

Section 162-48 must annually submit the following certification statement signed in accordance with the signatory requirements in Section 162-48. This certification must accompany an alternative report required by the Joint Sewer Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR __, I certify that, to the best of my knowledge and belief that during the period from __, __ to __, __ [months, days, year]:

- (a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 162-48;
- (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- (c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

§ 162-54. Compliance Monitoring.

- A. Right of entry: inspection and sampling. The Joint Sewer Authority shall have the right to enter the premises of any User, without notice, to determine whether the User is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Joint Sewer Authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. User water use may be relied upon if discharge monitoring data is not available.
 - (1) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Joint Sewer Authority will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (2) The Joint Sewer Authority shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
 - (3) The Joint Sewer Authority may require the User to install monitoring equipment as necessary. The facility's sampling, and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Joint Sewer Authority and shall not be replaced. The costs of clearing such access shall be born by the User.
- (5) Unreasonable delays in allowing the Joint Sewer Authority access to the User's premises shall be a violation of this Ordinance.
- (6) When it would be impractical or cause undue hardship on the User to situate the monitoring facility on the User's premises, the municipality may 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 condition at the expense of the User.

B. **Search warrants.** If the Joint Sewer Authority has been refused access to a building, structure, or property, or any part thereof by a User, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Joint Sewer Authority designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Joint Sewer Authority may seek issuance of a search warrant from the District Justice in whose jurisdiction the property is situate.

§ 162-55. Confidential information.

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Joint Sewer Authority's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Joint Sewer Authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

§ 162-56. Publication of Users in significant noncompliance.

The Joint Sewer Authority shall publish annually, in a daily newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable

Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) (H) or (I) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 162-49;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 162-49 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 162-49 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Joint Sewer Authority 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 other discharge violation that the Joint Sewer Authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- E. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Joint Sewer Authority's exercise of its emergency authority to halt or prevent such a discharge;
- F. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- G. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- H. Failure to accurately report noncompliance; or
- I. Any other violations, which may include a violation of BMPs, which the Joint Sewer Authority determines will adversely affect the operation or implementation of the local pretreatment program.

§ 162-57. Enforcement remedies.

- A. The Joint Sewer Authority, in conjunction with the Township, is fully empowered to undertake all enforcement remedies set forth below in order to assure User compliance with all State and Federal

laws and regulations. The enforcement actions described herein will be undertaken pursuant to the Joint Sewer Authority's duly adopted and EPA-approved Enforcement Response Plan, a federally mandated statement of policy which provides fair and even application of all enforcement remedies to Users in violation, such document being available at all times for public inspection. In addition, the Joint Sewer Authority retains each and every right and power granted pursuant to the Pennsylvania Publicly Owned Treatment Works Penalty Law also known as Act 9 of 1992, in addition to any amendments thereto and pursuant to the Civil Penalty Assessment Policy adopted by the Joint Sewer Authority

- B. Surcharge in lieu of enforcement remedy. With respect to conventional pollutants, the Joint Sewer Authority may, from time to time and at its discretion, adopt a policy whereby certain specifically identified conventional pollutants are permissibly discharged to the Joint Sewer Authority for removal at the POTW, with the cost of such removal to be borne by the discharger. The Joint Sewer Authority may expand or limit the list of conventional pollutants to which this surcharge system applies based upon the POTW's capacity/ability to effectively remove particular conventional pollutants. In the event that a conventional pollutant is within the scope of the surcharge system as it exists at the time of discharge, then such conventional pollutant discharge shall not be considered a violation of this Ordinance. However, any failure to pay the surcharge cost for the POTW's removal of the pollutant shall itself be considered a violation of this Ordinance and subject to enforcement action, in addition to all generally held rights of collection.

§ 162-57.1. Administrative remedies.

