



**CITY COMMISSION AGENDA  
CITY HALL COMMISSION CHAMBERS  
300 W. Plant Street**

**REGULAR MEETING**

**JULY 14, 2011**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum

Invocation and Pledge of Allegiance

**1. APPROVAL OF MINUTES**

Regular Meeting of June 23, 2011

**2. PRESENTATIONS**

A. Relay for Life 2011 Committee appreciation and announcements regarding the 2012 event

B. Budget overview for 2011/2012 – City Manager Bollhoefer

**3. FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 11-12:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING AND REVISING CHAPTER 78, ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES PERTAINING TO UNIFORM REQUIREMENTS FOR PUBLICLY OWNED TREATMENT WORKS, INDUSTRIAL WASTE HANDLING, AND TREATMENT OF WASTEWATER IN ACCORDANCE WITH THE CLEAN WATER ACT AND RULE 62-625 OF THE FLORIDA ADMINISTRATIVE CODE AND OTHER APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for July 28, 2011** –Public Services Director Cochran

**4. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 11-13:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 118, ARTICLE VI, DIVISION 7, SECTION 118-1297 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO STANDARDS AND REQUIREMENTS FOR FENCES, WALLS, AND SWIMMING POOL ENCLOSURES; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE – City Manager Bollhoefer

**5. REGULAR BUSINESS**

A. **Resolution 11-08:** A RESOLUTION OF THE CITY OF WINTER GARDEN AMENDING THE CITY OF WINTER GARDEN PURCHASING MANUAL ADOPTED BY RESOLUTION NO. 09-13 AND PROVIDING FOR AN EFFECTIVE DATE – City Manager Bollhoefer

- B. Recommendation to approve distribution of \$17,941.00 awarded Justice Assistance Grant (JAG) funds to purchase Police Department equipment as outlined in the grant application – Police Chief Brennan
  - C. Recommendation to approve distribution of \$13,095.00 awarded Justice Assistance Grant (JAG) to fund Police Department in-car video system upgrade - Police Chief Brennan
  - D. Recommendation to approve setting the proposed tax millage rate at 4.2500 mills for Fiscal Year 2011/2012 – City Manager Bollhoefer
  - E. Appointments to the Architectural Review and Historic Preservation Board for expiring terms of Tim Keating (Licensed General Contractor) and John Murphy (Winter Garden Heritage Foundation Board Member) – City Clerk Golden
6. **MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker*)
7. **MATTERS FROM CITY ATTORNEY** – Kurt Ardaman
8. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
- A. Discussion on proposed Ordinance 11-18 to amend the Pension Plan for Firefighters and Police Officers
  - B. Discussion on amending the City Code for storing residential solid waste containers
9. **MATTERS FROM MAYOR AND COMMISSIONERS**
- A. Florida League of Cities annual conference voting delegate

**ADJOURN** to a regular City Commission meeting on July 28, 2011 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 300 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

**ORDINANCE 11-12**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING AND REVISING CHAPTER 78, ARTICLE IV OF THE WINTER GARDEN CODE OF ORDINANCES PERTAINING TO UNIFORM REQUIREMENTS FOR PUBLICLY OWNED TREATMENT WORKS, INDUSTRIAL WASTE HANDLING, AND TREATMENT OF WASTEWATER IN ACCORDANCE WITH THE CLEAN WATER ACT AND RULE 62-625 OF THE FLORIDA ADMINISTRATIVE CODE AND OTHER APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Florida Constitution and the Legislature of the State of Florida have authorized and delegated in § 2(b), Article VIII of the Florida Constitution, and Chapter 166, Florida Statutes, the authority of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the City desires to update Article IV, Chapter 78 of the Winter Garden Code of Ordinances to allow the City to better comply with and enforce the requirements of the Clean Water Act and Rule 62-265, Florida Administrative Code;

**BE IT ENACTED BY THE CITY OF WINTER GARDEN:**

**SECTION I:** That Article IV of Chapter 78 of the Code of Ordinances, City of Winter Garden, Florida, is amended as depicted in **Exhibit “A,”** attached hereto and incorporated herein (underlined text indicates additions to while ~~struck out~~ text indicates deletions from Chapter 78, Article IV of the Winter Garden Code of Ordinances.

**SECTION II. INCONSISTENCY.** If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent any such conflict exists.

**SECTION III. SEVERABILITY.** If any portion of this Ordinance is determined to void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

**SECTION IV. CODIFICATION.** That Section I of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the word “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other appropriate word.

**SECTION V. EFFECTIVE DATE.** This Ordinance shall become effective upon approval by the City Commission at its second reading.

FIRST READING: \_\_\_\_\_, 2011.

SECOND READING AND PUBLIC HEARING \_\_\_\_\_, 2011.

APPROVED:

\_\_\_\_\_  
John Rees, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
Kathy Golden, City Clerk

**EXHIBIT "A"**

**ARTICLE IV. INDUSTRIAL WASTE**

Sec. 78-126. Purpose and Policy.

(a) *Purpose.* The purpose of this article is to set forth uniform requirements for users of the City's publicly owned treatment works (POTW) to enable the City to comply with the provisions of the Clean Water Act and Chapter 62-625, F.A.C. and other applicable federal and state law and regulations, as they may be from time to time promulgated or amended, and to provide for the public health and welfare by regulating the quality and quantity of wastewater discharged into the City's POTW.

(b) *Objectives.* The objectives of this article include but are not limited to:

- (1) Prevent introduction of pollutants into the POTW which will interfere with the operation of the POTW or contaminate the resulting sludge;
- (2) Prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving surface waters or groundwaters or the atmosphere or otherwise be incompatible with the POTW;
- (3) Provide for the general health, safety and welfare of both POTW employees and the general public.
- (4) Ensure that the opportunity for recycling and reclaiming of wastewaters and sludges from the POTW will be ever present;
- (5) Provide for equitable distribution of the cost of operation, maintenance and improvement of the POTW;
- (6) Enable the City's POTW to comply with NPDES permit conditions, effluent and sludge use and disposal requirements and any other federal or state permits or laws to which it is subject;
- (7) Provide uniform requirements for building sewers and connections to the City's wastewater system;
- (8) Provide uniform requirements for industrial wastewater discharge; and
- (9) Regulate private wastewater disposal systems.

(c) *Application.* This article shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the City's POTW. The article authorizes the issuance of Industrial wastewater discharge permits; provides for 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. Except as otherwise provided in this article, the Assistant to the City Manager for Public Services shall administer, implement, and enforce this article. Any powers granted to or duties imposed upon the Assistant to the City Manager for Public Services may be delegated by the Assistant to the City Manager for Public Services to a duly authorized City employee.

(Code 1988, § 22-76)

Sec. 78-127. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act or the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the State of Florida Department of Environmental Protection or its successor agencies.

*Assistant to the City Manager for Public Services* means the City administrative official who has overall responsibility for overseeing the administration of the City of Winter Garden's Industrial Pretreatment Program, or his designee, authorized deputy, agent, or representative.

*Authorized representatives of industrial user.* An authorized representative of an industrial user may be:

(a) If the User is a corporation:

- (1) 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
- (2) 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 Industrial Waste Discharge Permit (IWDP) requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) 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.

(d) 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 City.

*Best Management Practices or BMPs* mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 78-132 (a) and (b) of this article. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, industrial sludge or waste disposal, or drainage from raw materials storage.

*BOD (biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter. The BOD shall be determined in accordance with procedures set forth in Standard Methods, as defined in this section.

*Building drain* means that part of the lowest horizontal piping of the internal plumbing system which receives the wastewater discharge from other plumbing inside the walls of the building and conveys it to a point five feet outside the outer face of the building wall to the building sewer.

*Building sewer* means the service line from the public sewer or other place of disposal to a point five feet outside the building wall.

