

ORDINANCE NO. 516

AN ORDINANCE (REPLACING CHAPTER 155 OF THE CODES FOR THE BOROUGH OF SINKING SPRING) SETTING FORTH UNIFORM REQUIREMENTS FOR DIRECT AND INDIRECT CONTRIBUTORS INTO THE WASTEWATER COLLECTION AND TREATMENT SYSTEM FOR THE BOROUGH OF SINKING SPRING WHICH ENABLES THE BOROUGH TO COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS REQUIRED BY THE CLEAN WATER ACT OF 1977 AND THE GENERAL PRETREATMENT REGULATIONS (40 CFR PART 403).

BE IT ORDAINED and ENACTED by the Borough Council of the Borough of Sinking Spring, in the County of Berks and Commonwealth of Pennsylvania, and it is hereby ORDAINED and ENACTED by the authority of the same, in accordance with the provisions of the act of Assembly of the Commonwealth of Pennsylvania, as follows:

PART 1 - STANDARDS

[Adopted 10-4-79 as Ordinance No. 423]

ARTICLE 1 - OBJECTIVES OF ORDINANCE

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the Borough of Sinking Spring and enables the Borough to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public.
- D. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- F. To enable the Borough to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all users of the POTW. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement

activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration and Contents

Except as otherwise provided herein, Borough of Sinking Spring personnel, or their designated representatives, shall administer, implement, and enforce the provisions of this ordinance.

The articles of this ordinance are as follows:

- Article 1 – Objectives of Ordinance
- Article 2 – Individual Sewage Disposal Systems
- Article 3 – Connections to Sewer System
- Article 4 – General Sewer Use Requirements
- Article 5 – Pretreatment of Wastewater
- Article 6 – Measurement of Flow; Sewer Rents
- Article 7 – Wastewater Discharge Permit Application
- Article 8 – Wastewater Discharge Permit Issuance Process
- Article 9 – Construction of Facilities
- Article 10 – Reporting Requirements
- Article 11 – Compliance Monitoring
- Article 12 – Confidential Information
- Article 13 – Publication of Users in Significant Noncompliance
- Article 14 – Administrative Enforcement Remedies
- Article 15 – Judicial Enforcement Remedies
- Article 16 – Supplemental Enforcement Action
- Article 17 – Affirmative Defenses to Discharge Violations
- Article 18 – Miscellaneous Provisions
- Article 19 – Determination of Charges for Strong Wastes
- Article 20 – Measurement of Concentration of Industrial Waste
- Article 21 – Measurement of Volume of Industrial Waste
- Article 22 – Access
- Article 23 – Holding Tanks
- Article 24 – Establishment of Fees; Work Procedures
- Article 25 – Effective Date
- Article 26 – Severability

1.3 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or “the “Act”. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- B. Approval Authority. U.S. Environmental Protection Agency, Region III, Philadelphia, Pennsylvania.
- C. Authority. The Municipal Authority of the Borough of Sinking Spring, or in appropriate cases, acting by and through its authorized representatives.

D. Authorized Representative of the User.

(1) If the user is a corporation:

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or**
- (b) The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager;**

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

(3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

(4) The individuals described in paragraphs 1 through 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 Borough.

E. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/L)].

F. Borough. The Borough of Sinking Spring, Berks County, Pennsylvania, a Pennsylvania municipal corporation acting by and through its Council or, in appropriate cases, acting by and through its authorized representatives.

G. Building Sewer or Lateral. The extension of the building drain from the curb line or property line to the public sewer or other place of disposal.

H. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

I. Chemical Toilet. A toilet using chemicals that discharge to a holding tank.

J. Chlorine Demand. The quantity of chlorine absorbed in water, sewage or other liquids, allowing a residual of 0.1 ppm, after fifteen minutes of contact.

K. Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

- L. Commercial Connection. A user who discharges domestic wastewater and wastewater generated from preparation or supplying commodities and services such as restaurants, car washes, gasoline stations, and laundromats.
- M. Commercial Waste Discharge Permit. A permit to discharge liquid wastes which are not considered industrial or domestic waste to the POTW.
- N. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- O. Cooling Water. The water discharged from any system of condensation such as air conditioning, cooling or refrigeration.
- P. Council. The group of elected officials acting as the governing body of the Borough of Sinking Spring.
- Q. Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Pennsylvania.
- R. Dissolved Solids. The anhydrous residues of the dissolved constituents in water or wastewater.
- S. Domestic Waste. The normal water carrying household and toilet wastes from residences, business buildings, institutions and industrial establishments.
- T. Dwelling Unit. Any room, group of rooms, house trailer or other enclosure occupied or intended for occupancy as a separate business or as separate living quarters by a family or other group of persons living together or by a person living alone.
- U. Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- V. Equivalent Dwelling Unit. For the purpose of determining the connected EDU's to the collection system and projecting future flows to the wastewater treatment facility, EDU's shall be calculated as follows: The quantity of flow which is equivalent to the average amount of water consumed by a single residential unit. The number of equivalent dwelling units (EDU's) assigned to a residential dwelling unit, regardless of water consumption, is 1. The number of EDU's assigned to an industrial or other non-residential user is calculated on a quarterly basis by dividing the total quarterly water consumption (or sewage flow) of the industrial or other non-residential user by the average quarterly water consumption of a residential unit during the previous year. The minimum number of EDU's assigned to any user shall be 1.
- W. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

- X. Garbage. Solid waste resulting from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- Y. Grab Sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- Z. Ground Garbage. Garbage that has been shredded to such a degree that all its particles shall be carried freely under normal sewage flow conditions, with no particle greater than one-half inch in any dimension.
- AA. Ground Water. Water which is standing in or passing through the ground.
- BB. Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- CC. Improved Property. Any property within the service area upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.
- DD. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- EE. Industrial Cost Recovery. A charge imposed upon industrial users of the treatment plant to recover the treatment works capital expenditure used for the treatment of industrial wastes.
- FF. Industrial Establishment. Any improved property used, in whole or in part, for manufacturing, processing, cleaning, laundering or assembling any product, commodity or article; or from which any process waste, as distinct from domestic waste, shall be discharged.
- GG. Industrial User. A source of indirect discharge industrial waste which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 U.S.C. 1342).
- HH. Industrial Waste. Any liquid or gaseous substance, whether or not solids are contained therein, discharged from any industrial establishment during the course of any industrial, manufacturing, trade or business process or in the course of the development, recovery or processing of natural resources, as distinct from sanitary sewage.
- II. Industrial Waste Permit. A permit to deposit or discharge liquid industrial wastes into the POTW.
- JJ. Infiltration. The water entering a sewer system and service connections from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections and/or manhole walls. Infiltration does not include, and is distinguished from, inflow.
- KK. Infiltration/Inflow. The total quantity of water from both infiltration and inflow without distinguishing the source. Also known as extraneous flow.

