, wash basins, and floor drains. These values represent factors by which the flow rate of a drainage pipe is multiplied to estimate the potential water movement out of the fixture.

TABLE 70-149.3(F): OUTDOOR GREASE INCEPTOR FLOW RATES	
Fixture Type	**Rating**
2-, 3-, or 4-compartment sink	1.0
1- or 2-compartment meat prep sink	0.75
Pre-rinse sink	0.5
1- or 2-compartment vegetable prep sink	0.25
Can wash	0.25
Mop sink	0.25
Floor drain	0.0

d. *Mechanical washers*: The discharge rate from dishwashers, laundry machines, glass washers, etc., must be added to the Manning Formula calculation because they may introduce large quantities of water into the drain in a short period of time. The manufacturer's specifications should indicate the discharge rate in GPM.

~~a.~~e. *Retention time*: The 24-minute retention time is a pre-calculated amount of time determined to be necessary for grease to separate from water and should always be applied in the Manning Formula.

C. ***~~EXCEPTIONS~~Exceptions:***

1. Under certain circumstances, the interceptor size and location may necessitate special exceptions to this policy. If an exception to this policy is requested, the User must demonstrate that the size and location will not cause the facility any problems in meeting the discharge requirements of the regulations.

70-149.4. Education and enforcement program.

A. ***~~Introduction~~Purpose.***

1. The Collection System Permit (“Permit”) issued to the City of Brevard by the North Carolina Department of Environmental Quality (“NCDEQ”) requires the City of Brevard to maintain an educational and

enforcement program requiring the proper operation of all grease traps connected to the wastewater collection system. This document has been prepared to meet the requirements of the Permit and as a control mechanism for the build-up of FOG. The purpose of the Enforcement Response Plan (ERP) is to provide guidelines for anticipated situations. In general, enforcement actions will be taken in accordance with this plan, however, the actions listed herein are not exclusive, and the City of Brevard reserves the right to take other enforcement actions available to it.

A major cause of sewer blockages and Sewer System Overflows (SSO) are fats, oils, and grease (FOG) entering the system and building up in the pipes. The grease is generated by restaurants and domestic users. Domestic users include apartment complexes, housing developments (neighborhoods), and individual residents. FOG is generated from improper disposal after cooking, allowing it to enter the system and adhere to the sides of sewer pipes. The build-up of FOG continues until the pipe is completely blocked.

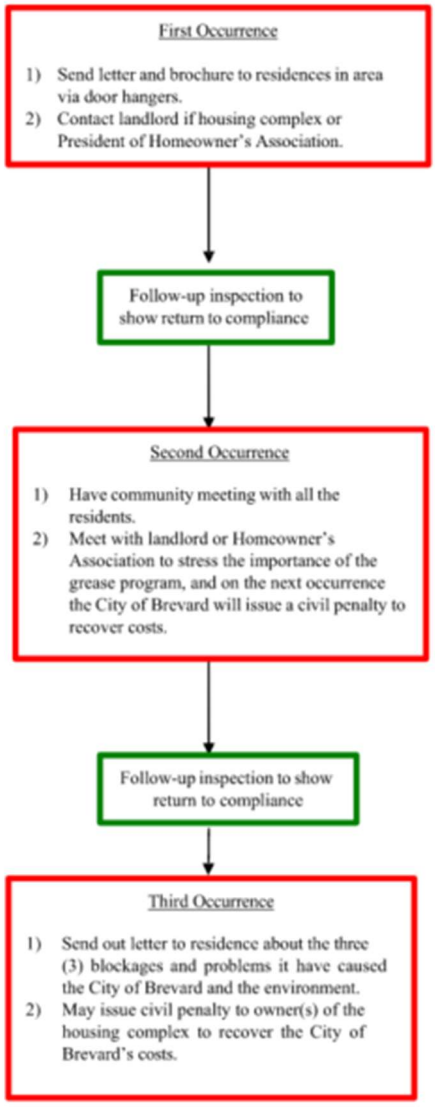
To prevent sewer blockages and SSO's, the City of Brevard has developed a Pretreatment FOG Program to provide education, regulate discharges and reduce FOG in wastewater discharged to the City Wastewater System. The City of Brevard offers educational tools for restaurant management, workers, homeowners, and the general public. The most effective method for controlling FOG is to prevent its introduction into the sewer system, and this is best accomplished through education. The City's education program consists of Power Point presentations to Civic Groups, schools, Plumbers Associations, Homeowner's Associations, brochures, and media coverage. The FOG Program also provides enforcement of the FOG regulations through inspections, review of maintenance records, consent orders, administrative orders, and civil penalties.

2. The education component ~~will~~is be focused on all customers, ~~but it is really~~ as it is the primary means of FOG control in residential settings. The education component in residential settings ~~will~~ shall include distribution of FOG information brochures twice a year and additional outreach in areas that may have a higher frequency of blockages.

~~A.~~B. ***Domestic Grease Blockage & Education.***

1. Following a domestic Grease~~r~~ blockage violation, the City will conduct targeted outreach and education prior to issuing a civil penalty:
   a. First Occurrence.
      i. Send letters and brochures to residents via door hangers.
      ii. Contact landlord if housing complex or President of Homeowner's Association.
   b. *City conducts Follow-up inspection to show return to compliance.*
   c. Second Occurrence.
      i. Have community meetings with all the residents.
      ~~i.~~ii. b. Meet the landlord or Homeowner's Association to stress the importance of the grease program and that the next occurrence the City will issue civil penalty to recover the costs.
      ~~ii.~~iii. *Follow-up inspection to show return to compliance.*
   d. Third Occurrence.
      i. Send out letter to residence about the three (3) blockages and problems it has caused the City and the environment.
      ii. May issue civil penalty to owners of the housing complex to recover the City's costs.