- A. Notification of violation. When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Joint Sewer Authority shall serve upon that User a written Notice of violation. The specific manner in which such Notice of Violation shall be issued, and the terms and conditions pursuant to which the User shall respond or correct the violation complained of, shall be as set forth in the Enforcement Response Plan. When the Notice of Violation includes a plan for satisfactory correction and prevention of the violation, submission of such plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Joint Sewer Authority to take any action, including emergency action or any other enforcement action, without first issuing a Notice of Violation.
- B. Consent orders. The Joint Sewer Authority may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same effect as the administrative orders authorized elsewhere in this section of the Ordinance and shall be judicially enforceable.
- C. Show cause hearing.
 - (1) The Joint Sewer Authority may order a User which has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any

other Pretreatment Standard or Requirement, to appear before the Joint Sewer Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered mail at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

- (2) Any hearing conducted pursuant to this section shall be presided over by the Joint Sewer Authority Board (hereinafter "Board") as to why the proposed enforcement action should not be taken. In the event that any municipality fails to designate a hearing participant, then the Joint Sewer Authority shall designate an individual to so serve. The Board may itself conduct a hearing and take the evidence or may designate any of its members or any officer or employee of the Joint Sewer Authority to:
 - (a) Issue in the name of the Board, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
 - (b) Take the evidence.
 - (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board for action thereon.
- (3) At any hearing held pursuant to this Ordinance, 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.
- (4) After the Board has reviewed the evidence, it may issue an order, through the Joint Sewer Authority (who shall actually issue the 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.
- (5) Any User aggrieved by the enforcement of this Ordinance may take an appeal to the Court of Common Pleas of Montgomery County, Pennsylvania, in accordance with the provisions of the Local Agency Law, 2 Pa. C.S.A. Section 105, et seq. A failure to appeal in accordance with the Local Agency Law shall result in a waiver of all legal rights to contest the action taken at the Show Cause hearing.

D. Compliance order. When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Joint Sewer Authority may issue an order to the User responsible for the discharge directing that the User come into compliance within a

specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

E. Cease and desist orders.

(1) When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Joint Sewer Authority may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(2) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

F. Administrative fines.

(1) When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other Pretreatment Standard or Requirement, the Joint Sewer Authority may fine such User in an amount not to exceed twenty-five Thousand Dollars (\$25,000.00) or any greater amount which might be permitted by the Publicly Operated Treatment Works Penalty Law and the Joint Sewer Authority's Civil Penalty Assessment Policy. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. The actual amount of the fine in a particular case shall account for the factors set forth in the Enforcement Response Plan.

(2) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of six percent (6%) of the unpaid balance, and interest shall accrue thereafter at a rate of six percent (6%) per month. A municipal lien against the User's property shall be filed for unpaid charges, fines, and penalties.

- (3) Users desiring to dispute such fines must file a written request for the Joint Sewer Authority to reconsider the fine along with full payment of the fine amount within twenty (20) days of being notified of the fine. Where a request has merit, the Joint Sewer Authority may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Joint Sewer Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

G. Emergency suspensions.

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

- (a) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Joint Sewer Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Joint Sewer Authority may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Joint Sewer Authority that the period of endangerment has passed, unless the termination proceedings in Section 162-57.1 of this Ordinance are initiated against the User.
- (b) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Joint Sewer Authority prior to the date of any show cause or termination hearing described elsewhere in this section of the Ordinance.

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

H. Termination of discharge.

- (1) In addition to the provisions in Section 162-52 of this Ordinance, any User who violates the following conditions is subject to discharge termination:
 - (a) Violation of wastewater discharge permit conditions;

- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - (d) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
 - (e) Violation of the Pretreatment Standards in Section 162-49 of this Ordinance.
- (2) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 162-57.1 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Joint Sewer Authority shall not be a bar to, or a prerequisite for, taking any other action against the User.

§ 162-57.2. Judicial enforcement remedies.

- A. Injunctive relief. When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Joint Sewer Authority may petition the Court of Common Pleas of Montgomery County, through the attorney for the Joint Sewer Authority, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Ordinance on activities of the User. The Joint Sewer Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.
- B. Civil penalties.
 - (1) A User who has violated, or continues to violate, any provision of this Ordinance, a Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Joint Sewer Authority for a maximum civil penalty of Twenty-five Thousand Dollars (\$25,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. Such penalty may be assessed in accordance with Section 162-59 of this Ordinance.
 - (2) The Joint Sewer Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Joint Sewer Authority.
 - (3) In determining the amount of civil liability, there shall be taken into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's

violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires and as set forth in the Enforcement Response Plan.

