

WATER RESOURCES



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Modified from
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CODE
City of
WILSON, NORTH CAROLINA

Codified through
Ord. No. O – 091-03, enacted Oct. 16, 2003.
(Supplement No. 42)
Revised March, 2012
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Chapter 38: Water and Sewers



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Chapter 38: WATER AND SEWERS*

***Charter references:** Special assessments and charges, Art. XV; eminent domain, Art. XVII.

Cross references: Administration, Ch. 2; health and sanitation, Ch. 17; marine waste disposal systems, § 19-81; solid waste, Ch. 33; streets and sidewalks, Ch. 34; installation of utilities during street improvement project, § 34-112; drainage of property, § 34-166 et seq.; group housing development standards, App. A, § 3.18; planned residential development, App. A, § 3.21; temporary uses, App. A, § 3.22; development plan and design requirements for zoning, App. A, § 10; required improvements in subdivisions, App. C, § 10; preliminary subdivision plat, App. C, § 11.

State law references: Public utilities, G.S. Ch. 62; water and air resources, G.S. 143-211 et seq.; revenue bonds, G.S. 159-80 et seq.; ordinances effective on municipal property outside limits, G.S. 160A-176; municipal regulation of the emission of pollutants or contaminants, G.S. 160A-185; public health and public safety nuisances, G.S. 160A-193; special assessments, G.S. 160A-216 et seq.; excavations, placing pipes, etc., G.S. 160A-296; franchises, G.S. 160A-76, 160A-319; public enterprises, G.S. 160A-311 et seq.

Art. I. In General, §§ 38-1--38-30
Art. II. Extension of Water and Sewer Service, §§ 38-31--38-60
Art. III. Sewers, §§ 38-61--38-97
Div. 1. Generally, §§ 38-61--38-70
Div. 2. Monthly Rental, §§ 38-71--38-85
Div. 3. Discharge of Wastewaters into the City POTW, §§ 38-86--38-95

ARTICLE I. IN GENERAL

Sec. 38-1 Tampering with, damaging, interfering with water and sewer systems prohibited.

It shall be unlawful for any unauthorized person to tamper with, damage or interfere with any fire hydrant, water meter, pumping station or any other part of the water distribution system and sewerage system of the city.

(Code 1969, § 32-1)

Cross references: Offenses and miscellaneous provisions, Ch. 25.

Sec. 38-2 Occupation of buildings or structures when connections discontinued

It shall be unlawful for any person to occupy any building or structure after the water or sewer connections, or both, have been permanently cut off or discontinued.

(Code 1969, § 32-2)

Sec. 38-3 Repair of water and sewer facilities required

It shall be unlawful for any owner or person in control of any building to permit the water and sewer facilities of such building to remain in a condition which will cause a hazard to health or a nuisance to adjoining property owners. The owner or person in control thereof shall have the facility repaired within forty-eight (48) hours after notice has been given.

(Code 1969, § 32-3)

Cross references: Nuisances, § 17-26 et seq.

Sec. 38-4 Permit required to install private sewage disposal; issuance

- (a) It shall be unlawful for any person to construct a private sewage disposal system until a permit has been granted by the plumbing inspector. The design and construction of such disposal system shall conform to the standards set forth by the state commission for health services and percolation tests shall be made in all cases before a permit shall be granted.
- (b) Any and all on-site new waste disposal systems within floodway and floodway fringe zones and areas of special flood hazard shall be located so as to avoid impairment of them or contamination from them during flooding.

(Code 1969, § 32-4)

Cross references: Flood regulations, App. A, § 8.35

State law references: Floodway regulation, G.S. 143-215.51 et seq.; zoning, G.S. 160A-381 et seq.

Secs. 38-5--38-30 Reserved

ARTICLE II. EXTENSION OF WATER AND SEWER SERVICE

Sec. 38-31 Application for and approval of extensions required

- (a) Any property owner desiring water or sanitary sewer service shall apply in writing to the city council requesting the extension of water or sanitary sewer service or both. No request for the extension of services shall be considered unless submitted in writing in accordance with the requirements of this article.
- (b) The city may require the applicant to submit as part of the written application such information, plans or other data as may be required to adequately determine if the requirements of this article are to be met.
- (c) When application is made for water and sewer extensions initially to serve a smaller area or parcel that is a part of a larger one under the same ownership or development consortium, the applicant shall submit a statement of intent as to whether any anticipated development is proposed or anticipated for the entire parcel, area or portions thereof. Where future development is proposed or anticipated, then the applicant for water and sewer extensions shall indicate the timing and sequencing of such development and shall submit general development plans for the entire parcel or portions thereof in sufficient detail in order for the city to review and evaluate the impact of such anticipated development on the city's comprehensive growth and development plans or master plan, as well as impact on the availability of required public services and facilities and the city's ability to supply such services. At minimum, such development plans shall indicate proposed future land uses by arrangement, location, type and amount (in acres); type, location and intensity of buildings; arrangement, type, location, and density of housing units; general street and parking layouts and location; estimated requirements for public services and facilities; and consideration for drainage, flood hazard areas and other environmental constraints or resources.
- (d) No extension to the water or sanitary sewer system of the city shall be made and no application shall be approved except in accordance with the requirements of this article.
- (e) Extensions of water and sewer services meeting the following standards and requirements may be considered for approval:
 - (1) When the request for the extension of water and sewer services is for a subdivision or development, submission of a subdivision plat or development site plan for approval is deemed to take the place of a written application to the city council, and once properly approved, including construction plans and specifications prepared by the applicant's registered professional engineer with all necessary permits obtained, the subdivider, developer or applicant is responsible for having the extension services installed in accord with city standards and financed in accord with section 38-33 or section 38-34.

Sec. 38-31 Application for and approval of extensions required (cont)

- (2) The city council may approve a request for an extension of water and/or sewer services utilizing the water and sewer extension assessment fund to serve a limited area along existing streets within the primary growth area, provided the financing of the extension is in accord with section 38-33(e).
- (3) Extension of water and/or sewer services to proposed developments or subdivisions shall be in accord with the water and sewer service policies in the Wilson Growth Plan.
- (4) The city council may approve a request for the extension of water and/or sewer services within the corporate limits to serve an existing subdivision or development, provided the property owners of at least fifty-five (55) percent of all the linear footage of the lands abutting upon the proposed extension sign a petition requesting the extension and the financing of such extension is in accord with section 38-33(a).
- (5) The city council on its own motion may approve an extension of water and/or sewer services with or without a request and may finance such extensions according to section 38-33(d).
- (6) In considering the extension of water and/or sewer services, applicable Wilson Growth Plan Policies, appropriate city standards and the annexation policy shall be applied.

(Code 1969, § 32-33; Ord. No. O-001-91, § 1, 1-3-91)

Sec. 38-32 General extension requirements

All extensions of either water or sanitary sewer service shall be governed by the following:

- (1) Extensions of water and/or sewer shall be in accord with the following requirements:
 - a. The minimum distance for any extension of a water or sanitary sewer shall be determined by the city council. In general, the minimum distance for extensions shall be one (1) platted block, or in the case of water mains from main line valve to valve and in the case of sanitary sewer extension from manhole to manhole.
 - b. Subdivisions or other multi-unit developments of more than one (1) acre within the city's jurisdiction shall be required to extend water and/or sewer if the water or sewer is reasonably accessible. The following distances are considered reasonably accessible unless otherwise determined by city council based upon appropriate justification:

	Feet
Water	2,000
Sewer	1,500

Such distances shall be measured from the closest available distribution point of such water or sewer service to the nearest property boundary of

Sec 38-32 General extension requirements (cont.)

the proposed development with the distance to represent a reasonable or appropriate service line location for such extension.