FIGURE 70-149.4(A): OUTLINE OF DOMESTRIC GREAR BLOCKAGE NOTIFICATION AND EDUCATION PROCEDURES



C. ***General domestic grease Eeducation ~~of the following Groups to help combat Domestic Grease~~.***

~~2.~~1. To promote general education of the FOG program and prevent domestic grease, the education program shall include the following:

a. Public service announcements published in newspaper having general circulation in the city and other forms of public notification.~~via the TTimes and City of Brevard website~~.

b. Targeted outreach to heavy residential users, professional organizations, and civic groups, including, but not limited to, the following:

i. Schools, elementary through college.

ii. Homeowners Associations.

iii. Plumber Associations.
iv. Builder Associations.
v. Transylvania County Health Department and Building Code Inspectors.

~~b.~~c. Translate grease informational materials ~~brochures~~ into ~~different~~other languages.

~~c. Educate Civic Groups and possibly enlist their help.~~

70-149.5. Enforcement actions.

A. The City is authorized by North Carolina General Statutes 143-215.6A and this ordinance, in accordance with Section 70-155.

B. ***Criminal penalties.*** ~~In addition to the actions listed above~~Furthermore, a User who violates the provisions of NCGS 143-2156.B may be referred by the City Manager to the District Attorney for possible criminal prosecution.

1. In determining the amount of a Civil Penalty, the City Manager may consider the following:
   a. The degree and extent of the harm done to the natural resources of the State, to the public health, or to public or private property as a result of the violation;
   b. The duration and gravity of the violation;
   c. The effect on ground or surface water quality, or air quality;
   d.
   e. The cost of repairing the damage to the Sewerage System, to property and to the natural resources of the State;
   f. The amount of money saved, if any, due to noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;
   g. Whether the violation was committed negligently, grossly negligent, willfully or intentionally;
   h. The prior record of the User in complying with or failing to comply with the conditions of the grease regulations, the City of Brevard's Sewer Use Ordinance, or other environmental laws of this State and EPA;
   i. The cost to the City of Brevard, including attorney fees, sampling costs, cost of additional laboratory analysis, cost of engineering and consulting fees necessary, in the opinion of the City, to determine the nature and extent of damage, prevent further damage and repair any damage.

C. ***Investigation of ~~Non compliance~~Noncompliance.***

1. The Staff of the City of Brevard will generally investigate User compliance with the grease regulations and the SUO in the following ways:
   a. On-site inspections of the User including scheduled and unscheduled visits;
   b. Review of work order database maintained by the City of Brevard Collection System ORC, which identifies grease blockages downstream of the User;
   c. Review of submitted cleaning records.

D. ***Types of Violation.***

1. Types of violations to the FOG provisions include, but are not limited to, the following: ~~The following is a list of different types of violations, by category. This list is not exclusive but serves as a general list of anticipated types of noncompliance. The City of Brevard's SUO, State and Federal laws and regulations serve as additional references for requirements.~~
   a. *Build-up of FOG in Sewer System*: Users must prevent the build-up of FOG in the sewer system. This is to be accomplished through using a FOG removal system and preventing FOG from being put into the sewer system.

b. *Failure to install a FOG Removal System*: User fails to install a FOG removal system at the request of The City of Brevard.
c. *Unauthorized Installation or modification of FOG Removal System*: Users must obtain written authorization from The City of Brevard before installing or modifying a FOG collection system.
d. *Failure to have Final Installation Inspection*: The FOG removal system is to have a final installation inspection conducted by The City of Brevard before the food establishment can open.
e. *Failure to Maintain FOG Collection System*: The FOG collection system shall be maintained in good working order and properly operated in accordance with the 25% Rule by the owner or user at his cost and expense.
f. *Failure to Maintain FOG Collection System Resulting in an Overflow Event at the FSE*: All kitchen operations shall be immediately suspended and remain discontinued until the FOG Removal System has been adequately cleaned, serviced, and/or repaired.
g. *Failure to Maintain Records*: The owner or user shall have maintenance records available for inspection and to document cleaning and repair of the FOG removal system.
h. *Incorrect Installation of FOG Removal System*: The FOG removal system is to be correctly installed with the influent waste stream going into the influent chamber, not the effluent chamber.
i. *Failure to meet Regulatory Requirements*: The failure to meet the requirements of a NOV (Notice of Violation), milestone dates of Consent Order or Administrative Order shall be considered a violation. Each day a User is not in compliance may be considered a separate violation.
j. *Falsification of Records*: Records that have been altered show cleaning or repairs to the FOG removal system that have not occurred.
k. *Inadequate Hydraulic Retention Time*: The FOG removal system has become hydraulic overloaded,
l. *Structural Failure of Trap/Interceptor*: The treatment/removal of FOG has been diminished by the failure of baffles or sanitary tees that are allowing FOG to be released to the sewer system, and the unit can no longer effectively remove FOG from the waste stream.
m. *Denied Entry*: All FSE's with a FOG Removal System shall be subject to evaluation and inspection by City Of Brevard representatives.