- LL. **Inflow.** The water discarded into a sewer system and service connections from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.
- MM. **Instantaneous Maximum Allowable Discharge Limit.** The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- NN. **Interference.** A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Borough's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- OO. **Manhole.** A shaft or chamber leading from the surface of the ground to a sewer; large enough to enable a person to gain access to the latter.
- PP. **May.** Permissive. "Shall" is mandatory.
- QQ. **Medical Waste.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- RR. **mg/L.** Milligrams per liter. Equivalent to parts per million (ppm) by weight.
- SS. **Multiple Dwelling.** Any improved property in which shall be located more than one dwelling unit.
- TT. **National Categorical Pretreatment Standard or Pretreatment Standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.
- UU. **National Pollutant Discharge Elimination System or NPDES Permit.** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- VV. **National Prohibitive Discharge Standard or Prohibitive Discharge Standard.** Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

WW. New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, 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 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 activity as the existing source, should be considered.**
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.**
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:**

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

 - (i) any placement, assembly, or installation of facilities or equipment; or**
 - (ii) 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 are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.**

XX. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

- YY. Normal Strength Waste. Sewage when analyzed or caused to be analyzed by the Borough shows a daily average of not more than 250 mg/L of total suspended solids, 300 mg/L of BODs, 500 mg/L of dissolved solids, 6.6 mg/L of phosphorus, and/or 25 mg/L of ammonia nitrogen.**
- ZZ. Objectionable Waste. Any wastes that can, in the Borough's judgement, harm either the sewers or sewage treatment process or equipment, or in the judgement of any municipality where the wastes are being carried, can have an adverse effect upon its system; can have an adverse effect upon the receiving stream; can otherwise endanger life, health or property; or which constitutes a public nuisance.**
- AAA. Owner. Any person vested with ownership, legal or equitable, sole or partial, of any property located in the POTW service area.**
- BBB. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Borough's NPDES permit (including an increase in the magnitude or duration of a violation).**
- CCC. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.**
- DDD. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.**
- EEE. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].**
- FFF. Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.**
- GGG. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).**
- HHH. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.**
- III. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.**

- JJJ. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Article 4.1 of this ordinance.**
- KKK. Publicly Owned Treatment Works (POTW). A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Borough. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the Borough.**
- LLL. Receiving Stream. The Cacoosing Creek.**
- MMM. Sanitary Sewer. Any pipe or conduit constituting a part of the sewer system, or usable for sewage collection purposes.**
- NNN. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.**
- OOO. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).**
- PPP. Shall. Mandatory. “May” is permissive.**
- QQQ. Significant Industrial User.**
- (1) A user subject to categorical pretreatment standards; or
 - (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the Borough on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
 - (3) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the Borough may at any time, on its own initiative or in response to a petition received from a user [and in accordance with procedures in 40 CFR 403.8(f)(6)] determine that such user should not be considered a significant industrial user.
- RRR. Significant Non-Compliance (SNC). This denotes that the circumstances of a particular violation are severe enough to meet the following criteria for Significant Non-Compliance (SNC):**

(1) **Violations of Wastewater Discharge Limits**

- (a) **Chronic Violations.** Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).
- (b) **Technical Review Criteria (TRC) Violations.** Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the following TRC in a six-month period.

Group I for conventional pollutants (BOD, TSS, fats, oil and grease): TRC = 1.4.

Group II for all other pollutants, except pH: TRC = 1.2.

- (c) Any other violation(s) of an effluent limit that the Borough of Sinking Spring believes has caused, alone (e.g., slug loads) or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment personnel or the public.
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the exercise of emergency authority to halt or prevent such a discharge.

(2) **Violations of compliance schedule milestones contained in enforcement orders as well as schedules contained in the Industrial Discharge Permits, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.**

(3) **Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.**

(4) **Failure to accurately report non-compliance.**

(5) **Any other violation or group of violations that the Borough considers to be significant because it may adversely affect the operation or implementation of the Pretreatment Program.**

SSS. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Article 4.1 of this ordinance.

TTT. Special Use Permit. A permit to discharge liquid wastes which are not considered commercial, industrial, or domestic wastes to the POTW.

UUU. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

VVV. State. The Commonwealth of Pennsylvania.

- WWW.** Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- XXX.** Strong Waste. Any waste having a BOD₅, suspended solids, dissolved solids, ammonia nitrogen, or phosphorus concentration in excess of that found in normal domestic waste, but which is otherwise acceptable into a public sewer under the terms of this ordinance.
- YYY.** Strong Waste Surcharge. A charge levied on any user of the treatment works of the POTW for the additional cost of treating strong wastes.
- ZZZ.** Superintendent. The person designated by the Borough to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- AAAA.** Surface Water. That portion of the precipitation which runs off over the surface of the ground.
- BBBB.** Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- CCCC.** Tapping Fee. A fee charged for the privilege to connect a new EDU to the sanitary sewer system. The fee is established in conformance with Commonwealth of Pennsylvania Act 203 and Act 209 of 1990 and as amended.
- DDDD.** Total Solids. Solids that either float on the surface of, or are in suspension, or dissolved in water, sewage or other liquids, and which are determined by appropriate procedures found in the latest edition of "Standard Methods for the Examination of Water and Sewage" published by the American Public Health Association.
- EEEE.** Toxic Pollutant. One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.
- FFFF.** Toxic Substance. Any noxious and/or deleterious substance in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in any sewer system or in the receiving stream of the sewage treatment plant.
- GGGG.** Treatment Plant Effluent. The discharge from the POTW into waters of the United States.
- HHHH.** User or Industrial User. A source of indirect discharge.
- III.** Vault Pit Privy. A holding tank designed to receive sewage where water under pressure is not available.
- JJJJ.** Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

KKKK. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

LLLL. Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems 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.

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.

1.4 Abbreviations

The following abbreviations have the designated meanings:

<u>BOD</u>	- Biochemical Oxygen Demand
<u>CFR</u>	- Code of Federal Regulations
<u>COD</u>	- Chemical Oxygen Demand
<u>EPA</u>	- U.S. Environmental Protection Agency
<u>gpd</u>	- gallons per day
<u>l</u>	- liter
<u>mg</u>	- milligrams
<u>mg/L</u>	- milligrams per liter
<u>NPDES</u>	- National Pollutant Discharge Elimination System
<u>O&M</u>	- Operation and Maintenance
<u>POTW</u>	- Publicly Owned Treatment Works
<u>RCRA</u>	- Resource Conservation and Recovery Act
<u>SIC</u>	- Standard Industrial Classification
<u>SWDA</u>	- Solid Waste Disposal Act (42 U.S.C. 6901, <u>et seq.</u>)
<u>TSS</u>	- Total Suspended Solids
<u>USC</u>	- United States Code

ARTICLE 2 - INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

2.1 Permit Required to Clean or Construct

It shall be unlawful for any person or persons to clean or authorize the cleaning of cesspools, privy vaults, or other receptacles for human excrement or to construct or authorize the construction of any individual sewage disposal system within the Borough of Sinking Spring without first obtaining a permit from the Secretary of the said borough.

2.2 Permit Fees

The cost of the permit referred to in Article 2.1 shall be as determined from time to time by Borough Resolution.

2.3 Approval Required for any Work; Regulations

Plans, specifications, and maintenance for any receptacle for human excrement to be constructed, cleaned, or maintained shall be approved by the Borough or its authorized representative before construction, cleaning, or abandonment begins, pursuant to the following rules:

- A. No receptacle for human excrement shall be constructed or located in front of the building line of any property.
- B. When a receptacle for human excrement, including approved pattern septic tank, has been completed, before it will be permissible to have the same covered, the Borough or its authorized representative must be notified and approval obtained.
- C. All cesspools, privy vaults, or other receptacles for human excrement shall be cleaned whenever there is a need thereof or whenever directed by the Borough or any police officer of the Borough, and all persons engaged in cleaning of cesspools, privy vaults, or other receptacles for human excrement shall use covered receptacles for the removal of the said excrement.
- D. When a cesspool, privy vault, or other receptacle for human excrement has become filled to within one (1) foot of the top, such cesspool, privy vault, or other receptacle for human excrement shall be declared a nuisance and, upon due written notice from the Borough or its authorized representative, said nuisance must be abated within a period of ten (10) days from the date of such notice.
- E. When a cesspool, privy vault, or other receptacle for human excrement is to be abandoned, a cleaning permit must be secured, and the cesspool, privy vault, or other receptacle for human excrement must be cleaned by having its contents removed and disposed of in a sanitary manner, and application made to the Borough in writing for an inspection and, upon the approval of the Borough or its authorized representative, the cesspool, privy vault, or other receptacle for human excrement is to be filled with clean earth, ashes, cinders, or other approved material.