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

*Categorical Pretreatment Standard or Categorical standard* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

*Categorical Industrial User* means an ~~i~~Industrial ~~u~~User subject to ~~a~~-categorical Pretreatment Standards under Rule 62-625.410, F.A.C., including 40 CFR Chapter I, Subchapter N, Parts 405 through 471, hereby adopted and incorporated by reference or categorical Standard.

*City* means the City of Winter Garden, Florida, a municipal corporation, or where appropriate the term may also be used as a designation for any duly authorized official or employee of the City.

*COD (chemical oxygen demand)* means the laboratory determination of the oxygen equivalent expressed in milligrams per liter of that portion of the- sample that is susceptible to oxidation by the standard dichromate reflux method. The COD shall be determined in accordance with procedures set forth in Standard Methods.

*Combined wastestream formula (CWF)* means a procedure for calculating alternative discharge limits at industrial facilities where a regulated wastestream from a categorical industrial user is combined with other wastestreams prior to treatment or discharge as provided for in 40 CFR 403.6(e) and Rule 62-625.410(6), F.A.C.

*Compatible pollutant* means biochemical oxygen demand, chemical oxygen demand, fats, oils or grease, suspended solids, pH, ammonia, nitrogen, total Kjeldahl nitrogen and fecal coliform bacteria, plus any additional pollutants identified in the City's POTW NPDES permit, where the POTW is capable of treating such pollutants, does treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's NPDES permits.

*Control Authority* means the public utility (City of Winter Garden) that administers a pretreatment program that has been approved by the approval authority in accordance with the requirements of 62-625.510, F.A.C.

*Cooling water* means

(a) *Uncontaminated.* Water used for cooling purposes only which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the City's potable water except for heat.

(b) *Contaminated.* Water used for cooling purposes which may become contaminated either through the use of water treatment chemicals used as corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.

*Customer* means the actual user of the sewer.

*Dilute wastestream*, for purposes of the combined wastestream formula, means the average daily flow (at least 30-day average) from;

(a) Boiler blowdown streams, noncontact cooling streams, and demineralized backwash streams (provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with the industrial users regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Assistant to the City Manager for Public Services, upon application of the industrial user may exercise discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Assistant to the City Manager for Public Services, the industrial user must provide engineering, production, sampling and analysis, and such other information so that the Assistant to the City Manager for Public Services can make a determination);

(b) Sanitary wastestreams where such streams are not regulated by a categorical pretreatment standard; or

(c) From any wastestreams in which:

- (1) The pollutants of concern are not detectable in the effluent from the industrial user.
- (2) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects.
- (3) The pollutants of concern are present in amounts too small to be effectively reduced by current technologies.
- (4) The wastestream contains only pollutants which are compatible with the POTW.

*Direct discharge* means the discharge of treated or untreated wastewater directly to any surface or underground waters.

*Domestic wastewater* means the wastes produced from noncommercial or nonindustrial activities and which result from normal human living processes, which are of substantially similar origin and strength to those typically produced in households.

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

*Existing Source* means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

*Garbage* means animal and vegetable wastes resulting from the domestic and commercial preparation, cooking, dispensing, and consumption of food and from the handling, storage and sale of produce.

*Grab sample* means an individual, discrete sample collected at a specific time. A grab sample includes all sub samples or aliquots (e.g. individual containers for specific analytes or analyte groups), sample fractions (e.g. total and filtered samples), and all applicable field quality control samples (e.g. field sample duplicates or split samples) collected at the same locations within a time not exceeding a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

*Gray water* means all residential waste other than that carried off by toilet and kitchen drains and sewers, including bath, lavatory, sink (other than a kitchen sink) and laundry wastes.

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

*Incompatible pollutant* means all pollutants other than compatible pollutants, as defined in this section. More specifically, it shall mean any pollutant other than BOD, suspended solids, pH, and fecal coliform bacteria or additional pollutants identified in the publicly owned treatment facilities which the facilities were not designed to treat or do not remove to an acceptable degree.

*Indirect discharge or discharge* means the discharge or the introduction of pollutants from any nondomestic source into the POTW, including holding tank waste discharged into the system.

*Industrial user* means any user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (a) Division A, Agriculture, Forestry and Fishing;
- (b) Division B, Mining;
- (c) Division D, Manufacturing;
- (d) Division E, Transportation, Communication, Electric, Gas and Sanitary Services;
- (e) Division G, Retail Trade; and

(f) Division I, Services.

A user in the divisions listed in this definition may be excluded if it is determined by the Assistant to the City Manager for Public Services that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences and is not a significant industrial user as defined in this section.

*Industrial wastes* mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from domestic wastewater.

*Industrial wastewater discharge permit or permit or IWDP* means a permit issued to an industrial user by the City which authorizes the discharge of industrial wastewater to the POTW. This permit may set certain conditions and restrictions to this discharge.

*Infiltration* means the water unintentionally entering the public sewer system, including water from sanitary building drains and sewers, from the ground through such means as but not limited to defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include and is distinguished from inflow.

*Infiltration/inflow* means the total quantity of water from both infiltration and inflow, without distinguishing the source.

*Inflow* means the water discharge into a sanitary sewer system, including building drains and sewers, from such sources as but not limited to roof gutters; cellar, yard, and area drains; foundation drains; unpolluted cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers or combined sewers; catch basins; stormwaters; surface runoff; street washwaters; or drainage. Inflow does not include, and is distinguished from, infiltration.

*Instantaneous maximum allowable discharge limit or Instantaneous Limit* means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources:

(a) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or

(b) Causes a violation of any requirement of any permit held by the POTW (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act, (33 USC 1345), the Solid Waste Disposal Act (SWDA), RCRA, and State regulations contained in any State sludge management plan prepared pursuant to title D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act or any other applicable federal or State legislation or regulation.

*Local pollutant* means a pollutant, as identified in this section, which may be subject to regulation and restrictions for discharge to the public sewer system.

*Lower explosive limit (LEL)* means the minimum concentration of combustible gas or vapor in air that will ignite.

*Maximum allowable concentration* means the maximum permitted amount of a specified pollutant in a volume of water or wastewater.

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

~~National categorical Pretreatment Standard: see or Pretreatment Standard below means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act (33 USC 1317) which applies to a specific category of industrial users, or promulgated under 40 CFR 401-471, chapter I, subchapter N and adopted by reference in Chapter 62-660.400(1)(e), F.A.C.~~

*National Pollution Discharge Elimination System permit or NPDES permit* means a permit issued to a publicly owned treatment works pursuant to section 402 of the act (33 USC 1342).

*National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of section 307(b) of the act and 40 CFR 403.5.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*New source* means;

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
- (3) 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.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- (1) Begun, or caused to begin, as part of a continuous onsite construction program
  - a. any placement, assembly, or installation of facilities or equipment; or
  - b. 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
- (2) 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* means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

*Pass through* means a discharge which exits the POTW into waters of the ~~United States~~ in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of ~~the City's POTW's~~ NPDES permit, ~~(including an increase in the magnitude or duration of a violation).~~

*Person* means any individual partnership, co-partnership, firm, company, corporation, association, society, joint stock company, trust, estate, governmental entity or any other legal entity or combination thereof, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local governmental entities.

*pH* means a quantitative expression for acidity or alkalinity of an aqueous solution. Theoretically  $pH = -\log(\text{base } 10) \text{ cH}$ , where cH is the concentration of hydrogen ions in grams per liter. Scale ranges from 0 to 14, pH 7 being neutral, less than 7 acid, more than 7 alkaline.

*Pollutant* means any dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discharged equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Polluted water* means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to any person having jurisdiction thereof for disposal to storm or natural drains or directly to surface waters.

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

*Pollution control facility.* See *Wastewater Treatment Plant*.

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by ~~Chapter~~ Subsection 62-625.410(5), F.A.C.

*Pretreatment ~~R~~requirements* means any substantive or procedural requirement related to pretreatment, other than a ~~national categorical P~~pretreatment ~~S~~standard imposed on an industrial user.