- (2) The size of water mains and sanitary sewer mains to be installed and the other required system facilities shall be determined by the city engineer and approved by the city council in accordance with the recognized standards and accepted engineering practices and design.
- (3) Within floodway and floodway fringe zones and areas of special flood hazard, the following additional requirements shall apply:
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate filtration of floodwaters into the system.
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Prior to making a final decision regarding the extension of water and sewer services, the city council shall refer to all applicable citywide development and growth plans, or the master plan for the city, as well as applicable facility planning studies, and shall consider the impact of such extensions in relationship to these plans or studies. Special attention shall be given to these plans and studies when such extensions are outside the city's corporate limits and extraterritorial zone.
- (5) Compliance with city zoning, subdivision and other regulations within the city's jurisdiction:
 - a. Where water and sewer extensions are provided outside the corporate limits, all applicable city regulations, as required by city policy, and including but not limited to zoning and subdivision codes, shall be required to be met by an applicant prior to the authorization of such water and sewer extensions to serve the applicant's development or subdivision project. Annexation may also be required, or a recorded instrument indicating that annexation will be upon demand of the city. Where annexation occurs city building code inspections shall be required.
 - b. Where only city or county distributed water is provided outside the corporate limits for a subdivision or development and septic tanks are proposed to be provided (because city sewer is not available or within reasonable distance of the development), street standards shall be in accord with the state department of transportation (DOT) standards, except that if the development is within one (1) mile of the corporate limits at the time of such request, all city streets and drainage improvement requirements, as well as other public improvements as set forth in the city subdivision ordinance, including street paving, guttering and curbing improvements, may be required to be met as determined by

Sec. 38-32 General extension requirements (cont.)

city council based upon plans for the availability of sewer to the area, as well as other factors. An agreement to annex upon demand of the city may also be required to be recorded. The one (1) mile shall be measured from the nearest boundary of the city corporate limits to the nearest boundary of the property requested to be served with water.

Notwithstanding the above, where a development abuts any portion of the city corporate limits, then all public improvements shall be required, regardless of the distances set forth in subsection 38-32(1) above.

- c. All zoning requirements shall be applied unless otherwise excepted by a specific ordinance.

- (6) Where the applicant for water and/or sewer service extensions is an incorporated governmental unit, and/or requires additional water or sewer service in excess of that which was initially contracted for and projected by the 201 Facilities Planning Study or other similar facilities studies, then the impact of such extensions and service requirements on the city's facilities shall be evaluated with special attention given to authorizing such extension and services under conditions as will minimize their existing and future impact on the city's facilities and will set forth standards and conditions so as to insure the existing and future impact will be in accord with the availability of service extensions and ability of the city to serve the applicant.

(Code 1969, § 32-34; Ord. No. O-001-91, §§ 2, 3, 1-3-91; Ord. No. O-013-97, § 1, 3-6-97)

Cross references: Flood regulations, App. A, § 8.35.

State law references: Floodway regulation, G.S. 143-215.51 et seq.; zoning, G.S. 160A-381 et seq.

Sec. 38-33 Financing extensions within corporate limits

- (a) *Extensions to approved subdivisions or developed property.*
 - (1) When application is received requesting the extension of water or sanitary sewer service or both to serve property within the corporate limits which is developed or has been previously approved as a subdivision, or where streets have previously been dedicated and accepted by the city, and where such area is not part of a new subdivision which has not been approved by the city, the city clerk or other person designated by the city council shall estimate the cost of the project and present the application for such extension, the estimated cost and other required information to the city council for their consideration. If the application is approved by the city council and subject to the availability of funds, the city will install or have installed by contract under its supervision the extensions which have been approved, and such extension shall be financed in accordance with this subsection.
 - (2) When an approved water or sanitary sewer extension project has been completed and the total cost thereof has been determined, the total cost of such water or sanitary sewer extension or both shall be assessed against the property

Sec. 38-33 Financing extensions within corporate limits (cont.)

owners benefiting from such project. The cost of such project may be assessed in accordance with and under the authority granted to the city by G.S. Ch. 160A, Art. 10 (160A-216 et seq.), or the cost of the project may be assessed as provided in the city charter, or the cost of the project may be paid for under such other and further methods as may be authorized by law and approved by the city.

- (3) As authorized by such statute, any property owner shall have the opportunity to pay his proportionate share of the cost of such extensions within thirty (30) days after the publication of the notice that the assessment roll has been confirmed rather than paying his share in equal annual installments with interest.
- (b) *Extensions to proposed developments or subdivisions.* When a proposed preliminary subdivision is approved by the city council or a development plan is approved by the technical review committee or as set forth in section 10 of Appendix A, Zoning, the developer shall have plans and specifications for the extension of water and sewer lines for the project (if it is not already served) prepared by a registered professional engineer. These plans shall be reviewed by the city engineer for compliance to city and state standards. After approval the developer is responsible for installing the lines as approved. All costs for plans, permits and construction shall be at the expense of the developer.
- (c) *City participation.*
- (1) Upon city council approval, based upon the recommendations of the city engineer, the city will pay the cost difference for service facilities larger than a standard size eight-inch-diameter water main or a standard size eight-inch-diameter sewer main necessary to serve a development, provided that the additional size is not due to the requirements of the development for which the request is made and is needed to serve a larger area. The cost difference is the difference in the cost of the larger facility over and above the standard size eight-inch-diameter water or sewer main. The property owner, developer, subdivider or applicant must request the city's participation in writing prior to the facilities being installed.
 - (2) Overhead water storage tanks, oversize outfall lines and other facilities installed for general public use shall be paid for by the city except when specifically required to meet the needs of the development area.
 - (3) On corner lots where facilities are installed on both sides of such lot a one-hundred-fifty-foot maximum exemption shall be allowed for the longest lot side.
- (d) *Exceptions authorized.* Nothing in this article shall prevent the city council from extending water or sanitary sewer mains or both within the corporate limits on their own motion without receipt of an application from property owners, and to assess the cost of such extensions in accordance with subsection (a)(2) when, in the opinion of the city council, the general public interest demands such extension of service.
- (e) A revolving water and sewer extension assessment fund is hereby established that may be utilized upon city council approval for purposes of constructing the extension of water and/or sewer services requested by a property owner to serve a specific, limited location through a low interest five-year payback assessment to the property for which the owner is requesting the extension, provided that:

Sec. 38-33 Financing extensions within corporate limits (cont.)

- (1) The extensions shall serve property within the primary growth area with priority given to properties already in the corporate limits.
- (2) The locations to be served and the extensions are in accord with the Wilson Growth Plan.
- (3) The extension is for a limited service area that can reasonably be served at standard line costs that fall within the yearly fund limit.
- (4) Assessment procedures as set forth in subsection (a) above shall be met, and a recorded agreement between the city and the applicant is required assuring the city of repayment.
- (5) The entire cost, except for required oversized lines, is assessed to the applicant's property to be repaid over a five-year period at the current interest rate for assessments.
- (6) A total assessment fund limit amount is made available each year.
- (7) Any reimbursements from front footage charges are returned to the city to help replenish the assessment fund and preserve the present value of assessments allowing low interest repayments.
- (8) The extension must serve properties or subdivided lots abutting existing public streets and cannot serve new subdivision lots fronting upon proposed streets or serve within new subdivisions.
- (9) The applicant must annex the property to be served, if it is not in the corporate limits.
- (10) Each request for the assessment fund is evaluated on a first-come first-serve, case-by-case basis.

(Code 1969, § 32-35; Ord. No. O-001-91, §§ 4--7, 1-3-91)

Charter references: Special assessments and charges, Art. XV.

Cross references: Subdivisions, App. C.

Sec. 38-34 Financing extensions outside corporate limits

- (a) The city council may authorize the extension of water and sewer lines outside the corporate limits of the city, but within the extraterritorial zone thereof. All applications for water and sewer extensions outside the corporate limits, but within the extraterritorial zone, shall be made in the same manner and under the same requirements as provided in sections 38-31 and 38-32. If the application is approved by the city council, the developer or owner shall be required to pay for the entire cost of all such extensions. Provided, however, that the city may participate to the extent agreed upon by the city council and the cost of larger size mains than the standard eight-inch water main and eight-inch sewer main. All such extensions shall be installed and constructed in

Sec. 38-34 Financing extensions outside corporate limits (cont.)

accordance with the approved plan specifications and other requirements of the city. Such extensions shall become the sole property of the city and under its sole jurisdiction and control for any and all purposes whatsoever at the time such facilities are connected to the water and/or sewer systems of the city.

- (b) No reimbursement shall be made to the developer or owner upon annexation. However, the city will refund to the developer and/or owner all sums received by the city from connections made to the water and sewer lines so extended from the corporate limits to the developer's property, not including tap charges, for a period of ten (10) years from the date such lines are connected to the city systems. Charges for such connections shall be made by the city on an equal rate per front foot based on percentage of the total cost of such lines. After the aforesaid ten-year period, all connection charges shall belong to and become the sole property of the city.
- (c) All such extensions shall be made for the full length of the frontage of the property of such owner or developer.
- (d) This policy shall not apply to properties contiguous to the corporate limits as they are eligible for annexation and upon such annexation extensions to such property would be made in accordance with the policies and procedures governing extensions within the corporate limits.
- (e) The city council may, in unusual circumstances, and in specific cases, allow extension of water and sewer lines beyond the extraterritorial zone when in the opinion of council, it would be in the best interest of the citizens of the city to do so. When allowed, such extensions shall be made in the same manner and under the same terms and conditions as the extensions outside the corporate limits, but within the extraterritorial zone.

