

Town of Marion

Sewer Use Ordinance

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ARTICLE I – GENERAL PROVISIONS

Section 1 – Purpose and Policy

The purpose of this Ordinance is to provide for the maximum possible beneficial public use of the Town of Marion Treatment Works through regulation of sewer construction, sewer use, and wastewater discharges to provide for equitable distribution of the costs of the treatment works and to provide procedures for complying with the requirements contained herein.

This Ordinance sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (POTW) for the Town of Marion and enables the Town to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et. Seq.), the General Pretreatment Regulations (40 CFR Part 403), and the Virginia Permit Regulation (VR 680 – 14 – 01 Part 7). 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 ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statues and regulations;
- (D) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (E) To improve the opportunity to recycle and reclaim industrial wastewater and sludge from the POTW;
- (F) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvements of the POTW; and
- (G) To enable the Town of comply with its VPDES 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.

Section 2 – Scope

- (A) The definitions of terms used in this Ordinance are found in Article II. The provisions of this Ordinance shall apply to the discharge of all wastewater to treatment works of the Town. This ordinance provides for use of the Town's Treatment Works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of User Permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this Ordinance.
- (B) This Ordinance shall apply to the Town of Marion and to persons outside the Town who are, by contract, permit of agreement with the Town, users of the Town's Treatment Works.

Section 3 – Administration

Except as otherwise provided herein, the Superintendent of the Town's Treatment Works shall administer, implement, and enforce the provision of this Ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to a duly authorized Town of Marion employee.

Section 4 – Fees and Charges

- (A) All fees and charges payable under the provisions of this Ordinance shall be paid to the Town. Such fees and charges shall be as set forth herein or as established in the latest edition of the Town's Monthly Service Rates.
- (B) All user fees, penalties, and charges collected under this Ordinance (and the treatment works user charge ordinance) shall be used for the sole purpose of constructing, operating or maintaining the treatment works of the Town, or the retirement of debt incurred for same.
- (C) All fees and charges payable under the provisions of this Ordinance are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the Town's Treatment Works User Charge Schedule.

Section 5 – Inspections

- (A) The Superintendent or authorized State or Federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source of treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling, and / or copying records of the wastewater discharge

- to ensure that discharge to the treatment works ins in accordance with the provisions of this Ordinance.
- (B) The Superintendent, bearing proper credentials and identification, shall be permitted to enter all private property through which the Town holds an easement for the purposed of inspection, observation, measurement, sampling, repair, and maintenance of any of the Town’s Treatment Works lying within the easement. All entry and any subsequent work on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.
 - (C) While performing any necessary work on private properties referred to in Sections 5(A) and (B) above, the Superintendent shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.
 - (D) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the Town, State, and EPA will be permitted to enter without delay, responsibilities.
 - (E) The Town, State, and EPA shall have the right to set up on the industrial user’s property, or require installation of, such devices as are necessary to conduct sampling and / or metering of the user’s operation
 - (F) The town may require the industrial 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 industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated (periodically) to ensure their accuracy.
 - (G) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and / or sampled shall be promptly removed by the industrial user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
 - (H) Unreasonable delays in allowing Town personnel access to the industrial user’s premises shall be a violation of this ordinance.

Section 6 – Vandalism

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Town’s Treatment Works. Any person who violates this Section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed \$ 2,500.00.

Section 7 – Severability

If any provision of these regulations or the application of any provision of these regulations to any provision or circumstances is held invalid, the application of such provision to other person or circumstances, and the remainder of the regulations, shall not be affected thereby.

Section 8 – Amendments of the Ordinance

Public notice shall be given in accordance with applicable provisions of the Town Charter, other Town ordinances, State and Federal law, prior to adoption of any amendments of this Ordinance.

Section 9 – 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.

Section 10 – Confidential Information

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from Town inspection and sampling activities, shall be available to the public without restriction - - unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the Town, the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial 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 suits related to the VPDES 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 II – DEFINITIONS

Section 1 – Specific Definitions

Unless the context of usage indicates otherwise, the meaning of specific terms in this Ordinance shall be as follows:

“Act or the Act” shall mean the Federal Clean Water Act, 33 U.S.C. 1251 et seq.

“Approval Authority” means the Executive Director of Director of the State Water Control Board.

“ASTM” shall mean the American Society for Testing and Materials

“Authorized or Duty Authorized representative of Industrial User” mean:

(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 operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(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 their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly 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 Town of Marion.

“Best Management Practices or BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Article V Section 2 and Section 3 [40 CFR 403.5(a)(1) and (b)] BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

“Building Sewer” shall mean the extension from a wastewater plumbing facility to the treatment works.

“Categorical Pretreatment Standard or Categorical Standard” shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307 (a) and 307 (c) of

the Act, which apply to specific category of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

“Categorical Industrial User” An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

“COD or Chemical Oxygen Demand” shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

“Color” shall mean 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.

“Combined Sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.

“Commercial user (Class II)” shall mean any non-residential or any non-industrial user that is listed in the Town of Marion Zoning Ordinance as Commercial General. (Examples: Retail stores, Fast Food Rest., etc.)

“Composite Sample” Shall mean the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

“Control Authority” shall mean the Town of Marion, VA.

“Daily Maximum” The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

“Daily Maximum Limit” The maximum allowable discharge of pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of contrition, the daily discharge is the at metering average measurement of the pollutant conc. Derived from all measurements taken that day.

“Day” shall mean 24-hour period beginning at 12:01 a.m.

“Discharger” shall mean person or persons, firm, company, industry, or other similar sources of wastewater who introduce such into the POTW

“Easement” shall mean an acquired legal right for the specific use of land owned by others.