*Pretreatment ~~S~~standard s or standards* means, ~~for any specified pollutant, the City's prohibitive discharge standards as set forth in this article, the state's pretreatment standards, or the national categorical pretreatment standards, or the City's local limits, whichever standard is the most stringent. any regulation containing pollutant discharge limits promulgated by the EPA under Sections 307(b) and (c) of the CWA or by the FDEP under Chapter 403, Florida Statutes, which applies to industrial users. This term includes prohibitive discharge limits established in Rule 62-625.400, F.A.C., and Section 72-132(a), (b) and (e) of this article.~~

*Private sewage collection system* means a sewer system installed, maintained, operated, and owned by persons other than the City and connected to the public sewer.

*Private sewage disposal system* means a sewage collecting, treating and disposal facility installed, maintained and owned by persons other than the City and not connected to the public sewer.

*Prohibited discharge standards or prohibited discharges* means absolute prohibitions against the discharge of certain substances. These prohibitions appear in section 78-132 of this article.

*Properly shredded garbage* means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.25 centimeters) in any dimension.

*Public Services Department* means the Public Services Department of the City including all of its bureaus.

*Public sewer* means a sanitary sewer, other than a building sewer, that is owned or controlled by the City.

*Publicly owned treatment works (POTW)* means the same as the definition of sewer system and is a treatment works as defined by section 212 of the act (33 USC 1292) which is owned or operated in this instance by the City. This definition includes any public sewers that convey wastewater to the POTW treatment plant. For the purposes of this article, POTW also includes any sewers that convey wastewater to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

*Reclaimed water* means water which, as a result of treatment of waste, is suitable for direct beneficial uses or a controlled use that would not occur otherwise.

*Sanitary sewer* means a pipe which carries wastewater and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Septic tank waste* means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage.* See Wastewater.

*Sewer* means a pipe or conduit for carrying wastewater.

*Sewer system* means any devices and systems used in the storage, treatment, recycling and reclamation of domestic sewage or industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and appurtenances; extensions, improvements, remodeling, additions and alteration thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; 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; and including combined stormwater and sanitary sewer systems.

*Shall* is mandatory; *may* is permissive.

**Significant industrial user or SIU means;**

Except as provided in paragraph (c) of this Section, a Significant Industrial User is:

(a) ~~A Categorical Industrial User; and subject to categorical Pretreatment Standards; or~~

(b) Any other Industrial User that:

- (1) Discharges an average of twenty-five thousand (25,000) GPD or more of process wastewater to the POTW (excluding ~~sanitary domestic wastewater~~, noncontact cooling and boiler blowdown wastewater);
- (2) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (3) Is designated as such by the control authority on the basis that ~~the industrial user~~ has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement in accordance with Rule 62-625.500(2)(e), F.A.C.

(c) Upon a finding that a User meeting the criteria in ~~Subsection (2) of this part (b) above~~ has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the ~~Control-control Authority-authority~~ may at any time, on its own initiative or in response to a petition received

from an ~~i~~Industrial ~~u~~User, and in accordance with Rule 62-625.500(2)(e), determine that such ~~I~~industrial ~~\_~~User ~~should is~~ not ~~be considered~~ a Significant Industrial User.

*Significant non-compliance or SNC* means an ~~industrial user SIU~~ shall be in significant noncompliance when any one or more of the following criteria are satisfied:

(a) Chronic violations of wastewater discharge limits, ~~defined here as those in which sixty-six percent when (66%) percent~~ or more of ~~all of~~ the measurements taken during a six ~~(6)~~-month period exceed (by any magnitude) ~~a numeric Pretreatment Standard or Pretreatment Requirement including instantaneous limits the maximum limit or average limit (if applicable) for the same pollutant parameter;~~

(b) Technical review criteria (TRC) violations, ~~defined here as those in which thirty-three percent (33%) when 33 percent~~ or more of ~~all of~~ the measurements for each pollutant parameter taken during a six ~~(6)~~-month period equal or exceed the product of the ~~numeric Pretreatment Standard or Pretreatment Requirement including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, total oil and grease, and 1.2 for all other pollutants except pH); maximum limit or average limit (if applicable) multiplied by the applicable TRC:~~

~~(1) For conventional pollutants, TRC = 1.4 or 40 percent over the limit;~~

~~(2) For all other pollutants, TRC = 1.2 or 20 percent over the limit;~~

(c) When the SIU fails to respond within ten days of receipt of a notice of violation (NOV) issued by the Assistant to the City Manager for Public Services;

(d) When the SIU fails to accurately report noncompliance;

(e) Any other violation of a ~~P~~pretreatment ~~Standard or Pretreatment Requirement as defined above, effluent limit (daily maximum, long-term average, instantaneous limit, or narrative standard)(daily maximum or longer term average)~~ that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, ~~(including endangering the health of POTW personnel or the general public);~~

(f) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under ~~Rule 62-625.500(2)(a)(5)(b) Section 78-138(e) of this article of this section~~ to halt or prevent such a discharge;

(g) Failure to meet, within ~~ninety (90)~~ days after the schedule date, a compliance schedule milestone contained in ~~a local control mechanism IWDP~~ or enforcement order for starting construction, completing construction, or attaining final compliance;

(h) Failure to provide, within ~~forty-five (45) 30~~-days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(i) Any other violation or group of violations, ~~including a violation of Best Management Practices, that which~~ the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

*Significant violation* means a violation of this article which remains uncorrected 30 days after notification of noncompliance; or which is part of a pattern of noncompliance; or which involves failure to accurately report noncompliance; or which resulted or results in the City exercising its emergency authority under this article or any related chapter of this Code.

*Slug or slug load or slug discharge* means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in 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 POTW's regulations, local limits or permit conditions.

*Spill containment plan (SCP)* means detailed plans, on file at the Public Services Department, showing facilities and operating procedures to provide protection from accidental discharge. All industrial users whose wastewater includes or could include compatible or incompatible pollutants in amounts great enough to cause interference with the POTW shall be required to have such plans. Industrial users shall complete construction of such facilities and provide such operating procedures to the City within one year of notification. No user who begins contributing to or could contribute such pollutants to the POTW after the effective date of the ordinance from which this article derives and who has been so notified shall be permitted to introduce such pollutants into the POTW until accidental discharge facilities and procedures, as appropriate, have been approved by the City and installed by the industrial user. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility, as necessary, to meet each and every requirement of this article.

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

*Standard Methods* means the current edition of Standard Methods for the Examination of Water and Wastewater, as published jointly by the American Public Health Association, Water Environment Federation, and American Water Works Association.

*Storm drain or storm sewer* means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Suspended solids* means solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

*Total metals* means the sum of metals (in mg/l) listed under subsection 78-132(d) or any metal considered a pollutant by the Public Services Department.

*Toxic pollutant* means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of section 307(s) of the act or other laws.

*Treatment works.* See *Sewer system*.

*Twenty-four hour, flow proportional composite sample* means a sample consisting of several effluent portions collected during a 24-hour period in which the portions of the sample are proportionate to the flow and combined to form a representative sample.

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

*User* means any person who discharges, causes or allows the discharge of wastewater which makes its way to a public sewer.

*Wastewater* means the liquids or water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater, whether treated or untreated, which are contributed to the POTW.

*Wastewater constituents and characteristics* means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

*Wastewater Division* means the wastewater division of the City, including all of its bureaus.

*Wastewater treatment plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Code 1988, § 22-77)

**Cross references:** Definitions generally, § 1-2.

Sec. 78-128. Abbreviations.