(Code 1969, § 32-36; Ord. No. O-001-91, §§ 8--10, 1-3-91)

Sec. 38-35 Specifications, ownership

- (a) Any water mains or sanitary sewer mains extended under the provisions of this article shall be installed and constructed in accordance with the approved plans, specifications and other requirements of the city. All facilities installed under the provisions of this article, whether within or outside the corporate limits, shall become the sole property of the city and under its jurisdiction and control for any and all purposes whatsoever at the time such facilities are connected to the city system. When required, the property owner shall grant to the city such utility easements as the city may require. In addition, a deed to the city for water and/or sewer facilities installed which are located outside the corporate limits, the cost of which is borne by individual property owners, shall be executed prior to the time any extensions provided for in this article are connected to the city systems.
- (b) Water and sewer systems proposed for floodway and floodway fringe zones and areas of special flood hazard shall comply with section 38-32(3).

(Code 1969, § 32-37)

Cross references: Flood regulations, App. A, § 8.35.

State law references: Floodway regulation, G.S. 143-215.51 et seq.; zoning, G.S. 160A-381 et seq.

Sec. 38-36 Connections to main or trunk water and sewer lines

A charge based on the then current per-front-foot cost of a six-inch water line and an eight-inch sewer line shall be paid by property owners before any new connection is made to any main or trunk water or sewer line in the distribution system which was constructed with city funds. A like charge shall be paid by property owners before any new connection is made to any water or sewer line in the distribution system which was installed pursuant to section 38-34.

(Code 1969, § 32-38)

Sec. 38-37 Design and construction

All new sewers and new connections shall be properly designed and constructed in accordance with such guidelines as promulgated by the United States Environmental Protection Agency from time to time, together with any amendments thereto (See 40 CFR, section 35.927-4) and inflow sources shall be prohibited. "Inflow" as the term is used herein shall mean water other than waste-water that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage, as defined in 40 CFR, section 35.905.

(Code 1969, § 32-39)

Secs. 38-38--38-60. Reserved

ARTICLE III. SEWERS*

*Cross references: Open ditches, § 17-2; discharge of wastewater from swimming pools, § 45-4.

DIVISION 1. GENERALLY

Secs. 38-61--38-70. Reserved.

DIVISION 2. MONTHLY RENTAL

Sec. 38-71 Definition

The word "owner" shall, for the purpose of this article, mean the person holding legal title to the premises or the tenant occupying the same, whoever is obligated to pay the city for water consumed on the premises taken from the city's water supply system or who would have to pay for the same if water were taken from such supply system.

(Code 1969, § 32-15)

Sec. 38-72 Sewer rental

There is hereby imposed a monthly sewer rental or charge for the use of the sewers, sewage system and sewage treatment works of the city upon the owners of the properties served thereby.

(Code 1969, § 32-16)

Sec. 38-73 Rates

The sewer rental hereby imposed shall be a monthly charge based upon the water consumption of the property served as measured by the charges for water supplied for the then-current calendar month or such less period as may be covered by the water bill for such premises. The sewer rental based upon the consumption of city water to be paid by the owner of such property shall be computed at the rates specified in the city schedule of rates and fees, a copy of which is located in the office of the city clerk and is incorporated by reference herein.

(Code 1969, § 32-17)

Sec. 38-74 Properties using other than city water

For a property which uses water all of which is from a source other than the city's water supply system, a connection to the city sewer system shall not be allowed, unless otherwise approved by the POTW Director. If part of the water used is from a source other than the city's water supply, the user shall provide separate systems for the water sources and only the system using city water shall use the city sewer system, unless otherwise approved by the POTW Director. Whenever a property upon which a sewer rental/charge is hereby imposed discharges wastewater to the city's sewer system from a source other than the city's water supply system, a flow measuring/metering device approved by the POTW Director shall be installed and maintained by the user without cost to the city (section 38-89(h)). When such device is used, the sewer rental/charge shall be calculated by using total flow and rate stated in section 38-73.

(Code 1969, § 32-18)

Sec. 38-75 Water not discharged into city's sewers

Whenever a property upon which a sewer rental/charge is hereby imposed uses water from the city's water supply system for a purpose so that the water or a portion of the water so used is not discharged into the sewerage systems of the city the quantity of water so used and not discharged into the city's sewers shall be excluded in determining the sewer rental/charge. A flow measuring/metering device approved by the POTW Director shall be installed and maintained by the user without cost to the city (section 38-89(h)). When such device is used, the sewer rental/charge shall be calculated by using total flow and rate stated in section 38-73.

(Code 1969, § 32-19)

Sec. 38-76 Time and method of payment

All sewer rentals shall be due and payable at the same time and place that water rentals or bills are now due and payable. They shall be included in the same bills but stated separately and shall be collected at the same time and in the same manner, and if not paid within the time limit for the payment of water rentals or bills, in addition to any and/or all other penalties provided by law the city may cut off from such property the use of water and if such water is obtained from sources of supply other than the city water system the discharge thereof into the city's sewerage system shall be illegal and the owner of such property subject to fine or imprisonment as provided by law.

(Code 1969, § 32-21)

Secs. 38-77--38-85 Reserved

DIVISION 3. DISCHARGE OF WASTEWATERS INTO THE CITY POTW*

***Editor's note:** Ord. No. O-047-94, § 1, adopted July 21, 1994, has been treated as superseding the provisions of former div. 3, §§ 38-86--38-97, which pertained to similar provisions.

Cross references: Facilities for disposal of wastes from seafood and poultry markets, etc., § 15-36.

Sec. 38-86 Purpose and policy

This division sets forth uniform requirements for direct and indirect contributors into the POTW for the City of Wilson and enables the City of Wilson to comply with applicable state and federal laws, including 15A NCAC 02H.0900, the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403).

This division provides for the regulation of direct and indirect contributors to the POTW through the: (1) issuance of permits to certain nondomestic users, (2) through enforcement of general requirements for the other users, (3) authorized monitoring and enforcement activities, (4) required user reporting, (5) existing customers' capacity being pre-empted, and (6) providing for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This division shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S 160 A-312 AND OR 153A-275. The City of Wilson shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this division. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other city personnel.

Sec. 38-86 Purpose and policy (cont.)

By discharging wastewater into the POTW, industrial users located outside the city limits agree to comply with the terms and conditions established in the ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

The objectives of this division are:

- (1) To prevent the introduction of pollutants into the POTW which will interfere with the operation of the POTW or contaminate the resulting sludge.
- (2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW.
- (3) To promote reuse and recycling of industrial wastewater and sludges from the POTW.
- (4) To provide for equitable distribution of the cost of the POTW.
- (5) 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.
- (6) To ensure that the city complies with its NPDES or Non-discharge permit conditions, sludge use and disposal requirements, and any other federal and state laws to which the POTW is subject.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-87 Definitions and abbreviations

Unless the context specifically indicates otherwise the following terms, as used in this division, shall have the meanings hereinafter designated:

Act or the Act means The Federal Water Pollution Control Act also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Ammonia nitrogen means the total amount of nitrogen in the form of ammonia or ammonium usually expressed as a concentration (e.g. mg/l).

Approval authority means the Director of the North Carolina Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.

Authorized representative of industrial user means:

- (1) If the industrial user is a corporation, authorized representative shall mean:
 - a. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

Sec. 38-87 Definitions and abbreviations (cont.)

- b. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment RECOMMENDATIONS, and initiate and direct comprehensive measure to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
- (3) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1)--(3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
- (5) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to [POTW Director] prior to or together with any reports to be signed by an authorized representative.

Biochemical oxygen demand (B.O.D.) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g. mg/l).

Building sewer means a sewer conveying wastewater from the premises of a user of the city's POTW.

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

Categorical standards mean national categorical pretreatment standards or pretreatment standards.

Chemical oxygen demand (C.O.D.) means the quantity of oxygen used in the chemical oxidation or decomposition of organic substances in a sample usually expressed as a concentration (e.g. mg/l).

Sec. 38-87 Definitions and abbreviations (cont.)

City means the City of Wilson, North Carolina.

City council means the City Council of the City of Wilson, North Carolina.

Color means the "true color" due to the substances in solution expressed in wave lengths of light.

Compatible pollutant means BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or shall be in the future specified and controlled in the city's NPDES permit for its POTW where said POTW has been designed and used to reduce or remove such pollutants.