E. ***Enforcement procedures.*** ~~***Matrix***~~

1. FOG provisions shall utilize a tired enforcement structure, as described herein.
   a. The Enforcement Tier structure is a seven Tier system based on a rolling 12-month period.
   b. The User will step up a Tier each time the same violation occurs within a 180 day-period.
   c. In cases where there is harm or potential harm to the City of Brevard, public health or the environment or in other extraordinary cases, one or more tiers may be skipped in order to bring the User into compliance.
2. Tiered enforcement matrix:

TABLE 70-149.5(A): FOG TIERED ENFORCEMENT STRUCTURE

Type of Noncompliance	**First Occurrence**	**Second Occurrence**	**Third Occurrence**	**Fourth Occurrence**
Minor Violation: • Failure to maintain FOG Collection system • Failure to maintain records • Cleaning logs not available or accessible • Use of solvents to clean trap/interceptor	Tier 1	Tier 2	Tier 3	Tier 4

Intermediate Violation: • Incorrect installation of FOG removal system • Structural failure of trap/interceptor • Inadequate hydraulic retention time • Failure to respond to correspondence or phone messages • Failure to have final inspection • Unauthorized installation of FOG removal system • Failure to maintain FOG collection system resulting in an overflow event at the FSE • Denied entry	Tier 2	Tier 3	Tier 4	Tier 5
Major Violation: • FOG build up in sewer system • Failure to install trap/interceptor • Falsification of records • Failure to meet regulatory requirements	Tier 3	Tier 4	Tier 5	Tier 6
Sanitary Sewer Overflows: • FOG accumulation in collection system causing a sewer overflow	Tier 4	Tier 5	Tier 6	Tier 7

3. Penalties associated with enforcement:

TABLE 70-149.5(A): FOG TIERED ENFORCEMENT STRUCTURE PENALTIES	
Tier	**Administrative Penalty**
Tier 1	No civil penalty; Notice of Violation (NOV)
Tier 2	Up to $500 civil penalty; NOV
Tier 3	$750 to $1,500 civil penalty; NOV; Consent agreement
Tier 4	$1,500 to $3,000 civil penalty; NOV; consent order or administrative order
Tier 5	$3,000 to $10,000 civil penalty; NOV; administrative order; public notice
Tier 6	$10,000 to $25,000 civil penalty; NOV; show cause order; public notice, possible termination of services
Tier 7	$10,000 to $25,000 civil penalty; NOV; show cause order; public notice, termination of services
SSO	In addition to the civil penalties above, the City may recover any operational cost associated with removal and cleanup of an SSO. If any penalties or fines are assessed against the City by the State of North Carolina or EPA as a result of a SSO, the penalties or fines may be passed along to the perpetrator.
Note: These penalties are in addition to assessed reimbursement costs as specified in Section 9.2(c) of the Sewer Use Ordinance for legal fees, equipment repair or replacement, any additional monitoring	

of the City of Brevard is required to do, and any penalties assessed to the City resulting from the subject violation.

4. *Enforcement Responses.* The following provisions shall guide the City's enforcement procedures:
   a. Phone calls and Verbal warnings may to be used immediately upon the recognition of a violation to expedite the correction of the violation at the lowest level possible. These actions shall be documented in the User's file.
   b. Notices of Violation are to be used for violations, which in the discretion of the Wastewater Treatment Director impact the operation of the sewer system.
   c. Conferences are to be used where NOV's, Phone Calls or Verbal Warnings do not obtain results. They shall be held at the City of Brevard City Hall with the User, Public Works Director and/or Wastewater Treatment Directors and Pretreatment Personnel. The City Manager will be present when necessary.
   d. Consent Agreements (CA's) are to be used as a tool in responding to significant or continued noncompliance. The terms and conditions of CA's may be negotiated depending upon circumstances involved.
   e. Consent Orders are to be used as an escalated type of response to significant or continued noncompliance and/or failure to meet established milestones. Administrative Penalties, recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.
   f. Civil Penalties are to be used as a punitive deterrent for continued noncompliance and/or failure to meet established milestones. The recovery of damages, assessments and extraordinary expenses will also be used as an enforcement tool.
   g. Administrative Orders (AO's) are to be used if compliance is not met through Consent Agreements or Consent Orders. The AO's will have established milestone dates and Administrative Penalties will be issued if the milestone dates are not met.
   h. Administrative Orders will be issued to initiate actions leading to formal hearings in cases of continued significant noncompliance or where the City Manager determines that emergency enforcement actions are necessary.
   i. Civil Action may be used in cases of continued significant noncompliance or where the City Manager determines that emergency actions are necessary.
   j. Service Termination will be used in recurring noncompliance or emergency cases where there is harm to the City of Brevard staff, City property, private property, public, health or the environment.
   k. Responses to violations affecting the operation of the City of Brevard, resulting in the City's NPDES Permit and/or Collection System Permit violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

F. ~~8.~~ *Termination of Services*

1. Tier 7 violations may result in termination of services. It shall be the responsibility of the City Manager to determine if this enforcement method is used; in determining whether service should be terminated, he/she may consider compliance history, interference with and impact on the Sewerage System including costs incurred by the City of Brevard. If the City Manager decides to terminate service, he/she will issue written Notice of Termination to the User.

2. Under non-emergency circumstances, no physical termination of services shall occur prior to 15 business days from the date of the Notice of Termination. During that period, the User shall be

afforded an opportunity to appeal directly or through legal counsel to present reasons why service should not be terminated. The User shall submit a request in writing to the City Manager within 15 business days of issuance of the Notice of Termination. The request shall state plainly the reasons the User feels that service should not be terminated. The service termination shall be suspended until the appeal is resolved.