“Environmental Protection Agency or EPA” The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

“Existing Source” Any source of discharge that is not a “New Source.”

“Establishment” shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial waste or other wastes or which may otherwise alter the physical, chemical, or biological properties of any State Waters;

“Garbage” shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

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

“Ground Water” shall mean any water beneath the land surface in the zone of saturation.

“Indirect Discharge or Discharge” shall mean the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b) (c) or (d) of the Act

“Industrial User (Class III)” shall mean a source of indirect discharge.

“Industrial Wastes” shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

“Instantaneous Maximum Allowable Discharge Limit” shall mean the maximum concentration (or loading) of pollutant allowed to be discharge at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

“Interference” shall mean a discharge that, 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, which clearly causes, in whole or in part, a violation of any requirement of the POTW’s VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state law, regulations, permits, or sludge management plans.

“Local Limit” shall mean specific discharge limits developed and enforced by the Town upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

“Manager” shall mean the Manager of the Municipality’s or Authority’s Wastewater System(s) or an authorized designee.

“May” is permissible. **“Shall”** is mandatory

“Medical Waste” shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

“Monthly Average” shall mean the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Monthly Average Limit” shall mean the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Municipality” shall mean a town, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

“Natural Outlet” shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

“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© of the Act that 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 type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which and 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.

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

“Owner” shall mean the Commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

“Pass-Through” shall mean the discharge which exits the POTW into the 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 in whole or in part of a violation of any requirement of the POTW’s VPDES permit, including an increase in the magnitude of duration of a violation.

“Person” shall mean any individual, firm, company, association, society, partnership, corporation, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns or other similar organization, agency, or group. This definition includes all Federal, State, and local governmental entities.

“pH” shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

“Pollutant” shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radioactive material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor).

“POTW, Publicly Owned Treatment Works” shall mean any sewage treatment works that is owned by a State or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

“Pretreatment” shall mean 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 Town of Marion Treatment Works. 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.

“Pretreatment Requirement” shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

“Pretreatment Standard or Standards” shall mean prohibitive discharge standards, categorical Pretreatment Standards, and Local Limits.

“Prohibited Discharges or Prohibited Discharge Standards” shall mean absolute prohibition against the discharge of certain substances. These prohibitions appear in Article V, Section 3 of this ordinance.

“Properly Shredded Garbage’s” shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than ½ inch in any dimension.

“Publicly Owned Treatment Works or POTW” shall mean a treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the Town of Marion. 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.

“Residential User (Class I)” shall mean all premises used only for human residency and which is connected to the treatment works.

“Sanitary Wastewater” shall mean wastewater discharge from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

“Septic Tank Waste” shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“Sewage” shall mean human excrement and gray water (household showers, dishwashing operations, etc.).

“Significant Industrial User (SIU)” Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
 - (a) Has a process wastewater flow of 25,000 gallons or more of process wastewater per average work day to the POTW; (Excludes sanitary, non-contact cooling and boiler blowdown wastewater);
 - (b) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW;
 - (c) Is designated as such by the Town of Marion 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) The Town of Marion may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to the Town of Marion's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

(b) The Industrial User annually submits the certification statement required in Article VII Section 5, together with any additional information necessary to support the certification statement; and

(c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement. The Town of Marion may at any time, on its own initiative or in response to a petition received from an Industrial 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.

“Significant Noncompliance” shall be defined as follows:

(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 (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Article VI Section 4.

(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, including Instantaneous Limits 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 of the Pretreatment Standard or Requirement that the Town determines has caused, alone or in combination with other discharges, interference or Pass-Through (including endangering the health of Town personnel or general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Town's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with

(g) Failure to accurately report noncompliance; or compliance schedules;

(h) Any other violation(s), which may include a violation of Best Management Practices, which the Town determines will adversely affect the operation or implementation of the local pretreatment program.

"Slug Load" shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standard in Article V, Section 3 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the Town of Marion Sewer Service ordinance regulations, local limits or permit conditions

"Standard Industrial Classification (SIC) Code" shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget, 1987.

"Standard Methods" shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation, and American Water Works Association.

"State" shall mean the Commonwealth of Virginia

"Storm Sewer" shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

"Storm Water" shall mean any flow occurring during or following and form of natural precipitation, and resulting there from, including snowmelt.

"Surface Water" shall mean:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate “wetlands”;

(c) All other waters such as inter / intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, “wetlands”, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purpose by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as surface waters under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) the territorial sea; and

(g) “Wetlands” adjacent to waters, other than waters that are themselves wetlands, identified in paragraphs (a) through (f) of this definition.

“Superintendent” shall mean the person designated by the Town to supervise the operation of the POTW, and who is charge with certain duties and responsibilities by this ordinance or his dully authorized representative, also, see Manager.

“Total Suspended Solids or Suspended Solids” shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

“Town” shall mean the Town of Marion or the Town Council of Marion

“Toxic Pollutant” shall mean one of the 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated be the EPA under the provision of Section 307 (33 U. S. C. 1317) of the Act

“Treatment Facility” shall mean only those mechanical power driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations and unit treatment processes)

“Treatment Plant Effluent” shall mean any discharge of pollutants from the POTW into waters of the State.

“Treatment Works” shall mean any devices and systems used for the storage, treatment, recycling and / or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, or alterations; and any works including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing abating, reducing, storing, treating, separating, or disposing of municipal waste, or industrial waste, including waste in combined sewer water and sanitary sewer systems.

“User or Industrial User” shall mean a source of wastewater discharge or of indirect discharge into a POTW.