Control Authority refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.

Domestic wastes means liquid wastes (i) from the noncommercial preparation, cooking and handling of food or (ii) containing human excrement and similar matter from the sanitary convenience or dwellings, commercial buildings, industrial facilities, and institutions.

Environmental protection agency or EPA means the U.S. Environmental Protection Agency, or where appropriate the term shall also be used as a designation for the administrator or other duly authorized official of said agency.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage or sale of food.

Grab sample means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Holding tank waste means any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Incompatible pollutant means any pollutant which is not a "compatible pollutant" as defined in this section.

Indirect discharge or discharge means the discharge or the introduction from any nondomestic source regulated under Section 307 (b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the POTW).

Industrial user or user means any person which is a source of indirect discharge.

Industrial waste or industrial wastewater means the liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments as distinct from domestic wastes.

Sec. 38-87 Definitions and abbreviations (cont.)

Interference means the inhibition or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the Control Authority's (and/or POTW's, if different from the control Authority), NPDES, collection system, or Non-Discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. 6901, et. seq.), the Clean Air Act, the Toxic Substance Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Medical wastes means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405--471.

National pollutant discharge elimination system (NPDES) means the program for issuing, conditioning and denying permits for the discharge of pollutants from the point sources into navigable waters, the contiguous zone and oceans pursuant to Section 402 of the Act.

National pollutant discharge elimination system permit (NPDES permit) means a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342), or pursuant to G.S. 143-215.1 by the state under delegation from EPA.

National prohibitive discharge standard or prohibitive discharge standard means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 38-88 of this division and are developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

New source means:

- (1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(c), provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an

Sec. 38-87 Definitions and abbreviations (cont.)

existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section [(1)(b) or (c)] above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - a. Begun or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water means water used for cooling which does not come in direct contact with any raw material, intermediate product, waste product, or finished product.

Non-discharge Permit A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.

Pass through means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system or Non-discharge permit.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or

Sec. 38-87 Definitions and abbreviations (cont.)

their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

pH means a measure of the acidity or alkalinity of a substance expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollution means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pollutant means any "waste" as defined in G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

POTW Director means the chief administrative officer of the publicly owned treatment works (POTW) for the City of Wilson or his/her delegate.

POTW treatment plant means the portion of the POTW designed to provide treatment to wastewater.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).

Pretreatment program means the program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the City of Wilson in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standards mean prohibited discharge standards, categorical standards and local limits.

Publicly owned treatment works (POTW) or municipal wastewater system means a treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the City of Wilson. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this division, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Wilson who are, by contract or agreement with the City of Wilson, or in any other way, users of the City of Wilson's POTW.

Receiving stream means the body of water, stream or watercourse receiving the discharge waters from the POTW or formed by the waters discharged by the plant.

Sec. 38-87 Definitions and abbreviations (cont.)

Sanitary sewer means a sewer intended to receive domestic sewage and industrial waste, except that of the type expressly prohibited by this regulation, without the admixture of surface water and storm water.

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

Significant industrial user or SIU means an industrial user that discharges wastewater into a publicly owned treatment works and that

- (1) Has an average daily process wastewater flow of twenty-five thousand (25,000) gallons or more; or
- (2) contributes process wastewater which makes up five percent or more of the NPDES Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, Ammonia; Total Phosphorus, and Total Nitrogen; or
- (3) Is required to meet a national categorical pretreatment standard; or
- (4) Is found by the City of Wilson, Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singularly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- (5) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (1) and (2) above has no reasonable potential for adversely affecting the POTW'S operation or for violating any Pretreatment Standards or requirement, the POTW's effluent limitations and conditions in its NPDES or Non-Discharge permit and thus is not a Significant Industrial User.
- (6) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (3) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.
- (7) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (1), (2), or (3) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C) and 403.12 (e)(3).

Significant noncompliance (SNC) is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Part (C), (D) and (H) shall also be SNC.

Sec. 38-87 Definitions and abbreviations (cont.)

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH));
- (C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section 38-92 (e) of this SUO to halt or prevent such a discharge;
- (E) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, ninety-day compliance reports, and periodic compliance reports within forty-five (45) days from the due date.
- (G) Failure to accurately report noncompliance.
- (H) Any other violation or group of violations that the control authority considers to be significant.

Slug load or Discharge means any discharge at a flow rate or concentration which has reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that could cause a violation of the prohibited discharge standards in section 38-88 of this ordinance.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office Management and Budget 1987 and as may be amended or supplemented.

Sec. 38-87 Definitions and abbreviations (cont.)

State means the State of North Carolina.

Storm sewer or storm drain means a sewer which carries storm or surface water and drainage, but excludes sewage and industrial wastes.

Stormwater means any flow occurring during or immediately following any form of natural precipitation and resulting there from.

Manager means the person designated by the City of Wilson to supervise the operation of the POTW works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

Surcharge means a charge to a user of the POTW based on the pounds of a particular constituent in wastewater, in excess of a specified level of concentration. It is levied in addition to a regular sewer service charge.

Surcharging of sanitary sewer means the sewer is receiving more wastewater than its flowing full hydraulic capacity and that the amount of wastewater entering the sewer greater than its flowing full hydraulic capacity results in manhole water levels above the elevation of the top of the sewer pipe.

Suspended solids mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Total Kjeldahl nitrogen (TKN) means the total amount of nitrogen in the tri-negative state, including ammonia, ammonium and organically bound nitrogen as measured by standard laboratory procedures and usually expressed as a concentration (e.g. mg/l).

Unpolluted water means water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will in no way cause any violation of receiving water quality standards.

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

User classification means a classification of user based on the 1987 (or subsequent) edition of the "Standard Industrial Classification (SIC) Manual" prepared by the Office of Management and Budget.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities, and institutions or other sources, together with any ground water, surface water and storm water that may be present, whether treated or untreated, which are discharged into or permitted to enter the city's treatment works.

Wastewater permit means as set forth in section 38-91 of this division.

Sec. 38-87 Definitions and abbreviations (cont.)

Waters of the state means all streams, rivers, brooks, swamps, tidal estuaries, bays, creeks, lakes, waterways, reservoirs, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

Terms not otherwise defined herein shall be as adopted in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by American Public Health Association, the American Water Works Association and the Water Environment Federation. This division is gender neutral and the masculine gender shall include the feminine and vice-versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

Abbreviations. The following abbreviations, when used in this division, shall have the designated meanings:

- (1) BOD--biochemical oxygen demand.
- (2) CFR--Code of Federal Regulations.
- (3) COD--chemical oxygen demand.
- (4) EPA--environmental protection agency.
- (5) GPD--gallons per day.
- (6) l--liter.
- (7) mg--milligram.
- (8) mg/l--milligram per liter.
- (9) NH₃-N--ammonia nitrogen.
- (10) NPDES--national pollutant discharge elimination system.
- (11) O&M--Operations and maintenance.
- (12) RCRA--Resource Conservation and Recovery Act.
- (13) SIC--Standard Industrial Classification.
- (14) SWDA--Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
- (15) U.S.C.--United States Code.
- (16) TKN--total Kjeldahl nitrogen.
- (17) TSS--total suspended solids.
- (18) POTW--publicly owned treatment works.

- (19) G.S.--North Carolina General Statutes.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-88 Prohibitions and limitations on wastewater discharges

- (a) **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 one hundred forty (140) degrees Fahrenheit (sixty (60) degrees centigrade) 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 (1/2) inch in any dimension.
 - (3) Petroleum oil, non-biodegradable cutting oil, or products of mineral origin, in amounts that will cause interference or pass through. Fats, oils, or greases of animal or vegetable origin in concentrations greater than three hundred (300) mg/l.
 - (4) Any wastewater having a pH less than 5.0 or more than 12.5 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 one hundred fifty (150) degrees Fahrenheit (sixty-six (66) degrees centigrade), 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 one hundred four (104) degrees Fahrenheit (forty (40) degrees centigrade).
 - (7) Any pollutants which result in the presence of toxic acute gases, vapors, or fumes within the system 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 POTW Manager in accordance with section 38-88(j) of this division.
 - (9) Noxious or malodorous solids, liquids, gases, or wastewater which, either singly or by interaction with other wastes, are capable of creating a public nuisance or health hazard, or shall prevent entry, into a sewer for its 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

Sec. 38-88 Prohibitions and limitations on wastewater discharges (cont.)