1. However, the City Manager can order an immediate emergency disconnection of sewer and water services due to severe discharge violations, such as releasing unauthorized toxic substances, causing a clear and present danger to public health, the environment, or threatening severe damage to the treatment infrastructure prior to the appeal process. In this circumstance, the 15 day appeal period begins on the date of shutoff.

3. The City Manager may conduct a hearing and take testimony from the User and witnesses on his or her behalf, the City of Brevard's staff and others. The User may be represented by legal counsel ~~and may cross-examine the City's staff and witnesses testifying. The City of Brevard may be represented by legal counsel, and the City staff may cross-examine the User and others testifying on his behalf.~~ The City Manager may also choose to consider the matter using only written material submitted by the User and the City of Brevard.

4. Following the Hearing or, if there is not a hearing, following consideration of the written appeal, the City Manager shall decide as to whether or not service should be terminated. The City Manager shall have 15 business days from submission of the appeal to render a decision.

5. *Judicial review.* Any person against whom a final order or decision of the City Manager may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Transylvania County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the city. At the request of the Court the City Manager shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. No. 2013-01, § 2(Exh. B), 3-18-13; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20; Ord. No. 2021-16 , § 1(Exh. A), 4-19-21)

G. ~~9.~~ *Domestic Grease Blockages.*

1. Blockages of the sewer system caused by FOG in residential areas shall be classified as domestic FOG blockages. The City of Brevard will address these blockages in the following manner:
   a. First Occurrence
      i. The City shall send a letter and FOG brochure to the residents of the surrounding area advising of the blockage and problems it caused.
      ii. Contact the local Homeowner's Association or owner(s) of the housing complex and educate them on the importance of FOG removal.
   b. Second Occurrence
      i. Have a community meeting with the residents and educate them on the importance of FOG removal.

ii. Meet with the Homeowner's Association or owner(s) of the housing complex to review the FOG removal program and advise the City of Brevard may issue civil penalties on the next occurrence.

c. Third Occurrence

i. Send out letters to the residents about the three blockages and the problems it has caused the City of Brevard -and the environment, including the cost of the clean-ups.

ii. The City may issue civil penalties to the owner(s) of the housing complex to recover operational costs.

~~10. Enforcement Response Guide~~

~~This guide further outlines types of violations, the nature of the violation, enforcement responses, and the City of Brevard personnel involved. The guide is considered a part of the City's Enforcement Response Plan. The abbreviations utilized are defined as follows:~~

~~CO Consent Order~~
~~CA Consent Agreement~~
~~CM City Manager~~
~~AO Administrative Order~~
~~NOV Notice of Violation~~
~~NOC Notice of Concern~~
~~FSE Food Services Establishment~~
~~FOG Fats, Oils & Grease~~
~~IWC Industrial Waste Coordinator~~
~~SNC Significant Non-Compliance~~

70-~~142~~150. Fees.

A. *Purpose.* It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the city for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the director and approved by city council. A copy of these charges and fees will be made available from the director.

B. *User charges.* A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

1. The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
2. Each user shall pay its proportionate cost based on volume of flow.
3. The director shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the city council for adjustments in the schedule of charges and fees as necessary.
4. Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

C. *Surcharges.* The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

1. The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
   a. Metered water consumption as shown in the records of meter readings maintained by the city; or
   b. If required or approved by the city, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the city. The metering system shall be installed and maintained at the user's expense.
   c. Where any user procures all or part of his or her water supply from sources other than the city, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the city.
2. The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the city. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.
3. The determination of the character and concentration of the constituents of the wastewater discharge by the director or his duly appointed representative(s) shall be binding as a basis for charges.

D. *Pretreatment program administration charges.* The schedule of taxes, fees and charges of the annually adopted budget ordinance for the City of Brevard, may include charges and fees for:

1. Reimbursement of costs of setting up and operating the pretreatment program;
2. Monitoring, inspections and surveillance procedures;
3. Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
4. Permitting; and
5. Other fees as the city may deem necessary to carry out the requirements of the pretreatment program.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~143~~151. Wastewater discharge permit application and issuance.

A. *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

B. *Wastewater permits.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the director be required to obtain a wastewater discharge permit for non-significant industrial users.

1. *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the director a significant industrial user determination. If the director determines or

suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.

2. *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, an application in the form prescribed by the director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW director's determination in subsection 70-~~143~~151.B.1 above. The application shall include at a minimum:
   a. Name of industrial user;
   b. Address of industrial user;
   c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
   d. Wastewater flow;
   e. Types and concentrations (or mass) of pollutants contained in the discharge;
   f. Major products manufactured or services supplied;
   g. Description of existing on-site pretreatment facilities and practices;
   h. Locations of discharge points;
   i. Raw materials used or stored at the site;
   j. Flow diagram or sewer map for the industrial user;
   k. Number of employees;
   l. Operation and production schedules; and
   m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
3. *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority as defined in Section 1-2. and contain the following certification statement:

   "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."
4. *Application review and evaluation.* The director will evaluate the data furnished by the user and may require additional information.
   a. The director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
   b. The director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.
5. *Tentative determination and draft permit.*
   a. The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

b. If the staff's tentative determination in subsection 70-~~143~~151.B.5.a. above is to issue the permit, the following additional determinations shall be made in writing:

i. Proposed discharge limitations for those pollutants proposed to be limited;

ii. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

iii. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

c. Subsections 70-~~143~~151.B.5.a. and 70-~~143~~151.B.5.b. above and the general permit conditions of the city into a significant industrial user permit.