“User Permit” shall mean a document issued by the POTW to the user that permits the connections and / or introduction of wastes into the treatment works under the provision of this Ordinance.

“VPDES” shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

“Wastewater” shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, manufacturing facilities and institutions, together with any groundwater, surface water, or storm water that may be present, whether treated or untreated, which are contributed to the POTW.

“Wastewater Treatment Plant or Treatment Plant” shall mean that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

“WPCF” shall mean the Water Pollution Control Federation.

Section 2 – General Definitions

Unless the context of usage indicates otherwise, the meaning of specific terms in this Ordinance shall be defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, Copyright 1969.

ARTICLE III – USE OF TOWN’S TREATMENT WORKS & TREATMENT FACILITY

Section 1 – Waste Disposal

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the Town of Marion, or

in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.

Section 2 – Wastewater Discharges

It shall be unlawful under State and Federal Law to discharge without a VPDES permit to any natural outlet within the Town of Marion, or in any area under its jurisdiction. Wastewater discharges to the Town's Treatment Works are not authorized unless permitted by The Superintendent in accordance with provisions of this Ordinance.

Section 3 – Wastewater Disposal

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

Section 4 – Connection to Treatment Works Required

The owner of any house, building, or property which is used for commercial, industrial and / or residential purposes, abutting on any street, alley or rights-of-way in which there is or may be located a sewer connected to the treatment works of the Town, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this Ordinance, within 30 days after notice that sewer is available within 250 feet of the property line. This Section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provision of this Ordinance and applicable State and Federal laws.

ARTICLE IV – BUILDING SEWERS & CONNECTIONS

Section 1 – Connection Permit

(A) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer of a storm sewer without first obtaining a written permit from the Town Engineer.

(B) There shall be three (3) classes of permits for connection to the Town's Treatment Works and Treatment Facilities.

CLASS I - Residential

CLASS II - Commercial

CLASS III - Industrial

In all cases, the owner shall make application for a permit to connect to the Town's Treatment Works on a form furnished by wastewater information required to administer this Ordinance. A permit and inspection fee

of Two Hundred Dollars (in Town), Two Hundred Sixty Dollars (out of Town) for a Class I, Class II, or Class III connection permit shall be paid to the Town at the time the application is filed.

(C) Connections to a storm sewer shall be subject to a permit and inspection fee of Twenty Dollars. Such connections shall be subject to the provisions of this Ordinance and the approval of the Town Engineer

Section 2 – Connection Costs

The costs and expenses incidental to the building sewer installation and connection to the Town's Treatment Works shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 3 – Separate Connections Required

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The Town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

Section 4 – Existing Building Sewers

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by Town Engineer to meet the requirements of this Ordinance.

Section 5 – Building Sewer Design

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

Section 6 – Building Sewer Elevation

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building is too low to permit gravity flow to the Town's Treatment Works, wastewater carried by such building drain shall be lifted by an approved means and discharge to a building sewer draining to the Town sewer.

Section 7 – Surface Runoff and Groundwater Drains

(A) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works unless such connection is

authorized in writing by the Town Engineer. The Connection of such drains shall conform to codes specified in Section 8 or as specified by the Town Engineer as a condition of approval of such connections.

(B) Except as provided in Section 7 (A) above, roof, foundation, areaway, parking lot, roadway, or other s

Section 8 –Conformance to Applicable Codes

The connection of a building sewer into a treatment works shall conform to the requirements of the Town or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia, and American Society of Testing Materials. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Town Engineer before installation.

Section 9 –Connection Inspection

The applicant for a building sewer or other drainage connection permit shall notify the Town Engineer when such sewer or drainage connection is ready for inspection prior to its connection to the Town’s Treatment Works. Such connection inspections and testing as deemed necessary by the Town Engineer shall be made by the Town Engineer.

Section 10 –Excavation Guards and Property Restoration

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

Section 11 –Protection of Capacity for Existing Users

The Town Engineer shall not issue a permit for any class of connection to the Town’s Treatment Works or Treatment Facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The Town Engineer may permit such a connection if there are legally binding commitments to provide the needed capacity.

ARTICLE V – CONDITIONS TO USE THE TOWN’S TREATMENT WORKS

Section 1 – Special Uses of Treatment Works

All discharges of storm water, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under Article IV, Section 7. Any connection, drain, or arrangement

which will permit any such waters to enter any other sewer shall be deemed to be a violation of this Section and this Ordinance.

Section 2 – Industrial User, General Prohibition Upon

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.

Section 3 – Restricted Discharges

- (A) No User shall discharge or cause to be discharged to any of the Town's Treatment Works any pollutants or materials, waters, or wastes in such quantities or concentrations which do or are likely to:
- (1) Create a fire or explosion hazard in the POTW including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas waste stream with a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261. 21;
 - (2) Cause corrosive damage or hazard to structures, equipment, or personnel of waste water facilities, but in no case discharges having a pH lower than 5.0 or greater than 11.0;
 - (3) Cause obstruction to the flow into the POTW resulting in interference with the operation of the POTW due to accumulation of solid or viscous materials;
 - (4) Constitute a rate of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;
 - (5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of the excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the Town Wastewater Sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the Town has obtained prior approval from the approval authority;
 - (6) Contain more than 100 milligrams per liter of non-biodegradable oils of mineral or petroleum origin in amounts that will cause Interference or Pass Through;
 - (7) Contain floatable oils, fat, or grease;
 - (8) Contain toxic gases, vapors or fumes, malodorous gas, or substance in quantities that may cause a public nuisance or cause acute human health or Safety problem;
 - (9) Contain radioactive wastes in harmful quantities as defined by applicable State and Federal regulations;
 - (10) Contain any garbage that has not been properly shredded;
 - (11) Contain any odor or color producing substances exceeding concentration limits which may be

- established by the Superintendent for purposes of meeting the Town's VPDES permit;
- (12) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pas through; or
 - (13) 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;
 - (14) Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Article V Section 8.2 of this ordinance.