ARTICLE 3 - CONNECTIONS TO SEWER SYSTEM

3.1 Connection Required; Notice

Every improved property located within the Borough and adjoining, abutting on, or being adjacent to any part of the sewer system of the Borough or abutting on or adjoining any street or highway in which a sewer is located, **or located within 150 feet of any part of the sewer system of the Borough of Sinking Spring**, shall be connected with a sewer in such manner as the Borough may order within sixty (60) days after notice to the owner of such improved property from the Borough to make such connection, for the purpose of discharge of all fecal matter; human excrement; kitchen, commercial, industrial, and laundry waste; and other sewage from such premises, subject to such limitations and restrictions as from time to time may be established by the Borough. All such sewage, after such connection, shall be connected separately and independently with a sewer through a service connection to be designated in each case by the Borough. Grouping of buildings upon one (1) service connection to a sewer shall not be permitted except under special circumstances and for good sanitary reasons or other good cause shown, with special permission granted by the Borough. Such notice by the Borough to make such connection may be given by the Borough as soon as a sewer is in place which can receive and convey sewage from the particular improved property.

3.2 Failure to Comply with Connection Notice

If the owner of any improved property, after sixty (60) days' notice from the Borough to make connection of such improved property with a sewer, shall fail to make such connection, the Borough may make such connection and may collect from such owner the cost thereof, together with any sewer connection fee as may be established by the Borough as hereinafter set forth, if the same has not been paid, by a municipal claim, an action of assumpsit or such other legal proceedings as may be provided by law. Nothing contained here shall be deemed to absolve any owner from the general penalty provisions of this ordinance for violations thereof.

3.3 Charges for Failure to Connect

From and after January 1, 1966, the owner or owners or person or persons responsible who have failed to connect their respective properties to the sanitary sewer system of the Borough of Sinking Spring, Berks County, Pennsylvania, shall be charged a minimum quarterly rental of _____ dollars (\$____) in addition to a **ten percent (10%)** penalty for their failure to have made a requested sewer connection.

3.4 Penalty for Failure to Pay Charges

A penalty of ten percent (10%) will be charged on all such bills if not paid within thirty (30) days from the due date of the bill. The Borough, upon five (5) additional days' notice in writing to the consumer, may shut off the water service until all money due the Borough for sewage service has been paid.

3.5 Conditions to be Met Prior to Connection

No person shall cause to be made any connection for any improved property with any sewer until such person shall have fulfilled all the following conditions:

- A. Such person shall notify the Secretary of the Borough of the desire and intention to make such connection.
- B. Such person shall pay the sewer connection fee as shall be required by the Borough as hereinafter set forth, which sewer connection fee shall be payable to the Borough.
- C. Such person shall apply for and obtain from the Borough at least twenty-four (24) hours' notice of the time when such connection will be made in order that the Borough, by its authorized agent, can supervise and inspect such work of connection.

3.6 Placement and Manner of Connections

All sewer connections shall be made at the place designated by the Borough and where the lateral or service connection in the sewer is provided. All joints shall be sealed, shall be airtight, and shall be made smooth and clean inside so as to provide free flow of sewage matter without any obstructions. All work pertaining to such connection with a sewer shall be, financially and otherwise, the responsibility of the owner of the improved property with which connection is made, subject to the right of supervision and inspection herein reserved by the Borough.

3.7 Connection of Certain Facilities Prohibited

No privy vault, cesspool, or similar receptacle for human excrement at any time shall be connected with any sewer.

3.8 Discontinuance of Other Facilities Required

No privy vault, cesspool, or similar receptacle for human excrement hereafter shall be maintained upon any premises from which connection with any sewer shall have been made or shall be required to be made. Every such privy vault, cesspool, or other receptacle, at the discretion of the Borough, shall be abandoned, cleansed, and filled under the direction and supervision of the Borough. Any such privy vault, cesspool, or other receptacle not so abandoned, cleansed, and filled as required by this article shall constitute a nuisance and such nuisance may be abated as provided by law, at the expense of the owner of such property.

3.9 Tapping Fee

All owners of improved property located within the Borough who hereafter may connect with the sewer and who shall have use of the sewer system shall pay a connection fee of _____ dollars (\$ _____), which connection fee shall be payable at the office of the Borough Secretary upon application for a permit to make such connection. **Fees as covered in this subsection shall be calculated in conformance with Commonwealth of Pennsylvania Act 203 and Act 209 of 1990, and as amended. Fees are imposed on all additional new units and additional capacities added to existing connections. Fees covered under this subsection are established by Resolution and may be revised by Resolution of the Municipal Authority of the Borough of Sinking Spring, or the Borough of Sinking Spring.**

3.10 License Required for Plumbing Work

All registered master plumbers and all registered journeymen plumbers and any other person, firm, or corporation authorized to do work of a plumbing nature shall, before making any connection to the system in the Borough of Sinking Spring or before doing any work of a plumbing nature in connection therewith, secure from the Borough Secretary of the Borough of Sinking Spring a license to do said work. The license shall be for the calendar year in which the license is issued.

3.11 Qualifications for License

The Borough Secretary shall not issue a plumber's license or license to do work upon the sanitary sewer system of the Borough of Sinking Spring until he has first satisfied himself of the qualifications of the applicant to do the work for which the license is to be issued. The Borough may require the registered master plumber or journeyman plumber or the person, firm, or corporation seeking the license to do business to exhibit a plumber's license from a surrounding locality or municipality, as a prerequisite to the issuance of a license by the Borough of Sinking Spring. The fee for issuance of said license shall be the sum of _____ dollars (\$ _____) per year.

3.12 Penalty for Doing Work Without License

Any person, firm, or corporation making any connection to the said system of sewers of the Borough of Sinking Spring, or doing any work in connection therewith without first securing a license may be charged with violation of this article and shall, upon summary conviction, be sentenced to pay a fine not exceeding three hundred dollars (\$300.00). After notice is given of a violation of this

article, each day on which work is done or labor performed in connection with the sewage system of the Borough of Sinking Spring shall be a separate violation of the within article.

ARTICLE 4 – GENERAL SEWER USE REQUIREMENTS

4.1 Prohibited Discharge Standards

- A. General Prohibitions:** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions:** No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow to the POTW resulting in interference with the proper operation of the POTW. Such substances include but are not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, bones, rags, feathers, tar, plastic, wood, paunch, manure, butchers' offal, whole blood, bentonite, lye, building materials, rubber, hair, leather, porcelain, china, ceramic wastes, asphalt, paint, waxes, needles or syringes of any type, but in no case solids greater than two inches (2") in any dimension.
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature greater than 104°F or lower than 32°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
 - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (8) Trucked or hauled pollutants.

- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Borough's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the reasonably established norm for aquatic life;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Borough in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, sump pump discharges, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Borough. Where unauthorized discharge of these waters into the POTW exists, they shall be remedied in a manner approved by the Borough within ninety (90) days of receipt of a notice from the Borough. In the event such condition is not remedied, the Borough shall cause the condition to be remedied at the owner's expense;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Borough in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L.

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

4.2 Federal Categorical Pretreatment Standards

The National categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

4.3 State Pretreatment Standards

No State pretreatment standards exist so, in their place, categorical pretreatment standards are hereby incorporated.

4.4 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits.

900 mg/L	BOD ₅
0.200 mg/L	cadmium
2.67 mg/L	chromium
1.00 mg/L	copper
2.83 mg/L	cyanide
2.00 mg/L	lead
0.00 mg/L	mercury
2.00 mg/L	nickel
100 mg/L	oil and grease (petroleum, mineral, or vegetable oil products)
2.00 mg/L	silver
750 mg/L	total suspended solids
2.55 mg/L	zinc
0.37 mg/L	tin
10.00 mg/L	iron
0.80 mg/L	phenol
0.025 mg/L	arsenic
1,500 mg/L	total dissolved solids
19.8 mg/L	phosphorus
75 mg/L	ammonia nitrogen
0.09 mg/L	selenium

The above limits may be revised by Resolution of the Sinking Spring Borough Council.