6. *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits.

a. An allocation table (AT) listing permit information for all significant industrial users, including, but not limited to, permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division-approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

b. The basis, or rationale, for the pretreatment limitations, including the following:

i. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

ii. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

7. *Final action on significant industrial user permit applications.*

a. The director shall take final action on all applications not later than 90 days following receipt of a complete application.

b. The director is authorized to:

i. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and G.S. 143-215.1;

ii. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

iii. Modify any permit upon not less than 60 days' notice and pursuant to subsection 70-~~143~~151.B.9;

iv. Revoke any permit pursuant to subsection 70-~~147~~155.~~A~~;

v. Suspend a permit pursuant to subsection 70-~~147~~155.~~A~~;

vi. Deny a permit application when in the opinion of the director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

8. *Permit modification.*

a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

i. Changes in the ownership of the discharge when no other change in the permit is indicated,

ii. A single modification of any compliance schedule not in excess of four months,

iii. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection 70-~~143~~151(b)(2), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

c. A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

9. *Permit conditions.*

a. The director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

i. A statement of duration (in no case more than five years);

ii. A statement of non-transferability;

iii. Applicable effluent limits based on categorical standards or local limits or both;

iv. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;

v. Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 1-2;

vi. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads, if determined by the director to be necessary for the user and,

vii. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load. Also see subsections 70-~~144~~152.E and 70-~~144~~152.F; and

viii. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

b. In addition, permits may contain, but are not limited to, the following:

i. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

ii. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

iii. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

iv. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

v. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

vi. Requirements for installation and maintenance of inspection and sampling facilities and equipment.

vii. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

viii. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).

ix. Compliance schedules for meeting pretreatment standards and requirements.

x. Requirements for submission of periodic self-monitoring or special notification reports.

xi. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in subsection 70-~~144~~152.M and affording the director, or his representatives, access thereto.

xii. Requirements for prior notification and approval by the director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

xiii. Requirements for the prior notification and approval by the director of any change in the manufacturing and/or pretreatment process used by the permittee.

xiv. A statement that compliance with the 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 terms of the permit.

xv. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

10. *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

11. *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

12. *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection 70-~~143~~151.B a minimum of 90 days prior to the expiration of the existing permit.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-~~144~~152. Reporting requirements.

A. *Baseline monitoring reports (BMRs).*

1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in subsection 70-~~144~~152.A.2, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection 70-~~144~~152.A.2, 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.

2. Users described above shall submit the information set forth below:
   a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
   b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
   c. *Description of operations.* A brief description of the nature, average 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.
   d. *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 waste stream formula set out in 40 CFR 403.6(e).
   e. *Measurement of pollutants.*
      i. The categorical pretreatment standards applicable to each regulated process.
      ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 70-~~144~~152.J of this ordinance.
      iii. Sampling must be performed in accordance with procedures set out in subsection 70-~~144~~152.K of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
   f. *Certification.* A statement, reviewed by the user's current authorized representative of the industrial user as defined in Section 1-2 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.
   g. *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. 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 70-~~144~~152.B of this ordinance.
   h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 70-~~143~~151.B.3 of this ordinance.

B. *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 70-~~144~~152.A.2.g. of this ordinance:

1. 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);

2. No increment referred to above shall exceed nine months;
3. The user shall submit a progress report to the director no later than 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
4. In no event shall more than nine months elapse between such progress reports to the director.

C. *Reports on compliance with categorical pretreatment standard, deadline.* Within 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 director a report containing the information described in subsections 70-~~144~~152.A.2.d. through 70-~~144~~152.A.2.f. of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. 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 70-~~143~~151.B.3 of this ordinance.

D. *Periodic compliance reports.* The control authority may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

1. All significant industrial users shall, at a frequency determined by the director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in subsections 70-~~144~~152.J and 70-144.K of this ordinance. All periodic compliance reports must be signed and certified in accordance with subsection 70-~~143~~151.B.3 of this ordinance.
2. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsections 70-~~144~~152.J and 70-~~144~~152.K of this ordinance, the results of this monitoring shall be included in the report.

E. *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. The permittee shall not begin the changes until receiving written approval from the director~~control authority~~. See subsection 70-~~144~~152.F.4 for other reporting requirements.

1. The director 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 subsection 70-~~143~~151.B of this ordinance.
2. The director may issue a wastewater discharge permit under subsection 70-~~143~~151.B of this ordinance or modify an existing wastewater discharge permit under subsection 70-~~143~~151.B of this ordinance in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 15 percent or greater, or the discharge of any previously unreported pollutants.

F. *Reports of potential problems.*

1. 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, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW director 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.
2. Within five days following such discharge, the user shall, unless waived by the director, 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 may 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 ordinance.
3. 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 70-~~144~~152.F.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.

G. *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.

H. *Notice of violation/repeat sampling and reporting.*

1. If sampling performed by a user indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. If allowed by the director, the user is not required to resample:
   a. If the director monitors at the user's facility at least once a month; or
   b. If the director samples between the user's initial sampling and when the user receives the results of this sampling.
2. If the director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:
   a. The director monitors at the user's facility at least once a month; or
   b. The director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
   c. The director requires the user to perform sampling and submit the results to the director within the 30-day deadline of the POTW becoming aware of the violation.

I. *Notification of the discharge of hazardous waste.* The city prohibits the discharge of any hazardous wastes without notification to and approval by the director.