The abbreviations used in this article shall have the designated meaning as follows:

<u>BMP</u>	<u>Best Management Practice</u>
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
CBOD	Carbonaceous Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
<u>CWA</u>	<u>Clean Water Act</u>
EPA	U.S. Environmental Protection Agency
<u>F.A.C</u>	<u>Florida Administrative Code</u>
FDEP	Florida Department of Environmental Protection
IU	Industrial User
IWDP	Industrial Wastewater Discharge Permit
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
<u>NAICS</u>	<u>North American Industry Classification System</u>
NOV	Notice of Violation
NOSNC	Notice of Significant Non-Compliance
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Non-Compliance
TSS	Total Suspended Solids
USC	United States Code

(Code 1988, § 22-78)

Sec. 78-129. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this article.

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

(d) The owner of every house, building or property used for human occupancy, employment, recreation or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is located or may be located a public sanitary sewer is required at his expense to install suitable toilet facilities therein and to connect such facilities with the proper public sewer in accordance with this article within 90 days after date of official notice to do so.

(e) In isolated hardship instances, the Assistant to the City Manager for Public Services, with the concurrence of the City Commission, may exempt owners of property from the mandatory sewer connection requirements of this section upon a finding that the connection to the public sewer is not feasible. The determination of non-feasibility may be based upon financial considerations or physical obstructions which restrict connection to the sewer system. Every request from an owner of property for an exemption from the mandatory sewer connection shall be submitted in writing to the Assistant to the City Manager for Public Services and shall contain the name of the owner, the address and legal description of the property, the present use of the property and the justification for the requested exemption. The Assistant to the City Manager for Public Services shall review the request and shall grant or deny the request in writing, citing the specific reasons for the denial thereof, within 30 days following receipt of the completed application for any exemption. Failure of the Assistant to the City Manager for Public Services to make a determination within the 30-day period shall be deemed to constitute a denial of the request for an exemption. All denials of request for an exemption are subject to an administrative review by the City Commission.

(f) No person shall discharge any substance directly into a manhole or other opening in a public sewer other than through an approved building sewer or other approved connection, unless he shall have been issued a temporary permit by the Assistant to the City Manager for Public Services. The Assistant to the City Manager for Public Services shall incorporate in such temporary permit such conditions as he deems reasonably necessary to ensure compliance with this article, and the user shall be required to pay applicable charges and fees therefore.

(Code 1988, § 22-79)

Sec. 78-130. Private Sewage Collection System Connected to POTW.

(a) Before commencement of construction, reconstruction, enlargement, modification or improvement of a private sewage collection system connected to a POTW, the owner shall first obtain a written permit signed by the City manager. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the City manager. A permit and inspection fee shall be paid to the City at the time the application is filed.

(b) The type, capacities, location and layout of a private sewage collection system connected to a POTW shall comply with all requirements of the City Public Services Department and the Department of engineering.

(c) A permit for a private sewage collection system connected to a POTW system shall not become effective until the private sewage collection system is completed and has been inspected and approved by the Assistant to the City Manager for Public Services, or designee. The Assistant to the City Manager for Public Services shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Assistant to the City Manager for Public Services when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within two days, excluding Saturday, Sunday and holidays, of the receipt of notice by the Assistant to the City Manager for Public Services.

(d) All costs and expenses incident to the installation and connection of the private sewage collection system shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or connection of the private sewage collection system.

(e) The owner shall operate and maintain the private sewage collection system in a sanitary and effective manner at all times, at no expense to the City. Private sewers shall be maintained so as to preclude the entrance of

excessive amounts of infiltration and inflow. If it is determined by the Assistant to the City Manager for Public Services that excessive amounts of infiltration/inflow are entering the public sewer from a private sewage collection system, the owner shall be responsible for determining the cause and for making all necessary repairs to the system, to the Assistant to the City Manager for Public Services' satisfaction. All work shall be done by a contractor experienced in sewer rehabilitation work and acceptable to the Assistant to the City Manager for Public Services. Televising of the private sewer lines and submission of TV logs shall be required if determined necessary by the Assistant to the City Manager for Public Services. All operation, maintenance, and repair of private lift stations and pumping facilities shall be done by a reputable person experienced in the operation, maintenance and repair of such facilities, and upon demand the owner shall furnish such proof as the Assistant to the City Manager for Public Services deems necessary. The City shall have the right to inspect all private sewage collection systems and appurtenances and to cause discontinuance of sewer service if the private sewage collection is not maintained in a sanitary and effective operating condition or if the public sewer facilities may be harmed thereby.

(f) The City shall be responsible for the maintenance of the public sewer and for providing service to receive the approved sewer discharge from the private sewage collection system.

(Code 1988, § 22-80; Ord. No. 06-12, § 4, 3-9-06)

Sec. 78-131. Building Sewers and Connections.

(a) No authorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Assistant to the City Manager for Public Services or code enforcement official.

(b) There shall be two classes of building sewer permits as follows:

- (1) Residential service; and
- (2) Nonresidential service.

(c) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Assistant to the City Manager for Public Services, to meet all requirements of this article.

(e) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials and in the Manual of Practice No. 9 published by the Water Environment Federation shall apply.

(f) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface water runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(h) The connection of the building sewer into the public sewer or private sewage collection system shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City

or the procedures set forth in appropriate specifications of the American Society for Testing Materials and in the Water Environment Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Assistant to the City Manager for Public Services or the building inspector before installation.

(i) The applicant for the building sewer permit shall notify the Assistant to the City Manager for Public Services or building inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the building inspector.

(j) All excavations for the 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 City.

(k) The customer shall be responsible for the maintenance of the building sewer: specifically all plumbing from the public sewer into and including the house plumbing. The City shall have the right to inspect the building sewer and to cause discontinuance of sewer service to any property where the plumbing is not maintained in a sanitary and effective operating condition or if the public sewer facilities may be harmed thereby.

(l) Garages and other establishments where gasoline is used or where wastes containing grease in excessive amounts or where any flammable wastes, sand, or other harmful ingredients can be discharged and which are connected with municipal sewers shall be provided with a suitable trap or separator. All traps or separators shall be of a type and capacity approved by the Assistant to the City Manager for Public Services and shall be located so as to be readily and easily accessible for cleaning and inspection.

(m) Where pretreatment or flow-equalizing facilities or traps or separators are provided for any waters or wastes, they shall be maintained continuously and in satisfactory and effective operation by the owner or the user, and at his sole expense.

(n) The City shall be responsible for the maintenance of the public sewer and for providing service to receive the approved sewage discharge from the building sewers.

(o) No unauthorized 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 public sewer system.

(Code 1988, § 22-81; Ord. No. 06-12, § 5, 3-9-06)

#### Sec. 78-132. Prohibitions and Limitations on Discharge into the POTW.

(a) *General Prohibitions.* No User shall introduce, or cause to be introduced, into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

(b) *Specific Prohibitions.* No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Any liquids, solids or gases which because of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F. (60 degrees C.) using the test methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than five percent or any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, kerosene, fuel oil, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides or any other

- substances which the City, the state or any federal agency has determined or may determine to be a fire hazard or a hazard to the systems.
- (2) Any wastewaters or waste having a pH less than 5.0 (or more than 9.5), or any liquids, solids, or gases having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the POTW.
  - (3) Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the treatment works such as but not limited to grease, ashes, cinders, grass clippings, sand, mud, straw, shavings, metal, glass, rags, wastepaper, feathers, tar, asphalt residues, gas, fuel or lubricating oil, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, bones, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW; or any materials that may exert or cause:
    - a. Inert suspended solids, such as but not limited to Fuller's earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate.
    - b. BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
    - c. Volumes of flow or concentration of wastes constituting slug discharges, as defined in this article.
  - (5) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, as defined in this article, but in no case may heated wastewater be discharged in such quantities that the temperature at the treatment works influent exceeds 40 degrees Celsius (104 degrees Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 65.5 degrees Celsius (150 degrees Fahrenheit).
  - (6) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in excess of 100 mg/l or parts per million.
  - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
  - (8) Any trucked or hauled pollutants except those lawfully discharged at specific points designated by the Assistant to the City Manager for Public Services.
  - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
  - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit.
  - (11) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Assistant to the City Manager for Public Services in compliance with applicable State or Federal regulations.