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

- C. Criminal prosecution. In the event that any discharge or other violation of this Ordinance constitutes a violation of any criminal or penal statute, then in addition to all enforcement remedies described elsewhere in this Ordinance, the Joint Sewer Authority or the other participating municipalities shall have the unfettered right to initiate and/or assist in any State or Federal criminal proceedings as a result of such violation. Examples of criminal conduct in connection with a violation include, but are not limited to, knowing or intentional introduction of any substance into the Joint Sewer Authority's POTW which causes injury to persons or property, otherwise undertaking any act or failing to undertake any act which recklessly endangers the well-being of the community or plant personnel, falsification of documents required to be filed pursuant to this Ordinance, and tampering with or otherwise rendering inaccurate a monitoring device or similar equipment.
- D. Remedies nonexclusive. The remedies provided for in this Ordinance are not exclusive. The Joint Sewer Authority may take any, all, or any combination of these actions against a non-compliant User. Enforcement of pretreatment violations will generally be in accordance with the Joint Sewer Authority's Enforcement Response Plan. However, the Joint Sewer Authority may take other action against any User when the circumstances warrant. Further, the Joint Sewer Authority is empowered to take more than one enforcement action against any non-compliant User.

§ 162-58. Supplemental enforcement action.

- A. Performance bonds. The Joint Sewer Authority may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the Joint Sewer Authority, in a sum not to exceed a value determined by the Joint Sewer Authority to be necessary to achieve consistent compliance.
- B. Liability insurance. The Joint Sewer Authority may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- C. Water supply severance. Whenever a User has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

D. Public nuisances. A violation of any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement may separately be declared as a public nuisance to the extent that it constitutes such nuisance as defined by Pennsylvania law or municipal Ordinance.

§ 162-59. Affirmative defenses to discharge violations

A. Upset.

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.
- (3) 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 Joint Sewer Authority 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.
- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) 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.

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

B. Prohibited discharge standards. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 162-49 of this Ordinance or the specific prohibitions in Section 162-49 of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit designed to prevent pass through and/or interference, as the case may be, 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 designed to prevent pass through and/or interference, as the case may be, exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Joint Sewer Authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass.

- (1) For the purposes of this section,
 - (a) "Bypass" means the intentional diversion of waste streams from any portion of a User's treatment facility.
 - (b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (2) 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 (C) and (D) of this section.
- (3) Notification.
 - (a) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Joint Sewer Authority, at least ten (10) days before the date of the bypass, if possible.

(b) A User shall submit oral notice to the Joint Sewer Authority 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 Joint Sewer Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Enforcement action; appeals.

(a) Bypass is prohibited, and the Joint Sewer Authority may undertake 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 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 (C) of this section.

(b) The Joint Sewer Authority may approve an anticipated bypass, after considering its adverse effects, if the Joint Sewer Authority determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

(c) "Appeal." An Industrial User assessed with a civil penalty under the terms of this section shall have the right to file an appeal to contest either the amount of the penalty or the fact of the violation, within thirty (30) days of the assessment of the civil penalty, pursuant to the Local Agency Law, 2 Pa.C.S.A. Section 105 et seq. (relating to administrative law and procedure). Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

D. Assessment of civil penalties.

(1) Pursuant to the provisions of the Pennsylvania Publicly Owned Treatment Works Penalty Law, Act 9 of 1992, providing for enhanced penalty authority for publicly owned treatment works which are authorized to enforce industrial Pretreatment Standards for industrial waste discharges, and in addition to proceeding under any other remedy available at law or equity for violation of Pretreatment Standards and/or Requirements, the Joint Sewer Authority, as the

operator of the POTW, may assess a civil penalty upon an Industrial User for violation of any of the terms and provisions of this Ordinance. The penalty may be assessed whether or not the violation was willful or negligent. The civil penalty shall not exceed Twenty Five Thousand Dollars (\$25,000) per day for each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct defense under this Section.