1. 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 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 waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 90 days before the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 70-~~144~~152.E. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections 70-~~144~~152.A, subsection 70-~~144~~152.C, and subsection 70-~~144~~152.D.

2. Dischargers are exempt from the requirements of subsection 70-~~144~~152.I.1, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 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.
3. In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
4. In the case of any notification made under this section, the 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.
5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

J. *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, 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, sampling and analyses must be performed in accordance with procedures approved by EPA and city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.

K. *Grab and composite sample collection.*

1. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be operated in accordance with best management practices, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in this manner shall not be grounds for the user to claim that sample results are unrepresentative of its discharge and may be in violation of its wastewater discharge permit.
2. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number

of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for baseline monitoring reports and 90-day compliance reports. Additionally, the director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.

3. Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

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

M. *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. 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 years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

N. *Electronic reporting.* The director may develop procedures for receipt of electronic reports for any reporting requirements of this ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 70-~~147~~155.

O. *Special reporting requirements for IUs in satellite POTWs.* In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by the section shall also be reported to the POTW treatment plant organization.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14; Ord. No. 2023-43, § 1(Exh. A), 9-5-23)

70-~~145~~153. Compliance monitoring.

A. *Monitoring facilities.* The city requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

B. *Inspection and sampling.* The city will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the city's, approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

C. *Search warrants.* If the city, approval authority, or EPA 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 ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the city.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~146~~154. Confidential information.

A. Information and data provided by an industrial user to the director pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

B. Information provided by an industrial user to the director that is determined to be entitled to confidential treatment shall be made available upon written request to the division of water quality or any state agency for uses related to the pretreatment program, the National Pollutant Discharge Elimination System (NPDES) permit, collection system permit, stormwater permit, and/or non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

C. Information and data received by the division or other state agency, ~~under subsection 70-146.B~~as described herein, ~~above~~ shall be subject to the processes set forth in G.S. 143-215.3C.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~147~~155. Enforcement.

A. *Administrative remedies.*

1. *Notice of violation (NOV).* Whenever the director finds that any industrial user has violated or is violating this ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation

and a plan for the satisfactory correction thereof shall be submitted to the city by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

2. *Consent orders.* The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to subsection 70-~~147~~155.A.4, below.

3. *Show cause hearing.* The director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

   The director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

   A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under subsection 70-147.B nor is any action or inaction taken by the POTW director under this section subject to an administrative appeal under subsection 70-~~143~~151.B.8.

4. *Administrative orders.* When the director finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:
   a. Immediately comply with all requirements;
   b. Comply in accordance with a compliance time schedule set forth in the order;
   c. Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
   d. Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

5. *Emergency suspensions.* The director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of the above-described hearing.

6. *Termination of permit or permission to discharge.* The director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
   a. Failure to accurately report the wastewater constituents and characteristics of his discharge;
   b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
   c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
   d. Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable state and federal regulations.

   Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under subsection 70-~~147~~155.A of this ordinance why the proposed action should not be taken.

B. *Civil penalties.*

1. Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to $25,000.00 per day per violation.
   a. Penalties between $10,000.00 and $25,000.00 per day per violation may be assessed against a violator only if:
      i. For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or
      ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the POTW director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.
2. In determining the amount of the civil penalty, the director shall consider the following:
   a. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
   b. The duration and gravity of the violation;
   c. The effect on ground or surface water quantity or quality or on air quality;
   d. The cost of rectifying the damage;
   e. The amount of money saved by noncompliance;
   f. Whether the violation was committed willfully or intentionally;
   g. The prior record of the violator in complying or failing to comply with the pretreatment program;

h. The costs of enforcement to the city.

3. Appeals of civil penalties assessed in accordance with this section shall be as provided in subsection 70-~~143~~151.B.8.

C. *Other available remedies.* Remedies, in addition to those previously mentioned in this ordinance, are available to the director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

1. *Criminal violations.* The district attorney for the applicable judicial district may, at the request of the city, prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.

   Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under article 21 of chapter 143 of the general statutes (G.S. 143-215.6B(i)).

2. *Injunctive relief.* Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the director, through the city attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

3. *Water supply severance.* Whenever an ~~industrial~~ user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the ~~industrial~~ user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

4. *Public nuisances.* Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the city governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

D. *Remedies nonexclusive.* The remedies provided for in this ordinance are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other legal actions against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~148~~156. Annual publication of significant noncompliance.

At least annually, the director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~149~~157. Adjudicatory hearings.

A. *Adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under subsection 70-~~147~~155.B, or one issued an administrative order under subsection 70-~~147~~155.A shall have the right to an adjudicatory hearing before the ~~POTW director or other hearing officer appointed by the POTW director upon making written demand~~Public Works Director, identifying the specific issues to be contested, to the director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated.

The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing.

The ~~POTW~~ Public Works director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in subsection 70-~~147~~155.B~~, below~~. The decision is a final decision for the purposes of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

1. *New permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
2. *Renewed permits.* Upon appeal, including judicial review in the general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
3. *Terminated permits.* Upon appeal, including judicial review in the general courts of justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

B. *Official record.* When a final decision is issued under subsection 70-~~147~~155.A, above, the hearing officer shall prepare an official record of the case that includes:

1. All notices, motions, and other like pleadings;
2. A copy of all documentary evidence introduced;
3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;
4. A copy of the final decision of the hearing officer.