- (12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, uncontaminated cooling water, swimming pool backwash or drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial process wastewater, unless specifically authorized by the Assistant to the City Manager for Public Services.
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (14) Medical Wastes in concentrations that will violate any of the objectives of this SUO, except or as specifically authorized by the Assistant to the City Manager for Public Services in an Industrial wastewater discharge permit IWDP.
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail any toxicity test or to violate its NPDES or FDEP waste discharge permit or the receiving water quality standards.
- (16) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.
- (17) Any water or waste containing fats, wax, grease or oils of animal or vegetable origin, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius).
- (18) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.
- (19) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Assistant to the City Manager for Public Services or building inspector.
- (20) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Assistant to the City Manager for Public Services, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (21) Any discharges containing compounds that are labeled for the control of pest species of any type, such as, but not limited to, acaricides, bactericides, fungicides, herbicides, insecticides, molluscicides, nematocides and rodenticides.

(c) *Processing and storage of prohibited pollutants.* 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.

(d) *Stormwater.* Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Assistant to the City Manager for Public Services of public works. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Assistant to the City Manager for Public Services, to a storm sewer or natural outlet.

(e) *Local Limits.* No person shall discharge wastewater containing pollutants in excess of the local limits for those pollutants which have been established for the City of Winter Garden's POTW using standard procedures, calculations and methods acceptable to FDEP to protect against pass through, interference, protection of POTW

employees, and adverse affects on wastewater residuals disposal. No industrial user shall discharge process waste streams, unregulated waste streams, or dilute waste streams in excess of the concentrations set forth by the Assistant to the City Manager for Public Services. Local limits shall be included as permit conditions and attached to each SIU wastewater permit issued.

The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards, POTW operation, performance and processes, the industrial user base, potable water quality and domestic wastewater characteristics. Modifications to the established local limits must be reviewed and approved by FDEP prior to implementation. Implementation shall be effective 30 days from notice of acceptance of the modified limits by FDEP. Permitted SIUs shall also be issued an addendum to their wastewater discharge permit containing the new local limits.

The established local limits apply at the point where the wastewater is discharged from the SIU's lateral sewer into the City's sewer (End of Pipe). All concentrations for metallic substances are for total metal unless indicated otherwise. At his or her discretion, the Assistant to the City Manager for Public Services may impose mass limitations in addition to or in place of the concentration-based limitations.

**A copy of the approved local limits is adopted by reference in this ordinance and is available upon request at the following location.**

City of Winter Garden  
Assistant to the City Manager for Public Services  
~~8 N. Highland Avenue~~ 300 W Plant Street  
Winter Garden, FL 34787.

The Assistant to the City Manager for Public Services may develop Best Management Practices (BMPs), by ordinance or in IWDPs to implement local limits and the requirements of Section 78-132 of this ordinance. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this ordinance.

(f) *Dilution.* Unless expressly authorized by an applicable pretreatment standard or requirement, no user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Assistant to the City Manager for Public Services may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate pursuant to 40 CFR 403.6(c) or Rule 62-625.410(4), F.A.C.

(g) *Duty to comply.* Industrial users shall observe and comply with any and all federal, regional, state and local laws, rules, regulations, requirements, ordinances, orders, mandatory guidelines and procedures which apply or pertain to the collection, treatment and disposal of wastewater.

(h) *National categorical ~~P~~pretreatment ~~S~~standards.* The national categorical ~~P~~pretreatment ~~S~~standards found at 40 CFR chapter I, subchapter N, parts 405-471 and Chapter 62-660, F.A.C., are incorporated by reference herein. Certain industrial users are or shall become (as determined by the State pursuant to Rule 62-625.410(2)(d), F.A.C.) subject to national categorical standards promulgated by the Environmental Protection Agency. The national categorical standards specify quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard, which includes any monitoring or reporting requirements, and shall also comply with any additional or more stringent limitations contained in this article. Compliance with national pretreatment standards for existing sources subject to such standards or for existing sources which become subject to such standards shall be within three years following promulgation of the standards unless a shorter compliance time is specified in the standard or required by the City. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard. Except where expressly authorized by an applicable national

pretreatment standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard and other pretreatment standards and requirements, including but not limited to more stringent local limits developed under 40 CFR 403.5(c), as it may be amended.

(i) *State Pretreatment Standards.* State requirements and limitations on discharges shall apply when they are more stringent than federal requirements and limitations or those in this article.

(j) *City's Right of Revisions.* The City reserves the right to establish by ordinance, ordinance revision, or through permit conditions more stringent local limitations, requirements, or time periods on discharges to the wastewater disposal system if deemed necessary to comply with the objectives stated for this article. The revision to discharge limitations in this article or in individual permits will be initiated by the Assistant to the City Manager for Public Services when necessary. Affected parties will be duly notified and will have the opportunity to comment on the revisions prior to their adoption or incorporation. However, all affected parties are assumed to know and to comply with all state and federal rules, requirements, and guidelines including but not limited to the development, promulgation, and application of local limits; the appropriate use or inapplicability of combined waste stream formulas; and all industrial user and POTW monitoring and reporting requirements.

(Code 1988, § 22-82)

#### Sec. 78-133. Administration

(a) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 78-132 and which may have a deleterious effect on the public sewer system, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City, via the Assistant to the City Manager for Public Services, may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition prior to discharge to the public sewers.
- (3) Require control over the quantities and rates of discharges.
- (4) Require payment pursuant to this section and subsection, to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. The class descriptions and permitting fee shall be as follows:

- a. Class 1 - Significant Industrial Users - shall apply for and obtain an IWDP prior to discharge, and periodic site visits will be performed by the City prior to any IWDP renewal. Class 1 users shall also submit a spill containment plan to the City. All class 1 users shall be assessed a permit fee of \$250.00 and a renewal fee of \$250.00. The permit fee shall be submitted together with the completed permit application. There shall be no fee assessed for the random sampling and compliance monitoring expenses incurred by the City; provided, however, that the sampling fees assessment as outlined in section 78-136(m) of this article shall be in full force and effect at all times.
- b. Class 2 - Grease Dischargers - may have inspections by the City, and a permit may be required for these users.
- c. Class 3 - Dischargers requiring a spill containment plan - are not required to have a permit, although their permit applications shall be kept on file pending a status change or reclassification.

- d. Class 4 - Non-Industrial dischargers - are not required to have a permit, although their permit applications shall be kept on file pending a status change or reclassification.
- e. Class 5 - Waste haulers - are regulated according to the following provisions:
  - 1. Septic tank waste may be introduced into the POTW only at locations designated by the Assistant to the City Manager for Public Services, and at such times as are established by the Assistant to the City Manager for Public Services. Such waste shall not violate Section 78-132 of this ordinance or any other requirements established by the City. The Assistant to the City Manager for Public Services may require septic tank waste haulers to obtain industrial wastewater discharge permits.
  - 2. The Assistant to the City Manager for Public Services may require haulers of industrial waste to obtain industrial wastewater discharge permits. The Assistant to the City Manager for Public Services may require generators of hauled industrial waste to obtain industrial wastewater discharge permits. The Assistant to the City Manager for Public Services also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
  - 3. Industrial waste haulers may discharge loads only at locations designated by the Assistant to the City Manager for Public Services. No load may be discharged without prior consent of the Assistant to the City Manager for Public Services. The Assistant to the City Manager for Public Services may collect samples of each hauled load to ensure compliance with applicable Standards. The Assistant to the City Manager for Public Services may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
  - 4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of 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.
- f. Any user or industry storing hazardous or toxic chemicals on site shall submit a spill containment plan to the City.
- g. If the Assistant to the City Manager for Public Services permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Assistant to the City Manager for Public Services, and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the permit holder at his expense as required by this section.