The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Borough may impose mass limitations in addition to or in place of the concentration-based limitations above.

Deductions will be made from these limited substances equal to the concentrations of each substance that is contained in the potable water supply.

4.5 Borough's Right of Revision

The Borough reserves the right to adopt, from time to time by ordinance or in wastewater discharge permits, such additional rules and regulations as it shall deem necessary and proper relating to connection to and proper operation of the POTW, which rules and regulations shall be construed as a part of this ordinance.

4.6 Special Agreement

The Borough reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, a user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. A user also may request a variance from the categorical pretreatment standard from the Approval Authority. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

4.7 Dilution

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

ARTICLE 5 - PRETREATMENT OF WASTEWATER

5.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Article 4.1 of this ordinance within the time limitations specified by the EPA, the State, or the Borough, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Borough for review, and shall be acceptable to the Borough before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce an acceptable discharge to the Borough under the provisions of this ordinance.

5.2 Additional Pretreatment Measures

The Borough may provide legal authority to do the following:

- A. Whenever deemed necessary, the Borough 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 ordinance.
- B. Each person discharging into the POTW greater than 25,000 gallons per day or greater than five percent (5%) of the average daily flow in the POTW, whichever is less, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow over a 24-hour period. The

facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Borough. A wastewater discharge permit may be issued solely for flow equalization.

- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Borough, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Borough and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense. The Borough may require documentation from the user to confirm that adequate grease, oil, and sand interceptor maintenance is being performed.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

5.3 Accidental Discharge/Slug Control Plans

At least once every two years the Borough shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Borough may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Borough may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the POTW of any accidental or slug discharge, as required by Article 10.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

5.4 Hauled Wastewater

Hauled waste will not be accepted into the POTW without prior written approval from the Borough.

ARTICLE 6 – MEASUREMENT OF FLOW; SEWER RENTS

6.1 Volume to be Based on Water Usage

- A. The volume of flow used in computing surcharges shall be the metered water consumption of the person as shown in the records of meter readings maintained by the Citizens Utilities Water Company, **or its successors**.
- B. Where the person discharging wastes into the sewage system of the Borough procures any part, or all, of his water supply from sources other than the Citizens Utilities Water Company, **or its successors**, all or part of which is discharged into the sewage system, the person discharging said waste shall install and maintain, at his own expense, water meters of a type approved by the Borough Council for the purpose of determining the proper volume of flow to be used.

6.2 Deduction Authorized Where Water Flow Does Not Represent Waste Discharged

In the event that an establishment discharging industrial wastes into the sewage system produces evidence satisfactory to the Borough Council that more than ten percent (10%) of the total annual volume of water used for all purposes does not reach the sewage works, then the determination of the total water consumption to be used in determining the industrial wastes discharged into the said sewer shall be determined by the use of water meters installed to meter the flow of water which does not ultimately reach the sewer and deducting the measurement from the measurements of the master water meter or meters. In the event it is impossible, in the opinion of Borough Council, to meter the flow not reaching a sewer, then this quantity may be estimated by the Borough Council and may be agreed upon between the Borough Council and the persons representing the establishment.

6.3 Sewage Metering

Sewage metering may be required by the Borough Council in those cases in which there is no other method of determining the volume of industrial wastes or sanitary sewage entering the sewage system. The metering equipment shall be installed and maintained by the user at his own cost. The Borough Council requires that a meter manufacturer's certificate of calibration be issued to the user annually by the owner of the meter. A copy of the certificate of calibration shall also be supplied to the Borough. The Borough Council shall be allowed continuous access to said meter. Following the installation of such meters and approval of the installation by the Borough, such meters may not be removed without the approval of the Borough Council.

6.4 Determination of Sewer Rents

- A. The sewer rent for collections and treatment of sanitary sewage discharged into the sewer system by all dwellings and establishments, with the exception of government-owned facilities for which a separate contract will be negotiated, will be based upon the amount of water consumed as determined from meter readings of the Citizens Utilities Water Company, **or its successors**.
- B. In case two (2) or more dwellings, flats, apartments, stores, or offices or two (2) or more families in one (1) dwelling unit have the use of the sewer system through one (1) sewer lateral, each and every dwelling, flat, apartment, store, or office shall be charged the minimum charge, the same as if each such unit or family has a direct and separate connection to the sewer system. The charge in excess of such minimum shall be determined by dividing the total water consumed as shown by the meter readings by the

number of units or families using a single sewer connection and applying the rate schedules to the quantity so determined to be applicable to each unit.

6.5 Frequency of Billings; Determination of Amount

- A. The sewer rent imposed under this article shall be on a quarterly billing basis, all billing to be in arrears.
- B. The sewer rental shall be computed as follows:
 - (1) For residential use, i.e., sewage use limited exclusively for residential purposes, there shall be a flat rate of **\$16.50** and a charge of **\$0.98** per 100 cubic feet for residential sanitary waste.
 - (2) For commercial no. 1 use, i.e., sewage use involving any business or commercial aspects upon properties used primarily for residential purposes by the same user, there shall be a flat rate of **\$16.50**, and a charge of **\$0.98** per 100 cubic feet up to 2,500 cubic feet, and **\$1.34** per 100 cubic feet thereafter for sanitary waste.
 - (3) For commercial no. 2 use, i.e., sewage use by businesses or commercial users not qualifying for commercial no. 1 status, there shall be a flat rate of **\$16.50**, and a charge of **\$1.34** per 100 cubic feet for sanitary waste.
 - (4) For industrial user, i.e., sewage use by an industrial user, there shall be a flat rate of **\$16.50**, and a charge of **\$1.63** per 100 cubic feet for sanitary waste. Additionally, there shall be a minimum charge of **\$7.00** for each meter read in conjunction herewith.
- C. A penalty of ten percent (10%) will be charged on all bills for sewage service, except bills covering services rendered to the Commonwealth of Pennsylvania or any department or institution thereof or to municipalities or school districts, if not paid within fifteen (15) days from the due date of the bill. In the case of bills rendered to the Commonwealth or any department or institution thereof or to municipalities or school districts, a period of thirty (30) days shall be allowed during which the bills are payable without the ten percent penalty. If the bill is not paid within five (5) days after the ten percent penalty, it may be invoked hereunder. The Borough, upon five (5) additional days' notice in writing to the property owner or other responsible party, may shut off the water service until all moneys to the Borough for sewage service have been paid.
- D. In the interpretation of this rule, payment by mail will be accepted with a discount or at face, provided that it bears a postmark date within the period allowed.
- E. Users must give the Borough their correct address. Failure to receive bills will not be considered an excuse for nonpayment nor permit an extension of time during which bills are payable with a discount or at face.
- F. Billing data changes. A charge of six dollars (\$6.00) shall be levied against any property owner who necessitates billing data changes which incur costs which either directly or indirectly are incurred by the Borough.
- G. **The fees established in Article 6.5 may be revised by Resolution of the Borough Council.**

6.6 Collection of Delinquent Rents and Penalties

All sewer rents, together with all penalties thereon, not paid on or before the end of one (1) year from the date on which such bill was rendered shall be deemed to be delinquent. All delinquent sewer rentals and all penalties due shall be a lien on the property served and shall be recorded as a lien against such property in the office of the Prothonotary of Berks County and shall be collected in the manner provided by law for the filing and collection of such liens.

ARTICLE 7 - WASTEWATER DISCHARGE PERMIT APPLICATION

7.1 Wastewater Analysis

When requested by the Borough, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Borough is authorized to prepare a form for this purpose and may periodically require users to update this information.