- (2) As part of any notice of assessment of civil penalties issued by the Joint Sewer Authority to an Industrial User, there shall also be included a description of the applicable appeals process to be followed, including the name, address and telephone number of the person responsible for accepting such appeal, on behalf of the Joint Sewer Authority.
- (3) For purposes of this Section, a single operational upset which leads to simultaneous violations of more than one Pretreatment Standard or Requirement shall be treated as a single violation as required by Federal Water Pollution Control Act. The Joint Sewer Authority may, however, recover its costs for reestablishing the operation of the treatment works in addition to any civil penalty imposed under this Section.
- (4) The Joint Sewer Authority shall publicly adopt a formal, written civil penalty assessment policy and make it publicly available. Each industrial discharger participating in the pretreatment program shall be given written notice of the policy. The penalty assessment policy shall consider:
 - (a) damage to air, water, land or other natural resources of the Commonwealth of Pennsylvania and their uses;
 - (b) costs of restoration and abatement;
 - (c) savings resulting to the person in consequence of the violation;
 - (d) history of past violations;
 - (e) deterrence of future violations;
 - (f) other relevant factors.
- (5) Uses for Penalties. All civil penalties collected pursuant to this Section shall be placed by the Joint Sewer Authority in a restricted account and shall only be used by the Joint Sewer Authority and the publicly owned treatment works for the following uses:
 - (a) the repair of damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed;
 - (b) pay any penalties imposed on the Joint Sewer Authority or the POTW by the Federal or State government for violation of Pretreatment Standards;

- (c) for the costs incurred by the Township or POTW to investigate and take the enforcement action that resulted in a penalty being imposed;
- (d) for the monitoring of discharges in the pretreatment program and for capital improvements to the treatment works, including sewage collection lines, which may be required by the pretreatment program; and
- (e) any remaining funds may be used for capital improvements to the POTW, including collection lines.

§ 162-60. Building sewers and connections relating to industrial users.

The provisions of any applicable Township Code or the provisions of this Section shall apply, whichever is more strict.

- A. No unauthorized persons (i.e., persons other than personnel of the Joint Sewer Authority, the participating municipalities, or their agents) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Township.
- B. There shall be two classes of building sewer permits: (a) for residential and commercial service, and (b) for service to Industrial Users. In either case, the owner or his agent shall make application on a special form furnished by the Joint Sewer Authority and/or the Township. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Joint Sewer Authority and/or the Township. A permit and inspection fee for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the Joint Sewer Authority and/or the Township at the time the application is filed. All building sewer permit applications under (b) above, shall be reviewed and approved in writing by the Joint Sewer Authority and/or the Township prior to permit issuance. Permit and inspection fees for sewer permits shall be in such amounts as may be established from time to time by the Joint Sewer Authority and/or the Township.
- C. All costs and expenses incidental to the installation, connection, and maintenance of the building sewer shall be borne by the owner or User, who shall indemnify the Joint Sewer Authority and/or the Township from any loss or damage that may directly or indirectly be caused by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building or any part of any building as may be determined by the Joint Sewer Authority and/or the Township.
- E. Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the Joint Sewer Authority and/or the Township, to meet all requirements of this Ordinance.
- F. The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall conform to

the requirements of the building and plumbing codes and/or other applicable rules and regulations of the Joint Sewer Authority and/or the Township. In the absence of code provisions or in amplification therefore, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