(b) *Interceptors.* Grease, oil and sand interceptors shall be provided when, in the opinion of the Assistant to the City Manager for Public Services, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Assistant to the City Manager for Public Services and shall be located as to be readily and easily accessible for cleaning and inspection.

(c) *Wastewater survey.* When requested by the Control Authority, any new or existing industrial user and any zero process discharge industrial facility must submit information on the nature and characteristics of its wastewater, including production and disposal procedures, by completing a wastewater survey questionnaire. The Control Authority may prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be a violation of this division.

(Code 1988, § 22-82)

Sec. 78-134. Industrial Wastewater Discharge Permits

- (a) Requirements for industrial wastewater discharge permits (IWDPs) shall be as follows:
- (1) *Permit required.* An IWDP shall be required of every industry who is designated as a significant industrial user (SIU) as defined by this division or whose discharge might contain the substances or possess the characteristics enumerated in section 78-132 or whose discharge might have an adverse impact or deleterious effect on any portion of the POTW.
  - (2) *Existing industrial wastewater dischargers.* Dischargers of industrial wastewater into the City's sewer system prior to the effective date of the ordinance from which this article derives are granted temporary authority to continue to discharge industrial wastewaters in compliance with the City's codes, regulations, and policies. This temporary authority shall expire 90 days after the date of notification by the Assistant to the City Manager for Public Services of the requirement for a discharger to make application for an IWDP. In no case shall this temporary authority extend beyond 90 days after the effective date of the ordinance from which this article derives. If, prior to the expiration date, the discharger has filed for an IWDP pursuant to subsections (a)(1) and (a)(5) of this section, its temporary authority to discharge will continue. In such case, this temporary authority shall expire on the date the IWDP is issued or denied. Any person discharging pursuant to the temporary authority provided in this subsection is subject to all sections of this article, and such authority may be suspended or revoked in accordance with the terms and procedures set forth in section 78-136(j).
  - (3) *New industrial wastewater dischargers.* Any User required to obtain an industrial wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this industrial wastewater discharge permit in accordance with section 78-134(a)(5) of this ordinance must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
  - (4) *Compliance required.* No IWDP holder shall discharge industrial wastewater in excess of the quantity, rate of discharge, or quality conditions specified in the IWDP. Any person desiring to modify his discharge which would violate conditions of his IWDP shall apply for an amended permit.
  - (5) *IWDP applications.* Existing and proposed new industrial users required under the terms of this division to obtain a permit shall complete and file with the City an application in the form prescribed by the City. Proposed new industrial users shall file their applications at least 90 days prior to their discharging to the POTW. The applicant shall submit, where appropriate, the following:
    - a. The name, address, telephone number, and location if different from the address of the applicant, the owner of the premises from which industrial wastes are intended to be discharged, and the name of a local representative duly authorized to act on behalf of the company.
    - b. ~~NAICS code or SIC number, according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987, as may be amended.~~
    - c. Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
    - d. A brief description of all industrial process waste flows produced before and after pretreatment, if any, at the premises, including the daily volume and wastewater constituents and characteristics as determined by representative samples and analyses. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis for all pollutants concerned and in accordance with 40 CFR Part 136. The description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

- e. Estimated time and duration of discharge within a 20 percent tolerance.
- f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.
- g. Each product produced by type, amount, process or processes and rate of production.
- h. 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. Type and amount of raw materials processed (average and maximum per day).
- i. Number and type of employees, and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.
- j. The location for monitoring all wastes covered by the IWDP.
- k. A list of any environmental control permits held by or for the facility.
- l. Permit fees as determined by the Assistant to the City Manager for Public Services, and pursuant to this section.
- m. A compliance schedule for meeting categorical pretreatment standards, the following conditions of which shall apply:
  - 1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
  - 2. No increment referred to in this section shall exceed nine months.
  - 3. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at 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 industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the City.
- n. A statement signed by an authorized representative of the industrial user as follows:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violation."
- o. Any other information as may be deemed by the City to be necessary to evaluate the IWDP application.

Sec. 78-135. Processing and Issuance of IWDPs.

(a) The Assistant to the City Manager for Public Services will act only on an application which contains all of the information required in Section 78-134 (a)(5). A person who has filed an incomplete or inaccurate application will be notified by the Assistant to the City Manager for Public Services that the application is deficient and the nature of such deficiency and will be given 30 days to correct the deficiency. Upon receipt of a complete application, the Assistant to the City Manager for Public Services shall review and evaluate all data furnished by the SIU and may require additional data. The Assistant to the City Manager for Public Services shall review and evaluate the application and shall propose such special permit conditions as he deems advisable. All IWDPs shall be expressly subject to all sections of this article and all other applicable ordinances, laws, and regulations.

(b) Upon completion of his evaluation, the Assistant to the City Manager for Public Services shall notify the applicant of any special conditions which he proposes be included in the IWDP. The applicant shall have 30 days from and after the date of the Assistant to the City Manager for Public Services' recommendations for special permit conditions to review such and file written objections with the Assistant to the City Manager for Public Services regarding any such special permit conditions. The Assistant to the City Manager for Public Services may, but shall not be required to, schedule a meeting with applicant's authorized representative within 15 days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning special permit conditions. If the applicant files no objections to special permit conditions proposed by the Assistant to the City Manager for Public Services or if a subsequent agreement is reached concerning such, the Assistant to the City Manager for Public Services shall issue an IWDP to the applicant with such special conditions incorporated therein.

(c) Issuance of an IWDP shall not relieve the discharger from complying with all applicable laws, regulations, and ordinances promulgated by other government authority, nor shall the issuance of an IWDP be construed as a representation by the City that the discharge permitted therein complies with all of such laws, regulations and ordinances. IWDPs are issued solely to govern the discharge of wastewater into the public sewer system and the applicable receiving waters, as between the discharger and the City, and shall not be construed to benefit any third party.

Sec. 78-136. Permit Requirements and Restrictions.

(a) *Requirements.* The requirements and restrictions in permits shall be uniformly enforced by the City and may include, but shall not be limited to, the following:

(1) Industrial wastewater discharge permits (IWDPs) must contain:

- a. A statement that indicates the ~~wastewater discharge permit~~IWDP issuance date, expiration date and effective date.
- b. A statement that the ~~wastewater discharge permit~~IWDP is nontransferable without prior notification to the City in accordance with this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing ~~wastewater discharge permit~~IWDP.
- c. Effluent limits, including BMPs, based on applicable general Pretreatment Standards in this article, categorical Pretreatment Standards, local limits, and State and local law~~on applicable pretreatment standards and local limits~~.
- d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- e. A statement of applicable civil and criminal 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.

- f. Requirements to control slug or accidental discharge, if determined by the control authority to be necessary.
- (2) Industrial wastewater discharge permits may contain, but need not be limited to, the following conditions:
- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
  - b. 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.
  - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
  - e. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW.
  - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.
  - g. A statement that compliance with the industrial 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 industrial wastewater discharge permit; and
  - h. Compliance schedules.
  - i. Prohibition of discharge of certain wastewater constituents.
  - j. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto; any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples.
    - 1. The date, exact place, method, and time of sampling and the names of the person taking the samples.
    - 2. The dates analyses were performed.
    - 3. The person that performed the analyses.
    - 4. The analytical techniques/methods used; and
    - 5. The results of such analyses.
  - k. Requirements for notification of the City for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.

1. Other conditions as deemed appropriate by the City to ensure compliance with this article. The City shall require that any or all of the pretreatment requirements or restrictions be provided by the user at his expense.

(b) *Costs of compliance.* The permittee shall be responsible for all costs associated with satisfying IWDP conditions, requirements and restrictions.