7.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Borough, except that a significant industrial user that has filed a timely application pursuant to Article 7.3 of this ordinance may continue to discharge for the time period specified therein.**
- B. The Borough may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance. A fee for other user discharge would follow the schedule established by Resolution of Borough Council or the Authority.**
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Articles 14 through 16 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.**

7.3 Wastewater Discharge Permitting: Existing Conditions

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Borough for a wastewater discharge permit in accordance with Article 7.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Borough.

7.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in

accordance with Article 7.5 of this ordinance, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

7.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Borough may require all users to submit as part of an application the following information:

- A. All information required by Article 10.1(B) of this ordinance;
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- G. Time and duration of discharges; and
- H. Any other information as may be deemed necessary by the Borough to evaluate the wastewater discharge permit application.
- I. An application fee of \$ _____, to be paid upon submitting a completed permit application. This fee may be updated by Resolution of Borough Council.

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

7.6 Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

7.7 Wastewater Discharge Permit Decisions

The Borough will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Borough will determine whether or not to issue a wastewater discharge permit. The Borough may deny any application for a wastewater discharge permit.

ARTICLE 8 – WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

8.1 Wastewater Discharge Permit Duration

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

8.2 Wastewater Discharge Permit Contents

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

A. Wastewater discharge permits must contain the following conditions:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;**
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the Borough, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;**
- (3) Effluent limits based on applicable pretreatment standards;**
- (4) Self monitoring, sampling, reporting, notification, and recordkeeping 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; and**
- (5) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.**

B. Wastewater discharge permits may contain, but need not be limited to, the following special conditions:

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

- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the Borough to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

8.3 Wastewater Discharge Permit Appeals

Any person, including the user, may petition Borough Council to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. In the event of an appeal, Borough Council shall conduct a hearing and decide the appeal as provided by administrative law and procedure. In the event, after hearing and decision, the appealing party wishes to make a further appeal, it may do so by filing an appropriate appeal to the Court of Common Pleas of Berks County within thirty (30) days of the final order of Borough Council.

8.4 Wastewater Discharge Permit Modification

The Borough may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the Borough's POTW, Borough personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

8.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 60 days advance notice to the Borough and the Borough approves the wastewater discharge permit transfer. The notice to the Borough must include a written certification by the new owner and/or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

8.6 Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- A. Failure to notify the Borough of significant changes to the wastewater prior to the changed discharge;

- B. Failure to provide prior notification to the Borough of a changed condition pursuant to Article 10.5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Borough timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

8.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Article 7.6 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A \$ _____ application fee shall be submitted along with the completed permit application.

8.8 Municipal Wastewater Discharge Permits

In the event another municipality contributes all or a portion of its wastewater to the POTW, the Borough may require such municipality to apply for and obtain a municipal wastewater discharge permit.

- A. A municipal wastewater discharge permit application shall include:
 - (1) A description of the quality and volume of the wastewater at the point(s) where it enters the POTW;

- (2) An inventory of all users discharging to the municipality;
 - (3) Such other information as may be required by the Borough; and
 - (4) A \$ _____ application fee, to be submitted along with the completed permit application. This fee may be updated by Resolution of Borough Council.
- B. A municipal wastewater discharge permit shall contain the following conditions:**
- (1) A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Article 4 of this ordinance. Such ordinance and limits must be revised as necessary to reflect changes made to the Borough's sewer use ordinance and/or local limits;
 - (2) A requirement for the municipal user to submit a revised user inventory on at least an annual basis;
 - (3) A requirement for the municipal user to conduct pretreatment implementation activities including wastewater discharge permit issuance, inspection and sampling, and enforcement; or authorize the Borough to take or conduct such activities on its behalf;
 - (4) A requirement for the municipal user to provide the Borough with access to all information that the municipal user obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the municipal user's discharge; and
 - (7) A provision ensuring the Borough access to the facilities of users located in the municipal user's jurisdiction for the purpose of inspection, sampling, and any other duties deemed necessary by the Borough.
- C. Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Articles 14 through 16 of this ordinance.**

8.9 Commercial Wastewater Discharge Permit

In the event that a commercial user contributes all or a portion of its wastewater to the POTW, the Borough may require such commercial user to apply for and obtain a commercial wastewater discharge permit. The Borough may require a commercial user to have a discharge permit, if in the opinion of the Borough it is necessary, in order for the Borough to operate and maintain the POTW and meet its NPDES requirements.

- A. A commercial wastewater discharge permit application shall include:**
- (1) A description of the quality and volume of the wastewater at the point where it enters the POTW;

- (2) Such information as may be required by the Borough;
 - (3) A \$ _____ application fee, to be submitted along with the completed application. This fee may be updated by Resolution of Borough Council.
- B. A commercial wastewater discharge permit may include, but not be limited to, the following:
- (1) Grease trap cleaning requirements;
 - (2) Flow requirements;
 - (3) Recycling requirements;
 - (4) A provision ensuring the Borough access to the facility during normal hours of business for the purpose of inspection and sampling;
- C. Violation of the terms and conditions of the commercial user's wastewater discharge permit subjects the commercial user to the sanctions set out in Articles 14 through 16 of this ordinance.

8.10 Special Use Discharge Permit

In the event that a user contributes all or a portion of its wastewater to the POTW and the user is not considered industrial, commercial, or domestic, the Borough may require such user to apply for and obtain a special use discharge permit. The Borough may require a user to have a special use discharge permit, if in the opinion of the Borough it is necessary, in order to operate and maintain the POTW and meet its NPDES requirements.

- A. A special use discharge permit application shall include:
- (1) A description of the quality and volume of the wastewater at the point where it enters the POTW;
 - (2) Such information as may be required by the Borough;
 - (3) A \$ _____ application fee, to be submitted along with the completed application. This fee may be updated by Resolution of Borough Council.
- B. A special use discharge permit may include, but not be limited to, the following:
- (1) Grease trap cleaning requirements;
 - (2) Flow requirements;
 - (3) Recycling requirements;
 - (4) A provision ensuring the Borough access to the user's facility during normal hours of business for the purpose of inspection and sampling.
- C. Violations of the terms and conditions of the special use discharge permit subjects the special user to the sanctions set out in Articles 14 through 16 of this ordinance.

ARTICLE 9 - CONSTRUCTION OF FACILITIES

9.1 Permit Required

It shall be unlawful for any person, firm, or corporation to engage in any construction, demolition, renovation, excavation, examination, or any procedure whatsoever that affects the public sewer system of the Borough of Sinking Spring until a permit for said work is first secured from the Borough, such permit to be in a form prescribed by Borough Council. The police officers of the Borough shall promptly prohibit any work being done without a proper permit or contrary to the terms thereof.

9.2 Permit Procedure

Permits for any work as aforesaid affecting the public sewer system shall be obtained in the following manner:

- A. Application in writing shall be made on the appropriate form and signed by the person, firm, or corporation doing the proposed work, setting out the location of the work, purpose, type of work, potential effect on the public sewer system, procedures to be employed, safety precautions both for individuals and to protect the public sewer system and anticipated duration of the work.
- B. Upon approval of the application by the Borough Engineer, the applicant **shall pay all necessary fees and** receive from the Borough Secretary a permit to perform the required work.
- C. Said permit shall be available for inspection upon request by the proper officials.

9.3 Failure to Perform Work Satisfactorily

In the event that the applicant damages the public sewer system and fails to properly repair the same promptly, the proper Borough officials or employees shall restore and repair the public sewer system, keeping an accurate account of the cost thereof and furnishing the same to the Borough Engineer whose duty it shall be to certify to Council the total cost of such restoration or repair. The applicant and the property owner, if other than the applicant, shall be jointly and severally liable to the Borough for said total costs incurred.