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.

(B) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this Article, the Superintendent establishes concentration limits to be met by a user, the Superintendent in lieu of concentration limits may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the State such limits should become Pretreatment Standards.

Section 4 – Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

(A) No person shall discharge or cause to be discharge to any treatment works, wastewaters containing substances subject to an applicable Categorical Pretreatment Standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this Section. Compliance with such applicable pretreatment standards shall be within 3 years of the date the standard is Pretreatment Standard for new sources shall be required upon commencement of discharge to the treatment works.

(B) The Superintendent shall notify any industrial user affected by the provisions of this Section and establish an enforceable compliance schedule for each.

(C) No person shall discharge trucked hazardous wastes to the Town's Treatment Works.

(D) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Superintendent shall impose an alternate limit in accordance with 40 CFR 403.6(e).

Section 5 – Special Agreements

Nothing in this Article shall be construed as preventing any agreement or arrangement between the Town and any user of the treatment works and treatment facility whereby wastewater of unusual strength of character (only in terms of BOD and / or Suspended Solids) is accepted in the system and specially treated subject to additional payments or user charges as may be applicable.

Section 6 – Water & Energy Conservation

The conservation of water and energy shall be encouraged by the Superintendent. In establishing discharge restrictions upon users, the Superintendent shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the Superintendent, each user will provide the Superintendent with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the Superintendent, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

Section 7 – Excessive Discharge

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standard, or in any other pollutant-specific limitation developed by the Town or the State

Section 8 – Accidental Discharges (Slug Load)

(A) Each User shall provide protection from accidental discharge or prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town for review, and shall be approved by the Town before construction of the facility. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirement of this Ordinance. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

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

(C) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

Section 8.1 – Accidental Discharge / Slug Control Plans

The Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Superintendent may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Superintendent may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(A) Description of discharge practices, including non-routine batch discharges

(B) Description of stored chemicals

(C) Procedures for immediately notifying the POTW of any accidental or slug discharges. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Article V, Section 3 of this ordinance, and under 9 VAC 25 – 31 – 770 B, with procedures for follow-up with notification within five (5) days.

(D) Procedures, if necessary, 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 run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Section 8.2—Hauled Wastewater

(A) Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate Section 2 of this ordinance or any other requirements established by the Town. The Superintendent may require septic tank waste hauler to obtain individual wastewater discharge permits.

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

(C) Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable Standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Section 9 – Town’s Right of Revision

The Town reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW if deemed necessary and consistent with the purpose of this ordinance to comply with the objectives presented in Article I, Section 1 of this ordinance or the general and specific prohibitions in Article V, Section 2 and Article V, Section 3 of this Ordinance.

ARTICLE VI – INDUSTRIAL DISCHARGES

Section 1 – Information Requirements

(A) All industrial dischargers shall file with the Town wastewater information deemed necessary by the Superintendent for determination of compliance with this Ordinance, the Town’s VPDES permit conditions, and State and Federal law. Such information shall be provided by completion of questionnaire designed and supplied by the Superintendent and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in Section 1 (C) of this Article.

(B) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the Superintendent.

(C) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the Virginia Pollutant Discharge Elimination System (VPDES) Permit, State Disposal System Permit, and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Town as confidential, shall not be transmitted to any governmental agency or to the general public by the Town until and unless a ten-day notification is given to the user.

Section 2 – User Permits

(A) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a User Permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a User Permit within 180 days after the effective date of this Ordinance.

(B) Significant industrial users required to obtain a permit shall complete and file with the Town, and application in the form prescribed by the Town, and accompanied by a fee of Three Hundred Dollars (\$300.00). Existing significant industrial users shall apply for a permit within 30 days after the effective date of this Ordinance, and proposed new significant industrial users shall apply at least 90 days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;
- (2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
- (3) Permits. The User shall submit a list of any environmental control permits held by or for the facility;
- (4) Description of operations. The User shall submit a brief description of the nature, average rate of production, including each product produced by type, amount, processes, and rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes;
 - (a) Types of wastes generated, and 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;
 - (b) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (c) Type and amount of raw materials processed including average and maximum per day;
- (5) Wastewater constituents and characteristics, including but not limited to those mentioned in Article V, Section 3 of this Ordinance, as determined by a reliable analytical laboratory (Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.);
- (6) Time and duration of contribution;
- (7) Flow measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined wastestream formula of 9 VAC 25-31-780 E. The Control Authority may allow for verifiable estimates of these flows were justified by cost or feasibility considerations;

(8) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, floor drains and appurtenances by the size, location, and elevation;

(9) Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged;

(10) Measurement of pollutants.

a. The user shall identify the Pretreatment Standards applicable to each regulated process;

b. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Control Authority) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;

c. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection;

d. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 9 VAC 25-31-780 E in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 9 VAC 25-31-780 E this adjusted limit along with supporting data shall be submitted to the Control Authority;

e. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 (2000) and amendments thereto. Where 40 CFR Part 136 (2000) does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using a validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator;

f. The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and

g. The baseline report shall indicate the time date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW;

(11) If additional pretreatment and / or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

(i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (e.g., hiring and engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(ii) No increment referred to in paragraph (i) shall exceed 9 months

(iii) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including , as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Superintendent.

(12) Each product produced by type, amount, process or processes and rate of production;

(13) Type and amount of raw materials processed (average and maximum per day);

(14) Number and type of employees, and hours of operation of plant, and proposed or actual hours of operation of pretreatment system;

(15) Any other information as may be deemed by the Town to be necessary to evaluate the user's permit application.