A. *Judicial review.* Any person against whom a final order or decision of the hearing officer is entered, pursuant to the hearing conducted under subsection 70-~~147~~155.A, above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Transylvania County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the city. Within 45 days after receipt of the copy of the written request for review by the court, the hearing officer shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~150~~158. Affirmative defenses to discharge violations.

A. *Upset.*

1. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection 70-~~150~~158.A.2, below, are met.
2. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   a. An upset occurred and the user can identify the cause(s) of the upset;
   b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
   c. The user has submitted the following information to the director within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
      i. A description of the indirect discharge and cause of noncompliance;
      ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
      iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
3. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
4. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
5. 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.

B. *Bypass.*

1. A user may allow a 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 subsections 70-~~150~~158.B.2 and 70-~~150~~158.B.3 of this section.
2. Reporting a bypass.
   a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director, at least ten days before the date of the bypass, if possible.
   b. A user shall submit oral notice to the POTW director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this 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 director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
3. Bypass unavoidable.
   a. Bypass is prohibited, and the POTW director may take an enforcement action against a user for a bypass, unless:
      i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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

iii. The user submitted notices as required under subsection 70-~~150~~158.B.2 of this section.

b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection 70-~~150~~158.B.3.a. of this section.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~151~~159. Severability.

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

70-~~152~~160. Conflict.

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

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~153~~161. Effective date.

This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

(Ord. No. 2014-11, § 02(Exh. B), 5-19-14)

70-~~154~~162—70-170. Reserved.

ARTICLE VI. ENFORCEMENT RESPONSE PLAN

70-171. Introduction.

The City of Brevard operates a publicly owned treatment works (POTW), the sewer system. It is the responsibility of the City of Brevard to enforce all applicable federal, state, and local pretreatment regulations. These regulations are outlined in Federal Regulation 40 CFR 403 and State Regulation 15A NCAC 2H.0900, and the city's sewer use ordinance (SUO). This enforcement response plan (ERP) has been established as an element of the city's sewer pretreatment program. The purpose of the ERP is to provide for fair and equitable treatment of all users for anticipated enforcement situations. Generally, enforcement actions will be taken in accordance with the ERP; however, additional legal actions are available (SUO subsection 70-~~147~~155.D). Therefore, a combination of enforcement actions may be taken against a user in non-compliance.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-172. Enforcement actions available to the POTW.

The POTW director is empowered through G.S. 143-215.6A and the local SUO to take enforcement actions to pursue compliant operations and use of the POTW. The following is a list of actions specified in the city's SUO with corresponding section number:

A. Notice of violation 70-~~147~~155.A.1

B. Consent orders 70-~~147~~155.A.2

C. Show cause hearing 70-~~147~~155.A.3

D. Administrative orders 70-~~147~~155.A.4

E. Emergency suspensions 70-~~147~~155.A.5

F. Termination of permit 70-~~147~~155.A.6

G. Civil penalties 70-~~147~~155.B

H. Injunctive relief 70-~~147~~155.C.2

I. Water supply severance 70-~~147~~155.C.3

In addition to the actions listed above, a user who violates the provisions of G.S. 143-215.6B may be referred by the POTW director to the ~~district~~City attorney for possible criminal prosecution.

In determining civil penalties for any violation, the director shall consider the following factors:

A. The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

B. The duration and gravity of the violation;

C. The effect on ground or surface water quantity or quality or on air quality;

D. The cost of rectifying the damage;

E. The amount of money saved by non-compliance;

F. Whether the violation was committed willfully or intentionally;

G. The prior record of the violator in complying or failing to comply;

H. The costs of enforcement to the POTW.

Adjudicatory hearing procedures regarding permit decisions, civil penalties, and administrative orders are found in the SUO section 70-~~149~~157.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-173. Investigation of noncompliance.

The POTW director will investigate a user's compliance with his/her permit and the provisions of the SUO using at least these three methods:

A. On-site inspections of the user to include scheduled and unscheduled visits;

B. Scheduled and unscheduled sampling of the user's effluent;

C. Review of self-monitoring data, if required, from the user.

The compliance status of significant industrial users (SIU) will be evaluated at a minimum once every six months.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-174. Types of violation.

The following is a list of noncompliance categories anticipated by this ERP; the list is not comprehensive. The issued permit, the SUO, and state and federal regulations serve as additional references for pretreatment requirements and potential violations.

A. *Unpermitted discharges:* Users are responsible for obtaining and renewing permits, if required.

B. *Permit limits violations:* Users are responsible for maintaining compliance with all effluent limits. The POTW will evaluate the extent of limits violations. In determining the extent of violations, significant non-compliance (SNC) as defined by state and EPA regulations will be determined.

C. *Self-monitoring violations:* Users are required to adequately conduct all the monitoring required in the permit, including monitoring frequencies and sampling methods specified. This includes a user who does not resample per their permit when a limit violation occurs.

D. *Reporting violations:* Users are required to provide information, such as self-monitoring reports, listed in their permit or the SUO on the schedule stipulated. Late or incomplete reports are violations.

E. *Permit conditions violations:* Failure to apply or reapply for a permit is considered a violation. Users who violate conditions outlined in their permits or the SUO shall be considered in violation.

F. *Failure to abide by enforcement actions:* Failure to meet the requirements of an order, whether the order was entered into voluntarily or mandated by the POTW, is a violation. Missing a scheduled compliance milestone by more than 90 days is considered SNC.

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)

70-175. Responses: timeframes, responsible officials, escalated actions.