9.4 Guarding of Work; Assumption of Liability

All persons, firms, or corporations granted a permit for work affecting the public sewer system shall, at all times, maintain suitable barricades, guards, warning signals, etc., as may be necessary to prevent injury to any person or vehicle by reason of the work and then shall assume all risks and be liable for all damages by reason of said work, both to individuals and property, public or private. In no case shall any work or the result thereof be considered in the charge or care of the Borough or any officer or person employed by the Borough and no officer or employee is authorized to, in any way, take or assume any jurisdiction over said work. However, if any person, firm, or corporation causing the work to be done deems it to their advantage to employ or utilize the same workmen as do similar work for the Borough, they may do so subject to the above assumptions of liability.

ARTICLE 10 – REPORTING REQUIREMENTS

10.1 Baseline Monitoring Reports

- A. Within either one hundred and 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 be required to submit to the Borough a report which contains the information listed in paragraph B 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 be required to submit to the Borough a report which contains the information listed in paragraph B below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- B. Users described above shall submit the information set forth below.
- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) 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.
 - (4) 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).
 - (5) Measurement of Pollutants.
 - (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the Borough) 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 Article 10.10 of this ordinance.
 - (c) Sampling must be performed in accordance with procedures set out in Article 10.11 of this ordinance.

- (6) **Certification.** A statement, reviewed the user's authorized representative 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.
- (7) **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 Article 10.2 of this ordinance.
- (8) **Signature and Certification.** All baseline monitoring reports must be signed and certified in accordance with Article 7.6 of this ordinance.

10.2 Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by 10.1(B)(7) of this ordinance: (a) the schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation); (b) no increment referred to above shall exceed nine (9) months; (c) the user shall submit a progress report to the Borough no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and (d) in no event shall more than nine (9) months elapse between such progress reports to the Borough.

10.3 Report 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 Borough a report containing the information described in Article 10.1(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Article 7.6 of this ordinance.

10.4 Periodic Compliance Reports

- A. All significant industrial users shall, at a frequency determined by the Borough but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and

maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Article 7.6 of this ordinance.

- B. 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.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Borough, using the procedures prescribed in Article 10.11 of this ordinance, the results of this monitoring shall be included in the report.

10.5 Report of Changed Conditions

Each user must notify the Borough 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 thirty (30) days before the change.

- A. The Borough 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 Article 7.5 of this ordinance.
- B. The Borough may issue a wastewater discharge permit under Article 7.7 of this ordinance or modify an existing wastewater discharge permit under Article 8.4 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants.

10.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Borough of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume (if known) and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the Borough, 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, civil penalties, or other liability which may be imposed pursuant to this ordinance.
- C. Failure to notify the Borough of potential problem discharges shall be deemed a violation of this ordinance.

- D. 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 A above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

10.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Borough as the Borough may require.

10.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Borough 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 Borough within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Borough monitors at the user's facility at least once a month, or if the Borough samples between the user's initial sampling and when the user receives the results of this sampling.

10.9 Notification of the Discharge of Hazardous Waste

The discharge of hazardous waste into the sewer system is prohibited.

10.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

10.11 Sample Collection

- A. Except as indicated in Section B below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Borough may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

10.12 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 State Postal Service, the date of receipt of the report shall govern.

10.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Borough, or where the user has been specifically notified of a longer retention period by the Borough.

ARTICLE 11 - COMPLIANCE MONITORING

11.1 Right of Entry: Inspection and Sampling

The Borough shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance, and any permit or order issued hereunder. Users shall allow the Borough ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Borough will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Borough shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Borough 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 quarterly to ensure their accuracy and certificates of calibration shall be sent to the Borough.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Borough and shall not be replaced. The costs of clearing such access shall be borne by the user.
- E. Unreasonable delays in allowing the Borough access to the user's premises shall be a violation of this ordinance.

11.2 Search Warrants

If the Borough has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this

ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Borough 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 Borough may seek issuance of a search and/or seizure warrant from the Berks County Court.

ARTICLE 12 – 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 Borough'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 Borough, 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.

ARTICLE 13 – PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Borough shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance 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-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- 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-month period equals or exceeds the product of the daily maximum limit or the average limit 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 discharge violation that the Borough 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);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Borough's exercise of its emergency authority to halt or prevent such a discharge;

- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) which the Borough determines will adversely affect the operation or implementation of the local pretreatment program.

ARTICLE 14 – ADMINISTRATIVE ENFORCEMENT REMEDIES

14.1 Notification of Violation

When the Borough 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 Borough may serve upon that user a written Notice of Violation. Within seven (7) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Borough. Submission of this 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 Borough to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

14.2 Consent Orders

The Borough 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 force and effect as the administrative orders issued pursuant to Articles 14.4 and 14.5 of this ordinance and shall be judicially enforceable.

14.3 Show Cause Hearing

The Borough 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 Borough and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 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.

14.4 Compliance Orders

When the Borough 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 Borough may issue an order to the user responsible for the discharge directing that the user come into compliance within fifteen (15) days. If the user does not come into compliance within thirty (30) days, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also 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 Federal 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.

14.5 Cease and Desist Orders

When the Borough 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 Borough may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

14.6 Administrative Fines

- A. When the Borough 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 Borough may fine such user in an amount not to exceed \$1,000. 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.
- B. Unpaid charges, fines, and penalties shall, after fifteen (15) calendar days, be assessed on additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for the Borough to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the Borough 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

Borough may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.**

14.7 Emergency Suspensions

The Borough 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 Borough 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 Borough 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 Borough may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Borough that the period of endangerment has passed, unless the termination proceedings in Article 14.8 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 Borough prior to the date of any show cause or termination hearing under Articles 14.3 and 14.8 of this ordinance.**

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

14.8 Termination of Discharge

In addition to the provisions in Article 7.6 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 Article 4 of this ordinance.**

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Article 14.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Borough shall not be a bar to, or a prerequisite for, taking any other action against the user.

ARTICLE 15 – JUDICIAL ENFORCEMENT REMEDIES

15.1 Injunctive Relief

When the Borough 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 Borough may petition the Berks County Court through the Borough's Attorney 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 Borough 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.

15.2 Civil Penalties

- A. An Industrial User who willfully or negligently violates any pretreatment standards and/or requirements may be assessed a civil penalty by the Borough in an amount not to exceed \$25,000 per day for each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct offense under this section.**
- B. 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 the Federal Water Pollution Control Act.**
- C. In addition to the civil penalty, the Borough may recover the costs for re-establishing the operation of the POTW.**
- D. The Borough shall include as part of the notice of an assessment of civil penalties a description of the appeals process to be followed, including the name, address, and telephone number of the person responsible for accepting such appeal.**
- E. The Borough may publicly adopt a formal, written civil penalty assessment policy and make it publicly available. Each industrial discharger with an industrial waste discharge permit shall be given written notice of the policy. In developing the penalty assessment policy, the publicly owned treatment works shall consider damage to air, water, land, or other natural resources of this Commonwealth and their uses; cost of restoration and abatement; savings resulting to the person in consequence of the violation; history of past violations; deterrence of future violations; and other relevant factors.**
- F. Civil penalties collected pursuant to this act shall be placed in a restricted account and shall only be used by the publicly owned treatment works for 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, to pay any penalties imposed on the publicly owned treatment works by the Federal or State Government for violation of pretreatment standards, for the costs incurred by the publicly owned treatment works to investigate and take the enforcement action that resulted in a penalty being imposed, 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. Any remaining funds may be used for capital improvements to the treatment works, including collection lines.