- G. In order to prevent grease, oil and sand from being discharged into the public sewage system, all hospitals, nursing homes, hotels, restaurants, and any other establishments engaged in the preparation, processing or sale of food shall install and properly maintain one or more grease traps of a type and capacity approved by the Joint Sewer Authority and/or the Township, and same shall be located so as to be readily and easily accessible for cleaning and inspection. If any other User in the opinion of the Joint Sewer Authority and/or the Township discharges a quantity, oil or sand in its sewage so as to warrant the installation and maintenance of one or more grease traps, same shall be installed and maintained in accordance with these regulations at the direction of the Joint Sewer Authority and/or the Township.
- H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a method approved by the Joint Sewer Authority and/or the Township and discharged to the building sewer.
- I. No person shall make connection of sump pumps, roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a POTW unless such connection is approved in writing by the Joint Sewer Authority and/or the Township for purposes of disposal of polluted surface drainage.
- J. The connection of the building sewer into the POTW (which for purposes of this Ordinance includes the collection system) shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the respective municipality set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas-tight and water-tight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Joint Sewer Authority and/or the Township before installation.
- K. The applicant for the building sewer permit shall notify the Manager when the building sewer is ready for inspection and connection to the POTW. The connection to the public sewer and testing shall be made under the supervision of the manager or his representative.
- L. All excavations for building sewer installation shall be adequately guarded with barricades and lights, so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Joint Sewer Authority and/or the Township.
- M. No excavation, construction, or connection work shall be commenced within an the Joint Sewer Authority and/or the Township right-of-way until the owner, his agents and/or independent contractor shall have first filed a bond in double the amount of the cost of the work to be

performed as determined by the Joint Sewer Authority and/or the Township, agreeing to indemnify and save harmless the Joint Sewer Authority and/or the Township against any and all loss, damages, costs, and expenses which the Joint Sewer Authority and/or the Township may thereafter suffer, incur, or pay by reason of the failure to complete properly any of the aforesaid excavation, construction, or connection work.

- N. The term "owner" as used herein, shall be deemed to include the owner or owners in fee simple, lessees of the premises, occupiers of the premises, Users, and all other parties having a use or interest in the premises and occupying the same with or without the consent and permission of the owner of the fee title.
- O. Sanitary sewers installed with unused points of connection for building sewers shall have said points of connection capped for watertight integrity prior to connection of the building sewer. The method of capping shall be one approved by the Manager and/or the Township.

§ 162-61. Falsifying information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report plan or other document filed or required to be maintained pursuant to this Ordinance, or Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall be prosecuted in accordance with the provisions of the Pennsylvania Crimes Code pertaining to perjury and falsification in official matters pursuant to 18 Pa.C.S.A. 4901 et seq.

§ 162-62. Fees.

- A. Purpose. It is the purpose of this chapter to provide for the recovery of costs from Users of the Joint Sewer Authority's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Joint Sewer Authority's Schedule of Charges and Fees.
- B. Charges and Fees.
 - (1) The Joint Sewer Authority may adopt by Ordinance charges and fees which may include:
 - (a) fees for reimbursement of costs of setting up and operating the Joint Sewer Authority's Pretreatment Program;
 - (b) fees for monitoring, inspections, and surveillance procedures;
 - (c) fees for reviewing accidental discharge procedures and construction;
 - (d) fees for permit applications;
 - (e) fees for filing appeals;

- (f) fees for consistent removal (by the Joint Sewer Authority) of pollutants otherwise subject to Federal Pretreatment Standards; and
 - (g) other fees as the Joint Sewer Authority may deem necessary to carry out the requirements contained herein.
- (2) These fees relate solely to the matters covered by this Ordinance and are separate from all other fees or sewer rentals chargeable by the Joint Sewer Authority and Township.

§ 162-63. Severability; conflict with other legislation; when effective.

- A. Severability. If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.
- B. Conflict. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.
- C. Effective date. This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

SECTION II. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be separate, distinct and independent and such holding shall not affect the validity of the remaining portions of this Ordinance.

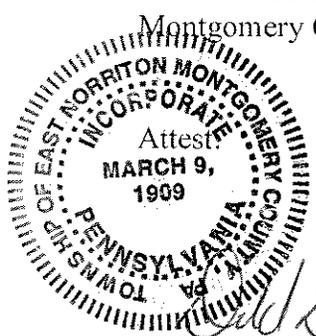
SECTION III. RATIFICATION

This Ordinance shall in no other way affect, amend or modify the Code of East Norriton Township.

SECTION IV FAILURE TO ENFORCE NOT A WAIVER

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

ENACTED AND ORDAINED by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, this 26th day of October, 2010.



Attest:
MARCH 9,
1909

BOARD OF SUPERVISORS
EAST NORRITON TOWNSHIP

Secretary

By:

Kandy Hehner
Chairman