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 pollutant released in an indirect discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (12) Any toxic substances in amounts exceeding standards promulgated by the Administrator of the U.S. Environmental Protection Agency or the City of Wilson pursuant to Section 307(a) of the Act, and chemical elements or compounds, phenols or other taste or odor producing substances, or any other substances which are not susceptible to treatment or which shall interfere with biological processes or efficiency of the treatment system, or that will pass through the system, or that exceed domestic concentrations used in the current headworks calculations. These concentrations will be made available upon request from the director.
- (13) Stormwater, surface water, ground water, 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 POTW Director/Manager.
- (14) Any wastewater which imparts color which cannot be removed by the treatment process, 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 wildlife or to adversely affect the palpability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- (15) Any water or waste containing chlorides in concentrations of more than two hundred (200) parts per million or milligrams per liter by weight unless otherwise approved by permit authorization subject to express provisions of section 38-91 and section 38-95 (b) herein.
- (16) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Manager in compliance with applicable state or federal regulations.
- (17) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (18) Any medical wastes, except as specifically authorized by the POTW Manager.
- (19) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than

Sec. 38-88 Prohibitions and limitations on wastewater discharges (cont.)

five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter.

- (22) Any other discharge or deposit not otherwise listed above which violates the Act, 40 CFR Section 403.5, any regulations promulgated pursuant to the Act, any amendments thereto, or which shall 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 discharge to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, or state criteria applicable to the sludge management method being used. Other prohibited discharges shall also include:
- a. Any material identified as hazardous waste according to 40 CFR Part 261 except as may be specifically authorized by the POTW Director or POTW Manager.
 - b. Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B. 0200.
 - c. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

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 system.

When the POTW manager determines that a user(s) 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 POTW Manager shall: (1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with this section 38-92; and (2) take appropriate actions in accordance with sections 38-91, 38-92, and 38-93 as applicable for such user to protect the POTW from interference or pass through.

Sec. 38-88 Prohibitions and limitations on wastewater discharges (cont.)

(c) Industrial waste survey and local limits

- (1) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following:

250	mg/L	Biochemical Oxygen Demand (BOD)
250	mg/L	Total Suspended Solids (TSS)
400	mg/L	Chemical Oxygen Demand (COD)
40	mg/L	Ammonia or Total Kjeldahl Nitrogen (TKN)
0.010	mg/L	Arsenic (AS)
0.002	mg/L	Cadmium (Cd)
50.0	mg/L	Chloride (Cl)
0.005	mg/L	Chromium- Total (Cr)
0.035	mg/L	Copper (Cu)
0.015	mg/L	Cyanide (CN)
0.010	mg/L	Lead (Pb)
0.0002	mg/L	Mercury (Hg)
0.100	mg/L	Molybdenum (Mo)
0.010	mg/L	Nickel (Ni)
4.00	mg/L	Phosphorus – Total (P)
0.010	mg/L	Selenium (Se)
0.005	mg/L	Silver (Ag)
0.085	mg/L	Zinc (Zn)

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 particular pollutants of concern (POC). User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director/Manager may impose mass limits in addition to, or in place of, concentration-based limits.

- (2) No person shall discharge or convey, or permit or allow to be discharged or conveyed, in the POTW, wastewater containing pollutants of such character or quantity that will:
- a. Not be susceptible to treatment or interfere with the process or efficiency of the POTW;
 - b. Constitute a hazard to human or animal life, or to the stream or watercourse receiving the POTW;
 - c. Violate pretreatment standards; or
 - d. Cause the POTW to violate its NPDES permit to applicable receiving water standards.

Sec. 38-88 Prohibitions and limitations on wastewater discharges (cont.)

- (d) **National categorical pretreatment standards.** Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this division for sources in that subcategory, shall immediately supersede the limitations imposed under this division. 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 mass or the concentration of a pollutant in wastewater, the POTW Manager 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 standards, the POTW Manager shall impose an alternate limit using the combined wastestream 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.
- (e) **Modification of federal categorical pretreatment standards.** Where the city's POTW achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the POTW to a less toxic or harmful state in the effluent which is achieved by the system in ninety-five (95) percent of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of Title 40 of the Code of Federal Regulations, Part 403 "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The city shall then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled and prior to approval from the approval authority is obtained.
- (f) **State requirements.** State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations of those in this division.
- (g) **City of Wilson's right of revision.** The city reserves the right to establish by regulation more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 38-86 of this division or the general and specific prohibitions in section 38-88 of this division, as is allowed by 40 CFR 403.4.
- (h) **Dilution prohibition.** No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical

Sec. 38-88 Prohibitions and limitations on wastewater discharges (cont.)

pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the city or state.

- (i) ***Variances and special agreements.*** Variances to the specific limits set forth under section 38-88 shall be provided by a wastewater discharge permit as set forth under section 38-91. Nothing in this section shall be construed to prevent any special agreement or arrangement between the city and any user of the POTW whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable.

(Ord. No. O-047-94, § 1, 7-21-94; Ord. No. O-044-96, §§ 1, 2, 6-6-96)

Sec. 38-89 Control of prohibited wastes

- (a) ***Regulatory actions.*** If wastewaters as described in section 38-88 of this division are discharged or proposed to be discharged into the POTW of the city or any POTW tributary thereto, the director and city attorney shall take any action necessary to:
 - (1) Prohibit the discharge of such wastewater.
 - (2) Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this division.
 - (3) Require pretreatment, including storage facilities, or flow equalization necessary to reduce or eliminate the objectionable characteristics or substance so that the discharge will not violate these rules and regulations (in accordance with federal regulations 40 CFR, Part 403 of the Act).
 - (4) Require the person making, causing or allowing the discharge to pay additional cost or expense incurred by the city for handling and treating excess loads imposed on the POTW; and
 - (5) Take such other remedial action as shall be deemed to be desirable or necessary to achieve the purpose of this division.
- (b) ***Pretreatment.*** Users shall provide waste water treatment as necessary to comply with this division and wastewater permits issued under section 38-91 of this division and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in section 38-88 of this division within the time limitations as specified by the EPA, the state, or the POTW Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans, prepared by a licensed professional engineer showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be approved by the POTW Manager 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 division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Manager prior to the user's initiation of the changes.

Sec. 38-89 Control of prohibited wastes (cont.)

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

- (c) **Submission of plans.** Where pretreatment or equalization of wastewater flows prior to discharge into any part of the POTW is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall be first submitted to the Manager for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance rule, regulation or order of any governmental or flow-control facilities and shall not be made without due notice to and prior approval of the Manager.
- (d) **Pretreatment facilities operation.** If pretreatment or control of waste flows is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances, laws and regulations.
- (e) **Inspection and sampling.** The Manager shall inspect the facilities of any user ascertain whether the purpose of these regulations are being met and all requirements are being complied with. Persons, occupants, or 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 or in the performance of their duties. The City, approval authority, and EPA, or their representative 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 its premises, the user shall make necessary arrangements with its 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 division. Unreasonable delays may constitute denial of access. The Manager shall enter upon the property at any time under emergency circumstances.
- (f) **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 division, 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 division or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the POTW Manager, approval authority, or EPA may seek issuance of a search warrant from the appropriate court of law or other regulatory authority.
- (g) **Accidental Discharge/Slug Control Plans** The POTW Manager 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 38-87. All SIUs must be evaluated within one year of being designated an SIU. The POTW Manager may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Manager may develop such a plan for any user.

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-

Sec. 38-89 Control of prohibited wastes (cont.)

routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 38-90 (f) (b). An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of the discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW Manager of any accidental or slug discharge, as required by section 38-90 of this division; 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.
- (h) **Measurement of flow.** The volume of flow used in computing waste discharges shall be based upon the metered water consumption as shown in records of meter reading maintained by the city finance department. In the event that a person discharging wastes into the POTW produces evidence to the Manager that more than ten (10) percent of the total annual volume of water used for all purposes does not reach the city sanitary sewer, the person discharging such waste shall install and maintain, at his expense, a flow measuring device of the type approved by the Manager for the purpose of determining the proper volume of flow to be charged.
- (i) **Hauled wastewater.**
- (1) Septic tank waste may be introduced into the POTW only at locations designated by the POTW manager, and at such times as are established by the POTW manager. Such waste shall not violate section 38-88 of this division or any other requirements established by the city. The POTW manager may require septic tank waste haulers to obtain wastewater discharge permits.
 - (2) The POTW manager shall require haulers of industrial waste to obtain an authorization to discharge and may require the hauler to obtain a discharge permit. The POTW manager may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.
 - (3) Industrial waste haulers may discharge loads only at locations designated by the POTW Manager. No load may be discharged without prior consent of the POTW Manager. The POTW Manager may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Manager may require the industrial user to provide a waste analysis of any load prior to discharge.
 - (4) 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

Sec. 38-89 Control of prohibited wastes (cont.)