- G. The industrial user charged with the penalty shall have thirty (30) days to pay the proposed penalty in full, or, if the industrial user wishes to contest either the amount of the penalty or the fact of the violation, the industrial user must file an appeal within thirty (30) days pursuant to 2 Pa. C.S. (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. In the event of an appeal, the Borough shall conduct a hearing and decide the appeal as provided by administrative law and procedure. In the event, after hearing and decision, the industrial user wishes to make a further appeal, it may do so by filing an appropriate appeal to the Court of Common Pleas of Berks County within thirty (30) days of the final order of the Borough.

15.3 Criminal Prosecution

- A. A user who violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a summary offense and be subject to a fine of not more than \$1,000 per violation, per day.
- B. A user who introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a summary offense and be subject to a fine not more than \$1,000. This fine shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this ordinance shall, upon summary conviction, be punished by a fine of not more than \$1,000 per violation per day.

15.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Borough may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with this ordinance unless the Borough chooses to develop and adopt an enforcement response plan. However, the Borough may take other action against any user when the circumstances warrant. Further, the Borough is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

ARTICLE 16 – SUPPLEMENTAL ENFORCEMENT ACTION

16.1 Performance Bonds

The Borough 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 Borough, in a sum not to exceed a value determined by the Borough to be necessary to achieve consistent compliance.

16.2 Liability Insurance

The Borough 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.

16.3 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, the Borough will request that the public water supplier sever the water service to the user. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

16.4 Informant Rewards

The Borough may pay up to one hundred dollars (\$100.00) for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the Borough may disperse up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed one hundred dollars (\$100.00).

16.5 Contractor Listing

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Borough. Existing contracts for the sale of goods or services to the Borough held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Borough.

ARTICLE 17 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

17.1 Upset

- A. For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly

designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C) are met.**
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;**
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and**
 - (3) The user has submitted the following information to the Borough and treatment plant operator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (a) A description of the indirect discharge and cause of noncompliance;**
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and**
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.******
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.**
- E. Users 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.**
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.**

17.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Article 4.1(A) of this ordinance or the specific prohibitions in Article 4.1(B)(3) 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: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during,

the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Borough was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

17.3 Bypass

A. For the purposes of this section:

- (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to be inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Borough, at least ten (10) days before the date of the bypass, if possible.

- (2) A user shall submit oral notice to the Borough 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 Borough may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. (1) Bypass is prohibited, and the Borough may take an enforcement action against a user for a bypass, unless:

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The user submitted notices as required under paragraph (C) of this section.

- (2) The Borough, after consulting with its Consulting Engineer, may approve an anticipated bypass, after considering its adverse effects, if they determine that it will meet the three conditions listed in paragraph (D)(1) of this section.

ARTICLE 18 – MISCELLANEOUS PROVISIONS

18.1 Pretreatment Charges and Fees

The Borough may adopt reasonable fees for reimbursement of costs of setting up and operating a Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as the Borough may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Borough.

All fees may be updated by Resolution of Borough Council.

18.2 Extraordinary Maintenance Charge

Any person discharging any waste which, in the judgement of the Borough, causes any extraordinary maintenance expenses shall be billed by the Borough in the amount of said expenses. The billing amount shall be determined by the Borough and shall include charges for labor of Borough personnel and other costs incurred by the Borough.

18.3 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

18.4 Conflicts

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

ARTICLE 19 - DETERMINATION OF CHARGES FOR STRONG WASTES

19.1 Strong Waste Surcharges

There may be additional charges for wastes having concentrations of BOD, suspended solids, dissolved solids, ammonia-nitrogen, and phosphorus in excess of the average concentration of these pollutants in normal domestic waste. Normal domestic waste shall be considered as having the following concentrations:

- A. BOD - 300 mg/L.
- B. Suspended solids - 250 mg/L.
- C. Dissolved solids - 500 mg/L.
- D. Phosphorus - 6.6 mg/L.
- E. Ammonia Nitrogen - 25 mg/L.

Maximum acceptable wastewater strength concentrations are as follows:

- A. BOD - 900 mg/L.
- B. Suspended Solids - 750 mg/L.
- C. Dissolved Solids - 1,500 mg/L.
- D. Phosphorus - 19.8 mg/L.
- E. Ammonia Nitrogen - 75 mg/L.

19.2 Strong Waste Surcharge Formula

In order to determine the additional charges for wastes with strength greater than that of domestic waste, the following formula shall be used:

$$S_Q = 0.00834 Q_T [(BOD_i - 300) TC_{BOD} + (SS_i - 250) TC_{SS} + (DS_i - 500) TC_{DS} + (P_i - 6.6) TC_P + (NH_3N_i - 25) TC_{NH_3N}]$$

Where:

- A. S_Q is the quarterly surcharge to be added to the normal sewer rent.
- B. 0.00834 is a constant to convert waste concentrations expressed in mg/L to thousands of pounds of waste.
- C. Q_T is the quarterly waste flow expressed in million gallons.
- D. BOD_i , SS_i , DS_i , P_i , and NH_3N_i are the respective concentrations of BODs, suspended solids, dissolved solids, phosphorus, and ammonia nitrogen of the waste expressed in mg/L.

- E. 300, 250, 500, 6.6, and 25 are constants which express the waste load concentrations in mg/L for normal domestic wastes.
- F. TC_{BOD} is the treatment cost incurred by the Borough as updated annually per 1,000 pounds of BOD.
- G. TC_{SS} is the treatment cost incurred by the Borough as updated annually per 1,000 pounds of suspended solids.
- H. TC_{DS} is the treatment cost incurred by the Borough as updated annually per 1,000 pounds of dissolved solids.
- I. TC_P is the treatment cost incurred by the Borough as updated annually per 1,000 pounds of phosphorus.
- J. TC_{NHEN} is the treatment cost incurred by the Borough as updated annually per 1,000 pounds of ammonia nitrogen.

When a value of BOD, suspended solids, dissolved solids, phosphorus, and/or ammonia nitrogen is less than the normal domestic waste concentration set forth in the Strong Waste Surcharge Formula, then the normal domestic waste concentration shall be used in the calculation of strong waste surcharge. The Borough may choose not to apply the surcharge formula for any of the above parameters depending on the parameters listed in its NPDES Permit.

19.3 Additional Surcharges

The formula specified in Article 19.2 of this ordinance is to determine additional charges or surcharges for the treatment of wastes having concentrations of BOD, suspended solids, dissolved solids, phosphorus, and ammonia nitrogen in excess of those of domestic waste. It is, however, recognized that the discharge of any waste or other matter or substance containing any one of the prohibited substances listed in Article 4.1 may result in extraordinary laboratory, labor, maintenance and/or treatment expenses to the Borough. Hence, in the event of the discharge of any wastes or other matters or substance containing any one of the prohibited substances listed in Article 4.1 or Article 4.4 multiplied by the TRC, the Borough shall have the power to bill the owner of the property from which such discharge is made an additional surcharge of three hundred dollars (\$300.00). Each day that such discharge is made shall result in a separate three hundred dollar (\$300.00) additional surcharge. This three hundred dollar (\$300) charge shall be in addition to the normal sewer rental and/or any strong waste surcharge as incurred under Article 19.2 of this ordinance.

19.4 Methods of Payment of Extra Charges by Industrial Users

The strong waste surcharge shall be paid quarterly. The Borough shall cause the water meter of each industrial user where the wastewater flow determination is based upon metered water consumption, and the wastewater meter where the wastewater flow determination is based upon wastewater flow measurement, to be read on a quarterly basis and the Borough shall cause strong waste surcharge bills to be mailed forthwith following each reading.

- A. The Borough shall cause periodic sampling of the wastewater discharged by each industrial user in accordance with Article 20.1 of this ordinance.