The Town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a User Permit subject to terms and conditions provided herein.

(C) Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the User Permit of users subject to such standards must be revised to require compliance with such standards if they are more restrictive than the local limits developed by the POTW within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a User Permit as required by Section 2 (B), the user shall apply for a User Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the user with an existing User Permit shall submit to the Manager within 180 days after the promulgation of the applicable Federal Categorical

Pretreatment Standard the information required by paragraph (8) and (9) of Section 2 (B) of this Article.

(D) Permit Conditions

User Permits shall be expressly subject to all provision of this Ordinance and all other applicable regulations, user charges and fees established by the Town.

(1) Permits must contain the following:

- (a) A statement that indicates wastewater discharge permit duration, which in event must exceed 5 years
- (b) A statement that the wastewater discharge permit is nontransferable without prior notification to (and approval from the Town), and provision for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- (c) Limits on the average and maximum wastewater constituents and characteristics based on applicable standards in Federal, State, and Local Law.
- (d) Limits on average and maximum rate and time of discharge or requirement for flow regulations and equalization;
- (e) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and Local law.
- (f) Requirements for submission of technical reports or discharge reports – See Section 3 of this Article;
- (g) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town, and affording the Town access thereto;
- (h) Requirements for notification of the Town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituent being introduced into the treatment works; and
- (i) Requirements for immediate notification of slug discharge.
- (j) 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.

(2) Permits may contain the following:

- (a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (b) Requirements for installation and maintenance of inspection and sampling facilities;
- (c) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule;
- (d) Other conditions as deemed appropriate by the Town to ensure compliance with this Ordinance; and
- (e) Statement of applicable remedies.

- (f) 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.
- (g) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
- (h) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
- (i) 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.

(E) User Permits must be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A permit may be issued for a period less than five (5) years, at the discretion of the Town or may be stated to expire on a specific date. The user must apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements as identified in Section 2 are modified or other must cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(F) User Permits are issued to a specific User for a specific operation. A User Permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises, or a new or changed operation without the approval of the Town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

(G) All wastewater discharge permits applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"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 the 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."

(H) The superintendent will evaluate the data furnished by the industrial user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit.

If no determination is made within this time period, the application will be deemed denied. The Superintendent may deny any application for a wastewater discharge permit.

(l) The Superintendent may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised Federal, State, or Local pretreatment standards or requirements.
- (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (4) Information indicating that the permitted discharge poses a threat to the Town's POTW, the Town personnel, or the receiving waters.
- (5) Violation of any terms or conditions of the wastewater discharge permit.
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.3
- (8) To correct typographical or other errors in the wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership and / or operation to a new owner/operator

The filing or a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

Section 3 – Reporting Requirements for Permittee

(A) Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to Pretreatment Standards and Requirements must submit to the Superintendent a report indicating the nature and concentration, and flow of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such Pretreatment Standards or Requirements. The report must state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and / or pretreatment is necessary to bring the user into compliance with the applicable Pretreatment Standards or Requirements. In addition, the report must contain the results of any sampling and analysis of the discharge as specified in Article VI 3(C) below. This statement must be signed by an authorized representative of the user, and certified to by a qualified professional.

(B) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the treatment works, must submit to the Superintendent during the months of June and

December, unless required more frequently in the Pretreatment Standard or by the Superintendent, a report indicating the nature and concentration, or pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendents may agree to alter the months during which the above reports are to be submitted.

(C) The Superintendent may impose mass limitation on users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the impositions of mass limitations are appropriate. In such cases, the report required by paragraph (B) of this Section must indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. These reports must contain the results of sampling and analysis of the discharge, including the flow and nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring must be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported.

(D) Baseline Monitoring Reports

(1) Within either 180 days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharged to the POTW, shall be required to submit to the Town a report which contains the information listed in paragraph 2, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Town a report which contains the information listed in paragraph 2, below. A New Source shall also be required to report the method of a pretreatment it intends to use to meet applicable pretreatment standards. A New Source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) The industrial user shall submit the information required by this section including:

(a) Identifying Information: The name and address of the facility including the name of the operator and owners.

(b) Wastewater Discharge Permits: A list of any environmental control wastewater discharge permits held by or for the facility.

(c) Description of Operations: A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(d) Flow Measurement: Information showing the measured average daily and maximum daily flow, in

gallons per day, to the POTW from the regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6 (e).

(e) Measurement of Pollutants:

(1) The User shall provide the information required in Article VI Section 2(10) (a) through (d).

(2) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(3) Sampling must be performed in accordance with procedures set out in paragraph (M) and paragraph (N).

(f) Certification: A statement reviewed by the industrial 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.

(g) Compliance Schedule: If additional pretreatment and or O & M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and / or O & M must be provided. 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 VI Section 2 (E) of this ordinance.

(h) All baseline monitoring reports must be signed and certified in accordance with Article VI Section 2 (G).

(E) Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by Section 3 (D) (2) (g). The schedule shall contain progress increments in the forms 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 hiring and engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Superintendent no later than 14 days following each date in the schedule and the final date of compliance including, as 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 industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(F) 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 in the POTW, any industrial user subject to such pretreatment standards and requirement shall submit to the Town a report containing the information described in Section 3 (D) (2) (d-f). For industrial 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 industrial user's long term production rate. For all other industrial 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 industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 2 (G).

(G) Periodic compliance Reports

(1) Any Significant Industrial User subject to a pretreatment standard shall, at a frequency determined by the Superintendent submit no less than twice per year (in June and December or on dates specified), reports indicating the nature and concentration of pollutants in the discharge which are limited by such Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with Section 2 (G).