The attached chart outlines types of violations and specifies both initial and escalated actions to be taken by the POTW, timeframes, and the officials responsible for executing the actions. This chart shall be considered a part of the enforcement response plan.

Responses to violations affecting the operation of the POTW, resulting in POTW NPDES violations, or resulting in environmental harm or endangerment to human health will be taken immediately or as soon as possible following discovery.

A user may be sent a notice of violation (NOV) or notice of noncompliance (NNC) for each individual violation. Alternatively, violations over a period of time may be summarized. In general, NOVs in response to violations will be issued within 30 days of discovery of the violations.

Users found to be in significant non-compliance twice in one contiguous 12-month period will be issued an administrative order (AO) to return to compliance. In all cases, escalated or continuing enforcement action will be taken against users who do not return to compliance in a timely manner.

Cases of falsifying reports, tampering with monitoring or sampling equipment, or otherwise preventing the collection or reporting of representative data may be referred to the ~~district~~City attorney for possible criminal investigation.

Show cause hearings may be held at the POTW director's discretion prior to taking enforcement actions.

TABLE 70-175A: UNPERMITTED DISCHARGES					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Unpermitted Discharge	Notice of Violation (NOV)	Within 30 days of discovery of discharge	POTW Director or designee	File permit application	Suspend service until permit is issued
Unpermitted Discharge; Aware of requirement	NOV with penalty assessed	Within 30 days of discovery of discharge	POTW Director	File permit application	Suspend service until permit is issued
Unpermitted Discharge results in violation of NPDES or other state-issued permit or state general statute	Order to cease process causing violation; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Order to cease immediately; NOV within 7 days	POTW Director	File permit application; take steps to avoid violation	Suspend service until permit is issued
Unpermitted Discharge results in endangerment	Suspend service; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Suspend service immediately; NOV within 7 days	POTW Director	File permit application; take steps to avoid future endangerment	

TABLE 70-175B: PERMIT LIMITS VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Permit Limit Violation; Single event minor	Notice of Non-Compliance	Within 30 days of receiving data	POTW director or designee	Conduct additional monitoring and return to compliance	NOV with penalty
Permit Limit Violation; Technical Review Criteria (TRC)	NOV with penalty up to $25,000.00	Within 30 days of receiving data	POTW Director or designee	Conduct additional monitoring and return to compliance	Second NOV with increased penalty

TABLE 70-175B: PERMIT LIMITS VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Permit Limit Violation; Significant Non-Compliance	NOV with penalty up to $25,000.00	Within 30 days of receiving all data	POTW director or designee	Report cause of non-compliance and steps taken to prevent violation	Administrative order with enforcement schedule
Permit Limit Violation results in violation of NPDES or other state-issued permit or state general statute	Order to cease process causing violation; NOV plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Order to Cease immediately; NOV within 7 days of discovering violation	POTW Director	Report cause of non-compliance and steps taken to prevent violation	Suspend service until resolved
Permit Limit Violation results in Endangerment	NOV; Suspend service plus penalty of $1,000.00 (minimum) up to $25,000.00/day per violation	Suspend service immediately; NOV within 7 days	POTW director	File for reissuance of permit	

TABLE 70-175C: OTHER VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Self-Monitoring violation	NOV with penalty equal to or greater than cost of missed testing	Within 30 days of discovery	POTW director or designee	Conduct missed sampling	Second NOV with penalty of twice the initial penalty
Reporting Violation (late report)	Notice of Non-compliance	Within 30 days of the report due date	POTW director or designee	Submit report	NOV with penalty assessed; possible SNC if over 30 days
Reporting Violation (incomplete or inaccurate reports)	Notice of Non-compliance	Within 30 days of report submission	POTW director or designee	Submit revised report	NOV; assess penalty

TABLE 70-175C: OTHER VIOLATIONS					
Type of Violation	**POTW Action**	**Timeframe**	**Responsible Official**	**Expected Action from User**	**Escalated Action if Needed**
Reporting Violation (intentional falsification)	Refer to ~~district~~City attorney	As soon as suspected	POTW director		
Violation of Permit Conditions	NOV with penalty up to $25,000.00 per day per violation	Within 30 days of discovery	POTW director or designee	Varies; comply with permit conditions	Second NOV with increased penalty
Violation of Permit Conditions results in NPDES or other state-issued permit or state general statute violations or endangerment	Suspend service; NOV with penalty up to $25,000.00 per day per violation	Suspend service immediately; NOV within 7 days of discovery	POTW director	Steps taken to avoid reoccurrence	
Violations of or Failure to Abide by Administrative or Consent Order	NOV and assess stipulated penalty or actions listed for same violation type	Within time frame listed in the order or for the same type of violation	POTW director or designee	Additional monitoring and steps taken to avoid recurrence	Same as escalated action for same type of violation possible revocation of order
Failure to meet a milestone date in Administrative or Consent Order (does not affect other dates)	NOV and assess penalty stipulated in order	Within 14 days of discovery	POTW director or designee	Submit a schedule to complete the requirement	Show cause hearing
Failure to meet a milestone date in Administrative or Consent Order (affects other dates)	Show cause hearing and assess stipulated penalties	Within 30 days of discovery	POTW director	Negotiate new order and abide by new conditions	Increased penalty or possible termination of service
Failure to meet final compliance date	NOV and assess stipulated penalties	Within 14 days of discovery	POTW director	Document compliance	Increased penalty or possible termination of service

(Ord. No. 2014-11, § 03(Exh. C), 5-19-14)