- B. The analysis of the sample shall be the basis for computing Strong Waste Surcharges.**
- C. Bills for strong waste surcharge shall be mailed to the owner's address specified on the Industrial Waste Permit. Failure to receive a bill as a result of incorrect address or otherwise shall not excuse nonpayment of charges or extend the time for payment.**
- D. The strong waste surcharge formula will be updated annually using current operation and maintenance costs and wasteload quantities to reflect actual costs to remove specific pollutants.**

19.5 New Industrial Users

A new industrial user is one which connects to the treatment works after the effective date of this section. Strong waste surcharge payments by a new industrial user shall begin on the date treatment works use is initiated and continue indefinitely.

ARTICLE 20 - MEASUREMENT OF CONCENTRATION OF INDUSTRIAL WASTE

20.1 Industrial Waste Sampling

Industrial wastes being discharged into the sewer system shall be subject to sampling and inspection to be used as a basis for determining additional charges due to excessive concentrations of BOD, suspended solids, dissolved solids, phosphorus, ammonia nitrogen, and/or substances prohibited in Article 4.1 of this ordinance. Such sampling and inspection shall be made by the Borough as frequently as may be deemed necessary. The analysis of the sample so obtained shall be the basis for computing additional charges in accordance with Article 19.4 of this ordinance. The cost of such sampling and testing thereof shall be borne by the user.

The industry may request that samples be taken in addition to the samples taken by the Borough. The cost of making this collection and analysis shall be borne by the user.

Samples and the analysis of samples shall be made in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

20.2 Control Manhole

When required by the Borough, the owner of any property discharging industrial waste into the sewer system shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the waste. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Borough. The manhole shall be installed by the property owner, at his expense, and shall be maintained by him so as to be safe and accessible at all times.

ARTICLE 21 - MEASUREMENT OF VOLUME OF INDUSTRIAL WASTES FOR STRONG WASTE SURCHARGES

Whenever a person purchasing his entire water supply from a water purveyor discharges only industrial waste into the sewer system, the volume of water purchased may be used as a measure of the quantity of industrial waste discharged.

Whenever a person purchasing his entire water supply from a water purveyor discharges combined domestic waste and industrial waste into the sewer system, the volume of water purchased chargeable as industrial waste shall be the total volume of water purchased less the volume determined to be domestic waste. The domestic waste shall be determined by the Borough in either of the following two ways:

- A. Actual measured flow; or
- B. By multiplying the average number of employees in the establishment during the preceding billing period by ten gallons per day.

Whenever a person purchasing his entire water supply from a water purveyor and discharging industrial waste into the sewer system also discharges unpolluted cooling water to either a separate storm sewer or other outlet, an allowance for the amount of water so discharged shall be made in computing the sewer charges. The person so discharging cooling water shall, at his own expense, install a meter or meters, as required, to indicate accurately and to the satisfaction of the Borough the amount of water claimed as a credit.

The Borough shall be responsible for the reading of water and/or sewage meters when installed in industrial establishments within its jurisdiction. All meters shall be installed at a location approved by the Borough. All meters shall be accessible to the Borough at all times.

ARTICLE 22 - ACCESS

The Borough shall have the right of access to any part of any improved property served by the POTW as shall be required for purposes of inspection, measurement, sampling and testing, and for performance of other functions relating to service rendered by the Borough through the POTW.

ARTICLE 23 - HOLDING TANKS

23.1 Purpose of Article

The purpose of this article is to establish procedures for the use and maintenance of holding tanks designed to receive and retain sewage whether from residential or commercial uses and it is hereby declared that the enactment of this article is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this Borough.

23.2 Borough Authorized to Establish Controls and Methods

The Council is hereby authorized and empowered to undertake within the Borough the control and methods of holding tank sewage disposal and the collection and transportation thereof.

23.3 Promulgation of Rules and Regulations

The Council is hereby authorized and empowered to adopt such rules and regulations concerning sewage as it may deem necessary any time to effect the purposes herein.

23.4 Rules to Comply with Legislation

All such rules and regulations adopted by the Authority shall be in conformity with the provisions herein, all other ordinances of the Borough, all applicable laws and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania.

23.5 Establishment of Rates and Charges

The Council shall have the right and power to fix, alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

23.6 Use to be Under Direction of Borough

The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Borough Council, and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.

23.7 Duties of Property Owner

The owner of an improved property that utilizes a holding tank shall:

- A. Maintain the holding tank in conformance with this article or any ordinance of the Borough, the provisions of any applicable law, and the rules and regulations of the Borough Council and any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit only the Borough Council or anyone acting under the direction of the Borough Council to collect, transport, and dispose of the contents therein.

23.8 Abatement of Violations

In addition to any other remedies provided in this ordinance, any violation of this article shall constitute a nuisance and may be abated by the municipality by either seeking appropriate equitable or legal relief from a court of competent jurisdiction.

ARTICLE 24 – ESTABLISHMENT OF FEES; WORK PROCEDURES

24.1 Fees for On-Lot Sewage Disposal Systems

- A. **The fees for the consideration of and issuance of on-lot sewage disposal permits and site investigation for approved lots are as follows:**

- (1) **Soil probe analysis (maximum of four probes) - \$150.00.**

- (2) **Percolation test performed by Township Sewage Enforcement Officer - \$175.00 (6-hole site); \$250.00 (12-hole site).**
 - (3) **Design review, permit issuance and inspections (maximum of four site visits) - \$225.00.**
 - (4) **Soil probes in excess of four and inspections in excess of four site visits will be charged at the rate of \$40.00 per hour for actual time spent.**
- B. A permit transfer fee of \$50.00 will be charged to the applicant if the same design and soil test results are used.**
 - C. For holding tank inspection, repair permit for tank replacement, or minor repairs requiring only one inspection, a fee of \$75.00 will be charged to the applicant.**
 - D. All subdivision, planning, module review, and other sewage-related work not specified above will be charged to the applicant at a rate of \$40.00 per hour.**
 - E. A deposit of \$400.00 per lot is required for all new subdivisions.**

24.2 Responsibility for Digging Test Pit

The applicant shall be responsible for scheduling equipment appropriate for digging the test pit and shall pay all bills resulting from such digging directly to the operator involved.

24.3 Payment Due Date; Transmittal of Bills to Borough

All of the aforesaid fees shall be paid to the Borough at the time of application. The Sewage Enforcement Officer shall bill the Borough monthly at the normal hourly rate for engineering services, plus out-of-pocket expenses.

24.4 Rate for Work Done by Certified Sewage Enforcement Officer

The fee for all surveying and engineering done by the certified Sewage Enforcement Officer shall be billed to the applicant at the rate of **forty** dollars (**\$40.00**) per hour.

24.5 Fee for Attendance at Municipal Meetings

The fee for attendance at municipal meetings shall be _____ dollars (\$_____), payable by whoever requests attendance.

24.6 Reimbursement of Certified Sewage Enforcement Officer

The certified Sewage Enforcement Officer appointed by the Borough shall apply for state reimbursement for the net expenses incurred by the Borough and reimbursable mileage traveled by the Officer at the end of each calendar year for applications serviced by each officer during the year. The fee for the annual state report completed by each officer will be billed to the Borough at the rate specified in Article 24.4.

24.7 Revisions to Fees

All fees established under Article 24 may be revised from time to time by Resolution of the Borough Council.

ARTICLE 25 - EFFECTIVE DATE

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

ARTICLE 26 - SEVERABILITY

That any Ordinance, or part of Ordinance, conflicting with this Ordinance be and the same is hereby repealed insofar as the same effects this Ordinance.

ENACTED and ORDAINED this 4th day of October, 2001.

BOROUGH OF SINKING SPRING

(SEAL)

Edward J. Sabota
President

ATTEST: Cherie L. Darlak
Secretary

I, the undersigned, hereby certify that the foregoing is a true and correct copy of the Ordinance enacted by the Borough Council at a duly convened meeting held on the 4th day of October, 2001, and that I am duly authorized to execute this certificate.

APPROVAL: Barbara J. Noecker
Mayor