(2) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(3) If an industrial user subject to the reporting requirement in and of this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in paragraph N of this section the results of this monitoring shall be included in the report.

If the permittee monitors any pollutant more frequently than required by this permit using test procedures prescribed in HOCFD Part 136 or amendments thereto, or otherwise approved by EPA or as specified in this permit the results of such monitoring shall be included in any calculations of actual daily maximum or monthly report submitted to the Town of Marion, VA. Such increased monitoring frequency shall also be indicated in the monthly report.

(H) Report of Changed Conditions

Each User is required to notify the Superintendent of any significant changes to the User's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(1) The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of wastewater discharge permit application under Section 2 (B) (1-9).

(2) The superintendent may issue a wastewater discharge permit under Section 2 (H) of this ordinance or modify an existing wastewater discharge permit under Section 2 (I) of this

ordinance in response to changed conditions or anticipated changed conditions.

(3) No User shall implement the planned changed condition(s) until unless the Superintendent has responded to the User's notice.

(4) For purposes of this requirement flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall deemed significant.

(I) Reports of Potential Problems

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a Slug Load or Slug Discharge which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Article V Section 3 of this Ordinance), the User shall immediately telephone and notify the Town of the incident. This notification shall include the location of discharge, type of waste, concentration and volume if known, and corrective actions taken by the User.

(2) Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit to the Town of Marion 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 to damage to the POTW, natural resources, or any other damage to person or property; nor shall such notifications relieve the User of any fines, civil penalties, or other liability which may be imposed by this ordinance.

(3) Failure to notify the Town of potential problem discharges shall be deemed a separate violation of this ordinance.

(4) A notice shall be permanently posted on the industrial User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(5) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

(J) Reports from Unpermitted Users

All Users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the Town as the superintendent may require.

(K) Notice of Violation / Repeat Sampling and Reporting

If sampling performed by any User indicates a violation, the User must notify the Control Authority within 24 hours becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the result of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. The User is not required to resample if the POTW performs sampling at the User's facility at least once a month, or

if the POTW performs sampling between the time when the initial sampling was conducted and the time when the User or the Town receives the results of this sampling, or if the Town has performed the sampling and analysis in lieu of the Industrial User.

(L) Notification of the Discharge of Hazardous Waste

(1) Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR 261. Such notification must include the name of hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under Article VI Section 3 (H) of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring of Article VI Section 3 (D) (F) (G) of this ordinance.

(2) Dischargers are exempt from the requirements of paragraph (1) of this Section during a calendar month in which they discharge no more than (15) kilograms of hazardous wastes, unless the waste are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 9e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substances as a hazardous waste, the User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and the State hazardous waste authorities of the discharge of such substances within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(M) 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 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses must be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties in accordance with procedures approved by the EPA.

(N) Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(1) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(2) Except as indicated in paragraph (3) and (4) below, the user must collect wastewater samples using 24-hour flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling are authorized by the Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the Town, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follow: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Town, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(3) Samples for oil and grease, temperature, pH, cyanide, phenol, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques. Grab samples (except pH) may be

composited prior to analysis.

(4) For sampling required in support of baseline monitoring and 90-day compliance reports required in Article VI Section 3(D) and Article VI Section 3(F) [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize a lower minimum. For the reports required by paragraphs Article VI Section 3(G) (40 CFR 403.12(e) and 403.12(h)), the industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(O) Determination of Noncompliance

The Superintendent may use a grab sample(s) to determine noncompliance with pretreatment standards.

(P) Date of Receipt of Reports

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 U.S. Postal Service, the date of receipt of the report shall govern.

(Q) Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records and information obtained pursuant to any monitoring activities required to be retained under this ordinance, 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 Town, or where the User has been specifically notified of a longer retention period by the Superintendent.

Section 4—Provision for Monitoring

(A) The Superintendent 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 individual wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premise for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(B) 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 Superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(C) The Superintendent shall have the right to set up on the Users property or require the User of any property serviced by a building sewer carrying Class II or Class III wastewater discharges to provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be a readily and safely accessible location and shall be provided in accordance with plans approved by the Superintendent. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times. 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 per manufacturer's instructions to ensure their accuracy.

(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 Superintendent and shall not be replaced. The cost of clearing such access shall be born by the User.

(E) The Superintendent shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II or Class III wastewater discharges shall be required.

(F) Where the superintendent determines access and equipment of monitoring or measuring Class II or Class III wastewater discharges is not practicable, reliable, or cost effective, the Superintendent may specify alternative methods of determining the characteristics of the wastewaters discharge with will, in the Superintendent judgment, provide a reasonably reliable measurement of such characteristics.

(G) Measurements, tests, and analyses of the characteristics of wastewater required by this Ordinance shall conform to 40 CFR Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the Town's laboratory, make arrangement with any qualified laboratory, including that of the discharger, to perform such analyses.

(H) Unreasonable delays in allowing the Superintendent access to the User's premises shall be a violation of this ordinance.