(c) *Pretreatment requirements.* If pretreatment is required through the issuance of an IWDP, the permittee shall, at its own expense, design, construct, operate, and maintain such wastewater pretreatment facilities whenever necessary to reduce, modify, or eliminate the user's wastewater discharge to achieve compliance with the limitations in wastewater strength set forth in section 78-132, to meet applicable national pretreatment standards or to meet any other wastewater condition or limitation contained in the user's IWDP. If required by the City, plans, specifications, and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered professional engineer and shall be submitted to the Assistant to the City Manager for Public Services for review. Prior to beginning construction of such pretreatment facilities, the user shall submit a set of final construction plans and specifications to the Assistant to the City Manager for Public Services. Prior to beginning construction, the user shall also secure such building, plumbing, or other permits that may be required by the City. The user shall construct the pretreatment facility within the time provided in the user's IWDP. Following completion of construction, the user shall provide the Assistant to the City Manager for Public Services with as-built drawings. Neither filing of the plans nor the issuance of a permit shall be construed to indicate that the City in any way vouches for or warrants the performance capabilities of any facilities constructed pursuant to such plans, specifications, or data. Subsequent alterations or additions to such pretreatment of flow-control facilities shall not be made without prior notice to the City.

(d) *Duration.* IWDPs shall be issued for any specified period of time, not to exceed five years.

(e) *Applicant's right to object.* Upon receipt of the IWDP, the applicant shall have 45 days to file in writing objections to any term or condition of the IWDP and:

- (1) If the applicant files no objections within this time, the IWDP is deemed to be accepted.
- (2) If the applicant files a timely objection and agreement cannot be reached, the Assistant to the City Manager for Public Services may submit to the City Commission the proposed IWDP conditions and the applicant's written objections thereto at a meeting of the Commission.
- (3) The City Commission shall schedule a public hearing within 90 days following the submission by the Assistant to the City Manager for Public Services of the proposed IWDP and written objections, unless such time be extended for just cause shown to resolve any disputed matters relevant to such IWDP. The Assistant to the City Manager for Public Services shall notify the applicant of the date, time, place and purpose of the hearing scheduled before the City Commission. The Commission shall establish such special permit conditions as it deems advisable to ensure the applicant's compliance with this division or applicable law or regulation and direct the Assistant to the City Manager for Public Services to issue an IWDP to the applicant accordingly.

(f) *Modification.* The terms and conditions of any IWDP may be subject to modification and change by the City during the life of the IWDP to accommodate changed conditions and as local, state, regional, and federal laws, rules and regulations and case decisions are modified or amended or for a variation in reported data as provided in Section 78-137. Modifications may also be made to correct technical mistakes, erroneous interpretations of federal, State or local law, or typographical errors. IWDP holders shall be informed of any proposed changes in their respective permits at least 60 days prior to the effective date of change and shall be allowed to comment relating to any of the proposed changes in their permits within the first 30 days after issuance of such proposed change by the City. The City shall allow a discharger a reasonable period of time to comply with any changes in the permit required by the City, unless otherwise required by emergency or governmental regulations. The IWDP holder may petition the City for modification of the permit based on changed conditions. The Assistant to the City Manager for

Public Services shall review such petitions with such supporting data as he deems necessary and shall take appropriate action.

(g) *Transferability.* A separate permit shall be required for each wastewater connection discharging, directly or indirectly, into the sewer system. For each discharger having multiple connections at a single plant or facility, a single permit shall be required which may set forth specific effluent limitations and conditions for discharge from each separate connection. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned or transferred or sold to a new owner, new user, or for different premises, unless approved by the Assistant to the City Manager for Public Services, and any such attempted assignment, transfer, or sale shall be void and of no effect.

(h) *IWDP re-issuance.* The SIU shall submit a completed reissuance application form as prescribed by the City together with a reissuance fee to the Assistant to the City Manager for Public Services at least 90 days prior to the expiration of the current IWDP. Conditions governing the re-issuance of an IWDP shall be the same as those governing the issuance of a new IWDP.

(i) *Continuation of expired IWDPs.* An expired IWDP will continue to be effective and enforceable until the IWDP is reissued provided:

- (1) The SIU has submitted a completed IWDP application at least 90 days but not more than 120 days prior to the expiration date of the user's existing IWDP; and
- (2) The failure to reissue the IWDP, prior to expiration of the previous IWDP, is not due to any act or omission on the part of the SIU.

(j) *Revocation of IWDP.* Any IWDP issued under the provisions of this division is subject to be modified, suspended or revoked in whole or in part during its term for cause shown including, but not limited to any one of the following:

- (1) Violation of any terms or conditions of the IWDP or other applicable law or regulation.
- (2) Obtaining an IWDP by misrepresentation or failure to disclose fully all relevant facts.
- (3) Falsifying periodic compliance reports and certification statements.
- (4) Tampering with monitoring equipment.
- (5) Failure to pay any required charges.
- (6) Failure or refusal to accept notices of violation or compliance schedules or other enforcement procedures.
- (7) Failure to provide notification to the City of any change in any permitted user's operating condition that either alters the nature, quality or volume of its wastewater discharge or requires either a temporary or permanent reduction or elimination of the permitted discharge.
- (8) When necessary to protect the public health, safety and welfare.

(k) *Regulation of waste received from other jurisdictions.* If another municipality, or user located within another municipality, contributes wastewater to the City of Winter Garden's POTW, the Control Authority shall enter into an inter-jurisdictional agreement with the contributing entity concerning the delegation of responsibility for the administration of the industrial pretreatment program in the specified area or user. An inter-jurisdictional agreement shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs)

which are at least as stringent as those set out in this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits.

- (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis.
- (3) A provision specifying which pretreatment implementation activities, including industrial wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority.
- (4) A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of its pretreatment activities.
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW.
- (6) Requirements for monitoring the contributing municipality's discharge.
- (7) A provision ensuring the control authority access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and
- (8) A provision specifying remedies available for breach of the terms of the inter-jurisdictional agreement.

(l) *Accidental Discharge.* The Assistant to the City Manager for Public Services shall evaluate whether each SIU needs an accidental discharge/slugs discharge control plan or other action to control Slugs Discharges within a year from the date that each facility was first determined to be a SIU and required to apply for and be issued with an IWDP. Each industrial user shall be required to establish an accidental discharge / slug control plan. The plan shall contain the following elements:

- (1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. The Assistant to the City Manager for Public Services may require any industrial user to develop and implement an accidental discharge/slugs control plan at its own expense. All industrial users shall provide facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this section from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this division. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. All existing users shall complete such a plan by the date as specified by the IWDP. No new user who begins discharge to the POTW after the effective date of the ordinance from which this article derives shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved. All SIUs who store chemicals, or whose wastewater includes or could include pollutants in amounts sufficient to cause interference at a POTW treatment plant shall be required to develop an accidental discharge/slugs control plan which shall be approved by the Assistant to the City Manager for Public Services and reevaluated at least once every two years. A copy of this plan shall be submitted to the Assistant to the City Manager for Public Services as part of the IWDP requirements. Accidental discharge/slugs control plans should 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 discharge.
  - d. Procedures to prevent adverse impact from any accidental or slug discharges. 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.
- (2) SIUs who have a history of serious leaks, spills or other accidental slug discharges of waste regulated by this division shall be subject on a case-by-case basis to a special IWDP condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharge.
- (3) Any person causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, or which is likely to cause interference with the POTW shall notify the Assistant to the City Manager for Public Services immediately by telephone. In the absence or unavailability of the Assistant to the City Manager for Public Services, notification shall be given to the City employee then in charge of the treatment works.
- (4) Within five days following such occurrence, the user shall provide the Assistant to the City Manager for Public Services with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to 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. Furthermore, the industrial user shall control its production or all its discharges to the extent necessary to maintain compliance with all applicable City, state and federal regulations upon reduction, loss, or failure of its treatment facility, and until the facility is completely restored or an alternative and equally effective method of pretreatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (5) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call if a dangerous discharge occurs. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(6) Significant Industrial Users are required to notify the Assistant to the City Manager for Public Services immediately of any changes at its facility affecting the potential for a Slug Discharge.