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.

(j) **Grease removal.**

- (1) Grease and oil traps or other interceptors shall be provided at the user's expense, when such user operates an establishment preparing, processing, or serving food and/or food products. Grease interceptors can be required in other industrial or commercial establishments when they are necessary in the opinion of the POTW Manager for proper handling of liquid wastes containing oil and/or grease in amounts in excess of three hundred (300) mg/l by weight fat soluble, or for any flammable wastes. All such traps, tanks, chambers or other interceptors shall be of a type and capacity approved by the Manager or his designee and shall be readily and easily accessible for cleaning and inspection. All such interceptors shall be serviced and emptied of the waste content as required for their efficient operation, but not less often than every thirty (30) days, unless otherwise approved by the Manager or his designee, in order to maintain their minimum design capability to intercept oils and greases from the wastewater discharged to the publicly owned sanitary sewer. Failure to comply can result in the implementation of the enforcement procedures in section 38-92 of this division.
- (2) Wastes removed from grease interceptors shall not be discharged into the publicly owned sanitary sewer. The owner shall be responsible for the sanitary disposal of such wastes.
- (3) A facility must keep interceptor cleaning records on file a minimum of three (3) years. The following information must be maintained: receipt for job performed signed by contractor and cost, clean out date, person responsible for cleaning, name of firm performing the clean out, disposal method for and destination of material removed.
- (4) The introduction of enzymes or chemicals into the grease interceptor that may result in the pass-through of fats, oils, grease, or solids into the wastewater collection system are prohibited. Upon written approval by the POTW Manager or his designee, user may utilize other products if it can be satisfactorily proven that usage will not result in pass-through of fats, oils, grease, or solids into the wastewater collection system. When such products are utilized, even if approved by the POTW Manager or his designee, the user shall be responsible for any and all damages that may occur to the POTW as a result of use of the product. Use of the product also does not relieve user of the responsibility to maintain interceptor as required in Sec. 38-89 (i) (1).

(k) **Sand and grit removal.**

- (1) Sand and grit traps or other interceptors shall be provided at the owner's expense when they are necessary for the proper handling and control of liquid wastes containing sand and grit in excessive amounts. All such interceptors shall be of a type and capacity approved by the POTW Manager or his designee and shall be readily and easily accessible for cleaning and inspection. All such interceptors shall be serviced and emptied of their solids contents as required for their efficient operation, but not less often than every thirty (30) days, unless otherwise approved by the Manager or his designee, in order to maintain their minimum design capability

Sec. 38-89 Control of prohibited wastes (cont.)

to intercept grit and sand prior to the discharge of wastewaters to the public sanitary sewer. Failure to comply can result in the implementation of the enforcement procedures in section 38-92 of this division.

- (2) Wastes removed from sand and grit interceptors shall not be discharged into the publicly owned sanitary sewer. The owner shall be responsible for the sanitary disposal of such wastes.
 - (3) A facility must keep interceptor cleaning records on file a minimum of three (3) years. The following information must be maintained: receipt for job performed signed by contractor and cost, clean out date, person responsible for cleaning, name of firm performing the clean out, disposal method for and destination of material removed.
- (l) **Preliminary treatment devices.** Where preliminary treatment, pretreatment, flow-equalizing facilities or grease, oil, grit and sand traps or other interceptors are provided for any wastewater, they shall be continuously maintained in satisfactory condition and effective operation by the owner at his expense.
- (m) **Additional pretreatment measures.** Whenever deemed necessary, the POTW Manager 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 wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-90 Wastewater monitoring and reporting

- (a) **Baseline monitoring reports.**
- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 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 POTW Manager a report which contains the information listed in paragraph (2), below. At least ninety (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 POTW Manager, a report which contains the information listed in paragraph (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.

Sec. 38-90 Wastewater monitoring and reporting (cont.)

- 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 wastestream formula set out in 40 CFR 403.6(e).
 - e. *Measurement of pollutants.*
 - 1. The categorical pretreatment standards applicable to each regulated process.
 - 2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Manager, 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 section 38-90(j) of this division.
 - 3. Sampling must be performed in accordance with procedures set out in section 38-90(k) of this division 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 as defined in Section 38-87 (3) 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 section 38-90(b) of this division.
 - h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 38-91(c) of this division.
- (b) **Compliance schedule progress report.** The following conditions shall apply to the compliance schedule required by section 38-90(a) (2) g. of this division.

Sec. 38-90 Wastewater monitoring and reporting (cont.)

- (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 (9) months;
 - (3) The user shall submit a progress report to the POTW Manager no later than fourteen (14) days following each 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 taken by the user to return to the established schedule; and
 - (4) In no event shall more than nine (9) months elapse between such progress reports to the POTW Manager.
- (c) **Reports on compliance with categorical pretreatment standard deadline.** Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Manager a report containing the information described in section 38-90(a)(2)d.--f. of this division. 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 section 38-91(c) of this division.
- (d) **Periodic compliance reports.**
- (1) All significant industrial users shall, at a frequency determined by the POTW Manager, but in no case less 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 Section 38-90 (a) (1) (2) a. All periodic compliance reports must be signed and certified in accordance with section 38-91(c) of this division.
 - (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 - (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Manager, using the

Sec. 38-90 Wastewater monitoring and reporting (cont.)

procedures prescribed in section 38-90(j) of this division, the results of this monitoring shall be included in the report.

- (4) The director shall impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements in the effluent of the user.
- (e) **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 city's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the city.

- (f) **Reports of changed conditions.** Each user must notify the POTW Manager 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 ninety (90) days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or City.

See Section 38-90 (g) (4) for other reporting requirements.

- (1) The POTW Manager 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 section 38-91 of this division.
- (2) The POTW Manager may issue a wastewater discharge permit under section 38-91 of this division or modify an existing wastewater discharge permit under section 38-91 of this division in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increase of twenty (20) percent or greater, the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority and/or City; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers

Sec. 38-90 Wastewater monitoring and reporting (cont.)

(g) **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 as defined in Section 38-87, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Manager 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 (5) days following such discharge, the user shall, unless waived by the POTW Manager, 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 division.
- (3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who may cause 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 of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 38-87.

(h) **Reports from unpermitted users.** All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Manager as the POTW Manager may require.

All users classified as Non-Significant Categorical Industrial Users under Section 38-87 shall provide appropriate reports to the POTW Director as the POTW Director may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(q).

(i) **Notification of discharge of hazardous wastes.** The City of Wilson prohibits the discharge of any hazardous wastes without notification to and approval by the POTW Director.

- (i) 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

Sec. 38-90 Wastewater monitoring and reporting (cont.)

of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 60 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 section 38-90(f) of this ordinance. 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 sections 38-90 (a), (c), and (d) of this ordinance.

- (2) Dischargers are exempt from the requirements of paragraph (1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute 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 POTW Manager, the EPA regional waste management waste division director, the state hazardous waste authorities of the discharge of such substance within ninety (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 otherwise permitted to be discharged by this division, a permit issued hereunder, 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 or unless otherwise performed in accordance with procedures approved by EPA or the City. 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, or the North Carolina Department of Environment and Natural Resources - Division of Water Quality (NCDENR-DWQ) or City.

Sec. 38-90 Wastewater monitoring and reporting (cont.)

(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 properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 - (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 BMR and 90 Day Compliance Reports. Additionally, the POTW Manager 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 composites or grab sampling is authorized by the POTW Manager. 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 division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division 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 (3) 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 POTW Manager.
- (n) **Electronic Reporting.**

The POTW manager 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 38-92 of this Ordinance

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-91 Wastewater discharges 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 of Wilson. When requested by the POTW Manager, a user must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The POTW Manager 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 POTW Manager to be significant industrial users shall obtain a significant industrial user permit within one hundred eighty (180) days of receiving notification of the POTW Manager's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Manager be required to obtain a wastewater discharge permit for non-significant industrial users.
- (1) **Significant industrial user determination.** All persons proposing to discharge nondomestic wastewater or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater shall request from the POTW Manager a significant industrial user determination. If the POTW Manager 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 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 POTW Manager. Significant industrial users shall apply for a significant industrial user permit within ninety (90) days after notification of the POTW Manager's determination in section 38-91(b)(1) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
- a. Name, address, and location (if different from the address);
 - b. Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
 - c. Types and concentrations (or mass) of pollutants contained in the discharge including but not limited to those mentioned in section 38-88 of this division, any of the priority pollutants (Section 307(a) of the Act) which the applicant knows or suspects are present in the discharge and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in Section 38-90 (a) (1)(2) a-h and (k) (1)(2)(3); 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, or the North Carolina Department of Environment and Natural Resources - Division of Water Quality (NCDENR-DWQ).