(H) Fees for any given measurement, test, or analysis of wastewater required by this Ordinance and performed by the Town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

Section 5 – Costs of Damage

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the Town's Treatment Works or treatment facility, the Superintendent shall cause the deposit or obstruction to be

promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

ARTICLE VII – PRETREATMENT

Section 1 – Wastewater

(A) While the Superintendent initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the Superintendent may require any or all of the following:

- (1) Pretreatment by the User or discharger to a condition acceptable for discharge to the treatment works;
- (2) Control over the quantities and rates of discharge;
- (3) The development of compliance schedules to meet any applicable pretreatment requirements;
- (4) The submission of reports necessary to assure compliance with applicable pretreatment requirements;
- (5) Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;
- (6) Obtain remedies for noncompliance by any User. Such remedies may include injunctive relief, the penalties specified in Article IX of this Ordinance, or appropriate criminal penalties; or
- (7) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities

(B) When considering the above alternatives, the Superintendent shall assure that conditions of the Town’s permit are met. The Superintendent shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the Superintendent allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The Superintendent shall review and recommend any appropriate changes to the program, within 30 days of submittal

(C) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

Section 2 – Compliance with Pretreatment Requirements

Persons required to pre-treat wastewater in accordance with Section 1 above, shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether

applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the treatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements the user shall submit a plan (including schedules) to the Superintendent as described in Article VI, Section 2 (B) (9). The plan (including schedules) shall be consistent with applicable conditions of the Town's Permit or other local, state, or Federal laws.

Section 3 – Monitoring Requirements

Discharges of wastewater to the Town's Treatment Works from the facilities of any user shall be monitored in accordance with the provisions of the user's permit

Section 4 – Effect of Federal Law

In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such Federal regulations shall immediately supersede Section 1 (A) of this Article if they are more stringent.

Section 5 – Certification

All reports and permit applications must be signed by 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 O&M and / or additional pretreatment is required to meet the pretreatment standards and requirements.

ARTICLE VIII –WASTEWATER SERVICE CHARGES & INDUSTRIAL COST RECOVERY

Section 1 – Wastewater Service Charges

Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

Section 2 – Industrial Cost Recovery

Users of the Town's Treatment Works and treatment facilities will also be assessed industrial cost recovery charges as required by law.

Section 3 – Determination of System Use

(A) The use of the Town's Treatment Works and treatment facilities shall be based upon actual measurement and analysis of each User's wastewater discharge, in accordance with provisions of Article VI, Section 4 to the extent such measurement and analysis is considered by the Superintendent to be feasible and cost effective.

(B) Where measurement and analysis is considered not feasible, determination of each User's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by paragraph (C) below.

(C) The Superintendent, when determining actual use of the Town's Treatment Works and treatment facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the Superintendent. (The actual average water used by each residential user (Class I) during the three months of January, February, and March shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year).

ARTICLE IX – ENFORCEMENT

Section 1 – Harmful Contributions

The Town may suspend the wastewater treatment service and / or a User Permit when such suspension is necessary, in the opinion of the Town, in order to stop an actual or threatened discharge with presents or may present an imminent or substantial endangerment to the health or welfare of person, to the environment, cause interference to the treatment facilities, or causes the Town to violate any condition of its VPDES Permit

Any person notified of a suspension of the wastewater treatment service and / or the User Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Town may take such steps as deemed necessary, including immediate severance of the sewer connection and / or the seeking of legal and equitable relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities, its receiving stream, or endangerment to any individuals. The Town may allow the User to recommence its discharge or reinstate the User Permit and / or the wastewater treatment service upon proof of the elimination of the non-complying discharge and that the period of endangerment has passed. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Town within 15 days of the date of occurrence.

Section 2 – Revocation of Permit

Any User, who violates the following conditions of this Ordinance, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of Article IX of this Ordinance for:

- (A) Failure of a User to factually or accurately report the wastewater constituents and characteristics of his discharge;

- (B) Failure of the User to report significant changes in operations, or wastewater volume, constituents and characteristics;
- (C) Refusal of reasonable access to this User's premises for the purpose of inspection, monitoring, or sampling; or
- (D) Violation of wastewater discharge conditions;
- (E) Failure to provide prior notification to the Town of changed conditions pursuant to Article VI, Section 3 (H).
- (F) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application
- (G) Falsifying self-monitoring reports
- (H) Tampering with monitoring equipment
- (I) Failure to meet effluent limitations
- (J) Failure to pay fines
- (K) Failure to pay sewer charges
- (L) Failure to meet compliance schedules
- (M) Failure to complete a wastewater survey or the wastewater discharge permit application
- (N) Failure to provide advance notice of the transfer of a permitted facility.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

Section 3 – Notification of Violation

Whenever the Town finds that any User has violated or is violating this Ordinance, User Permit, Pretreatment Standards or requirements, or any prohibition, limitation or requirements contained herein, the Town may serve upon that User a written Notice of Violation. Within 10 days of the receipt of such 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 Town. Submission of such a 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 Town to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 4 – Show Cause Hearing

(A) The Town may order any User which has violated, or continues to violate, any provision of this ordinance, wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Town and show cause why the proposed enforcement action should not be taken. Such hearing shall be preceded by a notice being served to the User specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action the reasons for such action, and directing the User to show cause why the propose action, and directing the user to 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 ten (10) days before 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.

(B) The Superintendent may conduct the hearing and take the evidence, or may designate any member of the Town of Marion Engineering Department to:

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

(C) At any hearing held pursuant to this Ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(D) After the Superintendent has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issues.

Section 5 – Compliance Orders

When the superintendent finds that a user has violated or continues to violate any provision of this ordinance, wastewater discharge permits or orders issued hereunder, or any other Pretreatment Standard or Requirement, he may issue an order to the User responsible for the discharge directing that the User come into compliance within thirty (30) days. If the User does not come into compliance within thirty (30) days, sewer service may 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 discharge to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve

the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for taking any other action against the User.

Section 6 – Cease and Desist Orders

When the superintendent finds that a User has violated, or continues to violate, any provision of this ordinance an individual wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User’s past violations are likely to recur, the Superintendent 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 operation 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.

