

and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by July 1, 1983. No user who commences contribution to the POTW after the effective date of this division shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this division. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) *Written notice.* Within five (5) days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this division or other applicable law.

(c) *Notice to employees.* 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 dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. No. 109-82, § 2(2.8), 11-16-82; Ord. No. 114-83, § 8, 2-15-83)

Secs. 28-193—28-202. Reserved.

Subdivision 3. Administration and Enforcement

Sec. 28-203. Superintendent of sewage works to administer, implement and enforce division provisions.

Except as otherwise provided herein, the superintendent of the sewage works and/or of the waste water division of the City of Opelika shall administer, implement and enforce the provisions of this division. (Ord. No. 109-82, § 1(1.1), 11-16-82; Ord. No. 114-83, § 1, 2-15-83)

Sec. 28-204. Industrial waste water discharge permits.

(a) *Waste water direct discharges to surface; permit required.* All waste water direct dischargers to surface, to natural outlets, or to streams within the city limits of Opelika are required to obtain the proper NPDES waste water discharge permit from the state (ADEM) authorities. A copy of any permit applications submitted to an final permits obtained from state (ADEM) authorities shall be filed with the superintendent, and maintained in a current status as changes, modifications, and reissuance of permits occur.

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The NPDES permit application for discharge to surface shall be submitted on the prescribed ADEM or EPA application form, in the manner and following the format designated by the application instructions. The application forms may be obtained directly from ADEM, EPA, or from the office of the superintendent. The direct discharger shall be solely responsible for the submission of the permit application including all required information and payment of any applicable filing fees.

(b) *Waste water dischargers to POTW.* All significant industrial users proposing connection or presently connected to the POTW, and contributing waste water to the POTW shall obtain a state indirect discharge (SID) permit from ADEM. New significant industrial users shall obtain the ADEM SID permit prior to connection to the POTW. Existing significant users, presently connected to and contributing waste water to the POTW, shall obtain a SID permit within one hundred eighty (180) days following the effective date of this division.

The significant industrial users shall obtain the application information from ADEM or from the office of the superintendent and shall be solely responsible for the submission of the application including all required information and payment of any applicable filing fees. A copy of the application shall be filed with the city concurrent with the application submittal to ADEM.

(c) *Pretreatment compliance schedule.* In the event the significant industrial user must provide additional pretreatment in order to comply with the requirements of this division and with the SID permit, a compliance schedule shall be submitted to ADEM and a copy to the superintendent within thirty (30) days following notification of the required compliance schedule to the user. The following conditions for meeting the compliance schedule shall apply:

- (1) The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- (2) No increment referred to in Paragraph (a) above shall exceed nine (9) months. Not 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 ADEM with a copy to the superintendent including, as a minimum, whether or not it complied with the increment or progress to be met on such date and, if not, the date on which it expects to comply with the increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than six (6) months elapse between such progress reports to ADEM.

(d) *Permit modifications.* Within nine (9) months of the promulgation of a national categorical pretreatment standard, the state indirect 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 waste water discharge permit as
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required herein, the user shall apply for a waste water discharge permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing state indirect discharge permit shall submit to ADEM within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard, an application for a revised SID permit in accordance with paragraph (b) above. A copy of such permit application shall be filed with the superintendent.

(e) *Permit duration.* Permits shall be issued by ADEM for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to the modification by ADEM or the city during the terms of the permit as limitations or requirements as identified in sections 28-185 through 28-192 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) *Permit transfer.* Waste water discharge permits are issued to a specific user for a specific operation. A waste water discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of ADEM and the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (Ord. No. 109-82, § 4(4.1), 11-16-82; Ord. No. 114-83, § 9A(4.1.1—4.1.6), 2-15-83)

Sec. 28-205. Reporting requirements for permittee.

(a) *Compliance date report.* Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of waste water into the POTW, any user subject to pretreatment standards and requirements shall submit to ADEM, with a copy to the superintendent, a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified, professional engineer registered in the State of Alabama.

(b) *Periodic compliance reports.* Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to ADEM, with a copy to the superintendent, during the months of June and December, unless required more frequently in the pretreatment standard or by ADEM, a report for the preceding six (6) months (December

through May; June through November) indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceed the average daily flow permitted to the user. At the discretion of ADEM and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., ADEM may agree to alter the months during which the above reports are to be submitted.

ADEM may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the periodic compliance report shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and nature and concentration, or production and mass where required by ADEM, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed by the ADEM. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and Amendments thereto or with any other test procedures established by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. (Ord. No. 109-82, § 4(4.2), 11-16-82; Ord. No. 114-83, § 9A(4.1.7), 2-15-83)

Sec. 28-206. Monitoring facilities.

(a) Any industrial user discharging waste water to the POTW shall construct a suitable monitoring station, meeting the approval of the city and ADEM. This monitoring station shall be constructed by the user, at no cost to the city, at a suitable location and depth, and in a manner approved by the city and ADEM, accessible, and in proper operating condition at all times. This monitoring station will be located on the user's property prior to discharge into the POTW and after all pretreatment provided by the user, and will be utilized by the city and ADEM to facilitate observations, measurements, and sampling of all waste waters discharged by the user. The user shall have constructed the monitoring station within ninety (90) days of notification by the city of this requirement.

(b) There shall be ample room in or near such monitoring station to allow accurate sampling and preparation of samples for analysis. The station shall be adequate for flow monitoring and measurement of the discharged waste waters.