Sec. 38-91 Wastewater discharges permit application and issuance (cont.)

- d. Time and duration of the indirect discharge;
- e. Average daily and daily maximum wastewater flow rates, including daily, monthly, and seasonal variations if any;
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow, and appurtenances by the size, location, and elevation;
- g. Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the 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 for the user to meet applicable pretreatment standards;
- i. 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. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this
 - 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. No increment in the schedule shall exceed nine (9) months.
 - 2. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Manager including, at 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. In no event shall more than nine (9) months elapse between such progress reports to the POTW Manager.
- j. Each product produced by type, amount, process or processes and rate of production;
- k. Type and amount of raw materials processed (average and maximum per day);
- l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

Sec. 38-91 Wastewater discharges permit application and issuance (cont.)

- m. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403. 12(b) and 15A NCAC 2H .0908(a) as outlined in section 38-90(a) of this division.
 - n. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
 - o. Any other information as may be deemed by the POTW Manager to be necessary to evaluate the permit application.
- (c) **Application signatories and certification.** All wastewater discharge permit application and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 38-87 (1) A and B and contain the following certification:
- "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."
- (d) **Application review and evaluation.** The POTW Manager will evaluate the data furnished by the user and may require additional information.
- (1) The POTW Manager is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
 - (2) Within thirty (30) days of receipt the POTW Manager 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.
- (e) **Tentative determination and draft permit.**
- (1) The POTW 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.
 - (2) If the staff's tentative determination in subsection (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - a. Proposed discharge limitations for pollutants proposed to be limited;
 - b. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

Sec. 38-91 Wastewater discharges permit application and issuance (cont.)

- c. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - (3) The staff shall organize the determinations made pursuant to subsections (1) and (2) above and the city's general permit conditions into a significant industrial user permit.
- (f) **Permit supporting documentation.** The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.
 - (1) 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.
 - (2) The basis, or rationale, for the pretreatment limitations, including the following:
 - (A) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - (B) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
- (g) **Final action on significant industrial user permit applications.**
 - (1) The POTW Manager shall take final action on all applications no later than ninety (90) days following receipt of a complete application.
 - (2) The POTW Manager is authorized to:
 - a. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this division and G.S. 143-215.1;
 - b. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - c. Modify any permit upon not less than sixty (60) days notice and pursuant to section 38-91 of this division.
 - d. Revoke any permit pursuant to section 38-92 of this division;
 - e. Suspend a permit pursuant to section 38-92 of this division;
 - f. Deny a permit application when in the opinion of the POTW Manager 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.

Sec. 38-91 Wastewater discharges permit application and issuance (cont.)

(h) *Permit modification.*

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:
 - a. Changes in the ownership of the discharge when no other change in the permit is indicated.
 - b. A single modification of any compliance schedule not in excess of four (4) months.
 - c. 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.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (2) Within nine (9) 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 section 38-91(b), the user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the sixty-day notice required by G.S. 143-215(b) for modifications.

(i) *Permit conditions.*

- (1) The POTW director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this division and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - a. A statement of duration (in no case more than five (5) years);
 - b. A statement of non-transferability;
 - c. Applicable effluent limits based on categorical standards or local limits or both;
 - d. 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;

Sec. 38-91 Wastewater discharges permit application and issuance (cont.)

- e. requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 38-87;
- f. requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 38-87, if determined by the POTW Manager to be necessary for the User and,
- g. requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in Section 38-87. Also see Sections 38-90 (f) (1-3) and (g)(1-3)
- h. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

- a. Limits on the average and/or maximum rate of discharge, and/or requirements for the flow regulation and equalization.
- b. Limits on the instantaneous, daily and /or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- c. 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 POTW.
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
- f. Requirements for the installation and maintenance of inspection and sampling facilities and equipment.
- g. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- h. Requirements for immediate reporting of any instance of noncompliance and automatic re-sampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
- i. Compliance schedules for meeting pretreatment standards and requirements.

Sec. 38-91 Wastewater discharges permit application and issuance (cont.)

- j. Requirements for submission of periodic self-monitoring or special notification reports.
 - k. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 38-90 and affording the POTW Manager, or his representatives, access thereto.
 - l. Requirements for prior notification and approval by the POTW Manager 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.
 - m. Requirements for the prior notification and approval by the POTW Manager of any change in the manufacturing and/or pretreatment process used by the permittee.
 - n. 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.
 - o. Other conditions as deemed appropriate by the POTW Manager to ensure compliance with this division, and state and federal laws, rules, and regulations.
- (j) **Permit duration.** Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years and expire on a specific date.
- (k) **Permit transfer.** Wastewater discharge permits are issued to 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.
- (l) **Permit re-issuance.** A significant industrial user shall apply for permit re-issuance by submitting a completed permit application in accordance with section 38-91 a minimum of one hundred eighty (180) days prior to the expiration of the existing permit.
- (m) **Confidential information.** Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Manager that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data or is waived.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this division, the national pollutant discharge elimination system (NPDES) permit, nondischarge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in

Sec. 38-91 Wastewater discharge permits application and issuance (cont.)

judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

All records relating to compliance with pretreatment standards shall be made available to officials of the city approval authority and EPA upon request.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-92 Enforcement procedures

- (a) **Notification of violation.** Whenever the POTW Manager finds that any person has violated or is violating this division, wastewater permit, or any prohibition, limitation or requirement contained therein, the POTW Manager may serve upon such person a written notice stating the nature of the violation. Within thirty (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.
- (1) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the POTW Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Manager within thirty (30) days after becoming aware of the violation. If allowed by the [POTW Manager], the user is not required to:
- (i) re-sample if the POTW Manager monitors at the user's facility at least once a month, or
 - (ii) if the POTW Manager samples between the user's initial sampling and when the user receives the results of this sampling.
- (2) If the POTW Manager does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Manager shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
- (i) the POTW Manager monitors at the user's facility at least once a month; or
 - (ii) the POTW Manager samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - (iii) the POTW Manager requires the user to perform sampling and submit the results to the POTW Manager within the 30 day deadline of the POTW becoming aware of the violation.
- (b) **Consent orders.** The POTW Manager 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

Sec. 38-92 Enforcement procedures (cont.)

period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 38-92(d).

(c) Show cause hearing.

- (1) The POTW Director can order any person who causes or is responsible for an unauthorized discharge or other violations to show cause before the POTW director or his designee why a proposed enforcement action should not be taken. The procedure for the hearing shall be the same as for a hearing before the city council as set forth in paragraphs (2), (3), (4), (5), and (6) below. If the person elects, he may appeal to city council for a de novo hearing within ten (10) days after the POTW Director's order.
- (2) If the violation is not corrected by timely compliance, the director shall order any person who causes or allows an unauthorized discharge to show cause before the city council why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the city council regarding the violation, and directing the offending party to show cause before the city council why an order should not be made directing termination of service. The notice of the hearing shall be served personally or by certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent, officer, or other authorized representative as previously defined in this division.
- (3) The city council shall conduct the hearing.
- (4) The city council shall:
 - a. Issue such notices of hearing and request the attendance and testimony of such witnesses and the production of such evidence as it deems relevant to any matter involved in any such hearing;
 - b. Receive the evidence; and
 - c. Thereafter, within thirty (30) days, enter a written report based upon the evidence and hearing, together with recommendations for action thereon.
- (5) At any public hearing, testimony taken before the city council must be under oath and recorded stenographically, by tape recording, or suitable other method. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
- (6) After the city council has reviewed the evidence, it shall issue an order to the party responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated, and such further orders and directives as are necessary and appropriate.

Sec. 38-92 Enforcement procedures (cont.)