Section 7 – Legal Action

If any person discharges sewage, industrial wastes, or other wastes into the Town’s Treatment Works contrary to the provisions of this Ordinance, applicable Federal or State Pretreatment Requirements, or any order of the Town or if any industrial user refuses access to the Manager or his designee for purposes of inspection, the Town Attorney may commence an action for appropriate legal and / or equitable relief in the Circuit Court.

(A) Injunctive Relief – Whenever the Town finds a User has violated a Pretreatment Standard or Requirement , or any provision of this ordinance, or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other Pretreatment Standard or Requirements, the Superintendent may petition the Circuit Court through the Town’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 Superintendent may also seek such other action as appropriate for legal and / or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(B) If the Superintendent 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 Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare or the community, the Superintendent may seek issuance of a search warrant from the Smyth County Court of Smyth County Virginia.

(C) Criminal Prosecution

- (1) Any User that willfully or negligently violate any provisions of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a Class I misdemeanor, punishable by a fine of not more than \$2,500.00 per violation per day or imprisonment for not more than one (1) year or both.
- (2) Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a Class I misdemeanor and be subject to a penalty of at least \$2,500.00 and / or be subject to imprisonment for one (1) year. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State Law.
- (3) Any User that knowingly makes any false statements, representations, or certification 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 falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2,500.00 per violation per day or imprisonment for not more than one (1) year or both.
- (4) In the event of a second conviction, a user shall be punished by a fine of not more than \$2,500.00 per violation per day or imprisonment for not more than one (1) year or both.

Section 8 – Penalties

The Superintendent shall have the authority to assess on any User who is found to have violated an Order of the Superintendent or who failed to comply with an provision of this Ordinance and the orders, rules, regulations, and permits issued hereunder a penalty. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. See Section 7(A) Injunctive relief and Section 7(B) Criminal Prosecution

Section 9 – Termination of Discharge

In addition to those provisions set forth in this ordinance, any User that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, 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 or reasonable access to the user's premises for the purpose of inspection, monitoring or sampling;
- or

(E) Violation of the Pretreatment Standards of this ordinance or any violation of Federal or State Pretreatment Standards.

Such User will be notified of the proposed termination of its discharge and will be offered an opportunity to show cause under Article IX Section 4 of this ordinance why the proposed action should not be taken. Exercise of this option by the Town shall not be a bar to, or a prerequisite for, taking any other action against the User.

Section 10 – Remedies Nonexclusive

The provisions in Article IX of this ordinance are not exclusive remedies. The Town reserves the right to take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Town’s Enforcement Response Plan. However, the Town reserves the right to take action against any User when the circumstances warrant. Further, the Town is empowered to take more than one enforcement action against any noncompliant User. These actions may be taken concurrently.

Section 11 – Supplemental Enforcement Action

The Superintendent may decline to issue or reissue a wastewater discharge permit to any User which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, or any Pretreatment Standard or Requirement, unless such User provides one or more of the following:

- (A) Performance Bonds - A satisfactory bond, payable to the Town, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance
- (B) Liability Insurance - User must submit proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

The Town reserves the right to act upon one or more of the following actions for additional enforcement if it is deemed to be in the best interest of the Town:

- (A) Water Supply Severance - Whenever a User has violated or continues to violate any provision of this ordinance, of a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the user may be severed. Service will recommence, at the Users expense, only after the User has satisfactorily demonstrated its ability to comply.
- (B) Bring charges against user as being a public nuisance - A violation of any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of the Town Code Chapter 30- Article III, Division 2 governing such

nuisances, including reimbursing the Town for any cost incurred in removing, abating, or remedying said nuisance.

(C) Offer informant rewards - The Superintendent may pay for information leading to the discovery of noncompliance by a User. In the event that the information provided results in a civil penalty or an administrative fine levied against the User, the Superintendent may disperse a percent of the collected fine or penalty to the informant.

(D) 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 Town. Existing contracts for the sale of goods or services to the Town held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Superintendent.

Section 12 – Reinstatement of Service

The Town will reinstate service to a user upon satisfactory completion of any requirement(s) of the User to regain compliance with this ordinance or any provision brought forth by the implementation of this ordinance. The user shall pay the connection fee established for that User plus all expenses associated with reinstatement of services.

Section 13 – Enforcement Agent

The Town of Marion will operate and maintain the facility in accordance with Section 5.2 of the Inter-Municipal Agreement and will enforce the Sewer Use Ordinance in accordance with Section 5.3 of the Inter-Municipal Agreement.

Section 14 – New or Increased Discharges

All industrial users shall promptly notify the POTW in advance of any new or increased discharge. The Town may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its VPDES permit.

Section 15 – Publication of Industrial Users in Significant Noncompliance

The Town shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The definition for significant noncompliance shall be found in Article II.

Section 16 – Wastewater Discharge Permitting Extra-jurisdictional Industrial Users

(A) Any existing Significant Industrial User located beyond the Town limits shall submit a wastewater discharge permit application, in accordance with Article VI Section 2, within 30 days of the effective date of

this ordinance. New Significant Industrial Users located beyond the Town limits shall submit such application to the Superintendent 90 days prior to any proposed discharge into the POTW.

(B) Alternately, the Superintendent may enter into an agreement with the neighboring jurisdiction in which the Significant Industrial User is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user

Section 17 – Consent Order

The Superintendent is hereby empowered to enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance within a time period specified by the document. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order.

ARTICLE X – EFFECTIVE DATE

This ordinance shall be in full force and effect on the (?)th of ?, ?.

FIRST READING: ?ST day of ?, ?

SECOND READING: ?TH day of ?, ?

APPROVED THIS: ?TH day of ?, ?

Mayor / Town of Marion

ATTEST:

Cindy Stanley, Town Clerk