(c) This monitoring station requirement may be waived by the superintendent upon written request from the industrial user when:

- (1) The quantity and quality of the waste water discharged from the user are such that it may be determined to meet all the discharge requirements as specified in this division.
- (2) The waste water is discharged through a single service manhole, before entrance into the POTW, which is deemed adequate by the city and ADEM for observations, measurements, and sampling of the user's waste waters.

(Ord. No. 109-82, § 4(4.4), 11-16-82; Ord. No. 114-83, § 9A(4.2.1), 2-15-83)

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Sec. 28-207. Inspection and sampling.

The city shall inspect the sample manhole and pretreatment facilities of any user to ascertain whether the purpose of this division is being met and all requirements are being complied with. Persons or occupants of premises where waste water is created or discharged shall allow the city 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 any of their duties. The city, ADEM, and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their guards so that upon presentation of suitable identification, personnel from the city, ADEM, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Ord. No. 109-82, § 4(4.5), 11-16-82; Ord. No. 114-83, § 9A(4.2.2), 2-15-83)

Cross reference—Control manhole for observation, sampling and measurement of wastes in building sewers carrying industrial wastes, § 28-121.

Sec. 28-208. Damaging equipment.

No person shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface, or tamper with any equipment or materials of the city used for the purpose of making tests or examinations and left upon the premises of a person discharging wastes into the sanitary sewers. (Ord. No. 114-83, § 9A(4.2.3), 2-15-83)

Sec. 28-209. Industrial pretreatment.

(a) Industrial users shall provide necessary waste water treatment as required to comply with this division and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat waste water to a level acceptable to the city and ADEM shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city and ADEM for review, and shall be acceptable to the city and ADEM before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city and ADEM under the provisions of this section. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city and ADEM prior to the user's initiation of the charges.

(b) The city shall annually publish in the largest daily newspaper published in the municipality in which the POTW is located a list of the users which, during the previous twelve (12) months, were significantly violating pretreatment requirements or standards. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months.

(c) All user records relating to compliance with pretreatment standards shall be made available to officials of the city, ADEM, or EPA upon request. (Ord. No. 109-82, § 4(4.6), 11-16-82; Ord. No. 114-83, § 9A(4.3), 2-15-83)

Cross reference—Preliminary treatment or flow-equalizing facilities, § 28-120.

Sec. 28-210. Confidential information.

(a) 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 agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

(b) 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 by governmental agencies for uses related to this division, the national pollutant discharge elimination system (NPDES) permit, ADEM state indirect 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 judicial review or for enforcement proceedings involving the person furnishing the report. Waste water constituents and characteristics will not be recognized as confidential information.

(c) Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user. (Ord. No. 109-82, § 4(4.7), 11-16-82; Ord. No. 114-83, § 9A(4.4), 2-15-83)

Sec. 28-211. Harmful contributions.

(a) The city may suspend the waste water treatment service for any user when such suspension of service is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

(b) Any person notified of a suspension of the waste water treatment service shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the waste water treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within fifteen (15) days of the date of occurrence. (Ord. No. 109-82, § 5(5.0), 11-16-82; Ord. No. 114-83, § 9B(5.1), 2-15-83)

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Sec. 28-212. Revocation of discharge permit.

Any user found by the city or ADEM to be in violation of their SID permit shall be so reported to the ADEM by the city and shall be subject to having their permit revoked in accordance with applicable state and federal regulations. (Ord. No. 109-82, § 5(5.1), 11-16-82; Ord. No. 114-83, § 9B(5.2), 2-15-83)

Sec. 28-212.1. Violations of this section.

(a) Any user who fails to factually report to the city the waste water constituents, quantity, and characteristics of the discharge or who fails to report significant changes in the operations, constituents, quantity, or characteristics of the waste water is in violation of this division.

(b) Any user who refuses reasonable access to the user's premises by city, ADEM, or EPA representatives for the purpose of inspection, monitoring, and review of records necessary to assure compliance is in violation of this division. (Ord. No. 114-83, § 9B(5.3), 2-15-83)

Sec. 28-213. Notification of violation.

Whenever the city finds that any user has violated or is violating this division, or its SID permit, or any prohibition, limitation or requirement contained herein, the city may serve upon such person a written notice with copy transmitted to the ADEM stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user. (Ord. No. 109-82, § 5(5.2), 11-16-82; Ord. No. 114-83, § 9B(5.3), 2-15-83)

Sec. 28-214. Show cause hearing.

(a) The city may order any user who violates this division or causes or allows an authorized discharge to enter the POTW to show cause before the governing body why the proposed enforcement action should not be taken. A notice shall be served on the user with copy transmitted to the ADEM specifying the time and place of a hearing to be held by the governing body regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the governing body why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of the corporation.

(b) The governing body may itself conduct the hearing and take the evidence, or may designate any of its members or any official or employee of the city to:

- (1) Issue in the name of the governing body notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence;
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the governing body for action thereon.

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(c) At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. 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 thereof.

(d) After the governing body has reviewed the evidence, it may issue an order to the user 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 on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. (Ord. No. 109-82, § 5(5.3), 11-16-82; Ord. No. 114-83, § 9B(5.4), 2-15-83)

Sec. 28-215. Legal action.

If any person discharges sewer, industrial wastes, or other wastes into the city's waste water disposal system contrary to the provisions of this division, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in the circuit court of this county. (Ord. No. 109-82, § 5(5.4), 11-16-82; Ord. No. 114-83, § 9B(5.5), 2-15-83)