- (d) **Administrative orders.** When the POTW Manager finds that any user has violated or continues to violate this division, permits or orders issued hereunder, or any other pretreatment requirement the POTW Manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:
- (1) Immediately comply with all requirements;
 - (2) Comply in accordance with a compliance time schedule set forth in the order;
 - (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation; and
 - (4) Disconnect unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated within a specified time period.
- (e) **Emergency suspensions.** The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary 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 wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within fifteen (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 POTW Director shall take 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 POTW director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent future occurrence to the POTW Director prior to the date of the above-described hearing.
- (f) **Legal action.** Any discharge in violation of the substantive provisions of this division or in violation of an order of the hearing authority shall be considered a public nuisance. If any person discharges sewage, industrial wastes, or other wastes into the city POTW contrary to the substantive provisions of this division or an order of the hearing authority, the city attorney shall commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.
- (g) **Termination of permit or Permission to Discharge** The POTW Director may revoke wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
 - (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

Sec. 38-92 Enforcement procedures (cont.)

- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) 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 section 38-92(c) of this division why the proposed action should not be taken.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-93 Civil and criminal penalties; costs; defenses to discharge violations

Any person who is found to have violated an order of the city council or who failed to comply with any provisions of this division, or the orders, rules and regulations issued hereunder may be liable for civil fines, costs, and damages for each offense. In addition to the civil or criminal penalties provided herein, the city shall seek recovery of reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit against any violators of this division or the orders, rules and regulations issued hereunder. In addition to the penalties provided for in this division any violation can be penalized by the North Carolina Division of Water Quality and other appropriate state and federal agencies.

(a) Civil penalties.

- (1) Any person or user who is found to have failed to comply with any provision of this division, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty up to twenty five thousand dollars (\$25,000.00) per day per violation.

Such assessments may be added to the user's next scheduled sewer service charges and the POTW shall have such remedies for the collection of such assessments as it has for collection of other service charges.

- (a) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
 - (1) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
 - (2) 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.

Sec. 38-93 Civil and criminal penalties; costs; defenses to discharge violations (cont.)

- (2) In determining the amount of the civil penalty, the POTW 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 of 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; and
 - h. The costs of enforcement to the city.

(3) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 38-96.

(b) **Other available remedies.** Additional available remedies include, but are not limited to:

- (1) *Criminal violations.* The district attorney's office may prosecute noncompliant users who violate the provisions of G.S. 143-215.6B.
- (2) *Injunctive relief.* Whenever a user is in violation of the provisions of this division or an order or permit issued hereunder, the POTW 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 severance.* Whenever a user is in violation of the provisions of this division 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) *Harmful contributions.* The city shall suspend the wastewater treatment service and/or a wastewater discharge permit when suspension is necessary, in the opinion of the director, in order to stop an actual or threatened discharge which presents or shall present an imminent or

Sec. 38-93 Civil and criminal penalties; costs; defenses to discharge violations (cont.)

substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person 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 or endangerment to any individuals. The director shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any further occurrence shall be submitted to the director within fifteen (15) days of the date of occurrence.

All costs incurred by the city incident to the severance and/or reinstatement of a user's sewer connection shall be borne by the user.

- (5) *Public nuisances.* Any violations of the prohibitions or effluent limitations of this division or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the chapter 17 of the city Code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.
- (6) *Remedies nonexclusive.* The remedies provided for in this division are not exclusive. The POTW 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 POTW Director may take other action against any user when the circumstances warrant.
- (7) In addition to the penalties and remedies contained herein, any persons violating the provisions of this division shall be subject to the penalties set forth in section 1-10.

(c) ***Annual Publication of Significant Noncompliance***

At least annually, the POTW Manager shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAAC 2H .903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

Sec. 38-93 Civil and criminal penalties; costs; defenses to discharge violations (cont.)

(d) **Upset.**

- (1) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards and if the requirements of paragraph (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 POTW director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days).
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. 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.

- (e) **Prohibited discharge standard defense.** A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 38-88(a) of this division or the specific prohibitions in sections 38-88(b)(2), (3), and (5) through (7) of this division if it can prove that

Sec. 38-93 Civil and criminal penalties; costs; defenses to discharge violations (cont.)

it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(f) Bypass

- (1) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (2) and (3) of this subsection.
- (2)
 - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Manager, at least ten (10) days before the date of the bypass, if possible.
 - b. A user shall submit oral notice to the POTW Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (3)
 - a. Bypass is prohibited, and the POTW Manager may take an enforcement action against a user for a bypass, unless:
 - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed

Sec. 38-93 Civil and criminal penalties; costs; defenses to discharge violations (cont.)

in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under paragraph (2) of this subsection.
 - b. The POTW Manager may approve an anticipated bypass, after considering its adverse effects, if the POTW Manager determines that it will meet the three (3) conditions listed in paragraph (3) (a). of this subsection.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-94 Pretreatment fees and charges and surcharges for treatment of industrial wastes

- (a) **Purpose.** It is the purpose of this section to provide for the recovery of costs from users of the city's POTW for the implementation of the program established herein and for treating industrial wastewater. The applicable charges and fees shall be established by resolution by the city council.
- (b) **Charges and fees.** 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. The City of Wilson shall adopt charges and fees which shall include:
 - (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 city manager shall review annually the sewage contributions of users, the total cost 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 volume of flow of the users;
 - (5) Fees for consistent removal by the city's POTW of pollutants otherwise subject to federal pretreatment standards;
 - (6) Fees for wastes from holding tanks;
 - (7) Fees for reimbursement of maintenance costs for clean out of sewer line stoppage caused by a noncompliant user; and

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- (8) Other fees as the city shall deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this division and are separate from all other fees chargeable by the city.

- (c) **Surcharges.** All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

Parameter	Concentration mg/l
Biochemical oxygen demand	250
Chemical oxygen demand	400
Suspended solids	250
Ammonia/total Kjeldahl nitrogen	40

Said surcharge shall be invoked as herein provided in addition to any sewer charge imposed after the adoption of this division. The aforesaid surcharge may include:

- (1) All fixed charges and amortization costs or additional plant capacity for treating said industrial wastes; and
- (2) A charge covering the actual cost of operation and maintenance incurred by the city in treating said industrial wastes in the POTW.

- (d) **Amount of surcharge.** The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharge above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees. The said sewer surcharge shall be determined in the following manner:

- (1) The director shall compute and recommend the rate to be charged during each fiscal year for BOD, COD, TSS, ammonia, and TKN which is discharged into the city POTW based upon the operating cost and the amortization and fixed costs of the city POTW as experienced at said plant during the preceding fiscal year.
- (2) The city shall review the recommended rate and adopt a rate or rates to be charged during the ensuing fiscal year or until revised.
- (3) The combined surcharge, as set forth in paragraph (c) of this section shall be billed and payable monthly on a bill rendered to the proper persons by the city finance department. Surcharges imposed hereunder shall be collected in the same manner as other utility charges and nonpayment or delinquency shall subject the customer to the same penalties, including termination of service, as those for other utility services.
- (4) 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

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- b. If required by the city or at the individual discharger's option, 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 water supply from other sources other than the city, the user shall install and maintain at his own expense a flow measuring device of a type approved by the city.
- (5) 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.
 - (6) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis of charges.
- (e) ***Pretreatment program administration charges.*** The schedule of charges and fees adopted by the city may include charges and fees for:
- (1) Fees for reimbursement of costs for setting up and operating the city's pretreatment program;
 - (2) Fees for monitoring, inspection and surveillance procedures;
 - (3) Fees for reviewing accidental discharge procedures and construction;
 - (4) Fees for permit applications;
 - (5) Fees for filing appeals;
 - (6) Other fees as the city may deem necessary to carry out the requirements of the pretreatment program.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-95 Protection from damages

- (a) No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, disconnect, deface or tamper with any equipment or materials belonging to the city used for the purpose of making tests or examinations that shall be left upon the premises of a person discharging wastes into the POTW.

Sec. 38-95 Protection from damages

- (b) No permit shall authorize chlorides to exceed two hundred (200) parts per million or milligrams per liter by weight except upon the condition that such applicant agree in writing to pay for and otherwise compensate the city for any and all damages, including but not limited to excessive deterioration of metal components to the city sewer treatment and/or works, that can be shown to be caused by or attributable to the allowance of this variance.

(Ord. No. O-047-94, § 1, 7-21-94)

Sec. 38-96 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 section 38-93 or one issued an administrative order under section 38-92 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, identifying the specific issues to be contested, to the POTW 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 forty-five (45) days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph (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 paragraph (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;

Sec. 38-96 Adjudicatory Hearings (cont.)

- (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.
- (c) Judicial Review. Any person against whom a final order or decision of the Hearing Officer is entered, pursuant to the hearing conducted under paragraph (a) above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Wilson 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 of Wilson. Within 30 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.

Sec. 38-97 Effective Date

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

MAYOR, of the City of Wilson

ATTEST: _____ (seal) City Clerk