(m) *City Costs.* Annual operation costs of the City's POTW for activities required under this section shall be recovered, at the City's option, through fees charged to the industries and users. Each user may be individually billed for the costs of any scheduled or unscheduled wastewater sampling, analysis and monitoring performed by the City. Each user shall be individually billed for the total costs of wastewater sampling and analysis for all demand monitoring and any other enforcement activities performed by the City. The billing may include direct costs incurred by the City or its authorized agent in sampling, inspecting, and laboratory analyses, adjusted to reflect administrative, legal and other indirect costs incurred by activities that may be required under this section. All self-monitoring costs incurred by any user, these self-monitoring costs including but not limited to the cost of sampling, analysis, and reporting, shall be borne by the user.

(n) *Sampling Station.* When required by the Assistant to the City Manager for Public Services, the IWDP owner of any property serviced by a building sewer carrying industrial wastes shall install at his expense an

industrial sampling station according to the design as approved by the Assistant to the City Manager for Public Services together with such necessary approved meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such industrial sampling station, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Assistant to the City Manager for Public Services.

(o) *Entry.* The Assistant to the City Manager for Public Services and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties at reasonable times for the purposes of inspection to determine compliance, observations, measurement, installation of monitoring equipment, independent sampling and testing in accordance with this article. The Assistant to the City Manager for Public Services shall also be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept, to ensure compliance with pretreatment standards. The Assistant to the City Manager for Public Services or duly authorized employees shall also have the right to inspect and copy records pursuant to the IWDP.

(p) *Search Warrants* - If control authority personnel have been refused access to a building, structure or property or any part thereof, and if the control authority personnel have demonstrated probable cause to believe that there maybe a violation of pretreatment regulations and requirements or that there is a need to inspect as part of a routine inspection program of the control authority designed to verify compliance with the SUO or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City Attorney may appear before any magistrate empowered to issue warrants in criminal cases and provide an affidavit and apply for the issuance of a warrant in the manner provided by law.

(q) *Safety.* While performing the necessary work on private properties referred to in this section or other sections of this article, the Assistant to the City Manager for Public Services or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company. The company, to the extent allowed by law, shall be held harmless from injury or death to the City employees for intentional or negligent acts solely caused by the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, for intentional or negligent acts solely caused by the City employees.

(r) *Special Agreements.* No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to special payment therefore, by the industrial concern; provided, however, that at no time will the City be asked to accept such discharges that, in the City's sole judgment, would violate any local, state, or federal pretreatment standard.

(Code 1988, § 22-83; Ord. No. 06-12, § 6, 3-9-06)

Sec. 78-137. Reporting requirements and retention of records for IWDP holders and other industrial users.

(a) *Baseline Monitoring Report (BMR).* A completed application for an IWDP shall contain more information than is required from an SIU for a BMR as defined in 40 CFR 403.12(b)(1) through (7) and Rule 62-625.600(1)(a) through (g), F.A.C. The completed application shall be used by the City as the equivalent of a BMR.

(b) *Compliance schedule progress report.* If the application for an IWDP (or BMR) contains a compliance schedule as provided for in section 78-133(d)(4)m, 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 POTW, any SIU subject to pretreatment standards and requirements shall submit to the Assistant to the City Manager for Public Services a compliance schedule progress report.

(c) *Report on compliance with categorical pretreatment standards.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards

and requirements shall submit to the control authority a report containing the information described in section 78-133(a)(5)d of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 62-625.410(4), F.A.C., this report shall contain a reasonable measure of the user=s long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user=s actual production during the appropriate period.

(d) *Periodic compliance reports.* All permitted SIUs shall submit periodic compliance reports to the Assistant to the City Manager for Public Services in accordance with the terms of their IWDP. All compliance reports shall be in accordance with the following:

- (1) Copies of all approved periodic compliance forms attached to the IWDP (or alternative forms approved by the Assistant to the City Manager for Public Services) shall be completed and submitted to the Assistant to the City Manager for Public Services. In addition, a copy of the analytical results and chain of custody forms received from the contracting laboratory shall be attached to the report.
- (2) The specific months in which periodic compliance reporting is required shall be included in the IWDP of each SIU. This frequency shall equal or exceed the twice per year State requirements of Rule 62-625.600(4)(a) & (7)(a), F.A.C. At the discretion of the Assistant to the City Manager for Public Services, as applicable, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Assistant to the City Manager for Public Services may agree in writing to alter the months during which the above reports are to be submitted.
- (3) The due date for submission of periodic compliance reports to the Assistant to the City Manager for Public Services shall be the thirtieth day following the end of the month in which they are required by the significant industrial user's IWDP. Reports submitted after the due date may result in initiation of demand monitoring or other enforcement action by the City at the IWDP holder's expense. Reports submitted ~~30-45~~ days or more after the due date shall result in the SIU being declared to be in significant noncompliance with reporting requirements as required by part ~~8-h~~ of the definition of SNC contained herein.
- (4) ~~Industrial users~~All SIUs shall complete each periodic compliance report utilizing data obtained through appropriate sampling and analysis performed during the period covered by the report, which is representative of conditions occurring during the reporting period. The City shall include in the IWDP a required frequency of monitoring necessary to assess and assure compliance by SIUs with applicable Pretreatment Standards and Requirements. The results of all discharge monitoring, whether or not required by the IWDP, shall be included in the report provided that test procedures approved by the Approval Authority are used. In cases where the Pretreatment Standard or local limit requires compliance with a BMP or pollution prevention alternative, the SIU shall submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance status of the SIU.
- (5) The Assistant to the City Manager for Public Services shall approve and include in the IWDP the locations at which the industrial user shall collect samples required for periodic compliance reports. Monitoring locations may be changed only after prior written permission by the Assistant to the City Manager for Public Services.
- (6) Sampling and analytical requirements for periodic compliance reports shall be performed in accordance with section (o) of this section. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis.
- (7) Together with every periodic compliance report, the permittee shall submit the following certification statement, signed by an authorized representative of the industrial user or designee. The exact wording of this statement shall be as follows:

"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 gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violation."

(e) *Report of changed conditions.* All industrial users are required to notify the Assistant to the City Manager for Public Services of any planned significant changes to the industrial 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 Assistant to the City Manager for Public Services may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWDP application.
- (2) The Assistant to the City Manager for Public Services may issue a new IWDP or modify an existing IWDP as required.
- (3) No industrial user shall implement the planned changed condition until and unless the Assistant to the City Manager for Public Services has responded to the industrial user's report.
- (4) For purposes of this requirement flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants shall be deemed significant.

(f) *Reports of potential problems.* All industrial users shall submit reports of potential problems and accidental spills/slug loads to the Assistant to the City Manager for Public Services as detailed in section 78-136(1) of this division. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this division.

(g) *Reports from unpermitted users.* Any industrial user who is not required to obtain an IWDP, shall, if required, submit a report to the Assistant to the City Manager for Public Services containing specified analyses of its wastewater discharge.

(h) *Notice of violation/repeat sampling and reporting.* If sampling performed by an SIU for a periodic compliance report indicates any violation as defined herein, the SIU shall submit the report and shall notify the Assistant to the City Manager for Public Services within 24 hours after becoming aware of the violation. The permittee shall repeat the sampling and analysis and submit the results of the repeat analysis to the Assistant to the City Manager for Public Services within 30 days after becoming aware of the violation. Where the City has performed the sampling and analysis in lieu of the SIU, the City must perform the repeat sampling and analysis unless it notifies the SIU of the violation and requires the SIU to perform the repeat analysis. Resampling by the SIU is not required if the City performs sampling at the user's facility at least once a month, or if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, ~~or if the City has performed the sampling and analysis in lieu of the SIU.~~

(i) *Notification of the discharge of hazardous waste.* This subsection refers to all industrial users:

- (1) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial 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 industrial user: an identification of the hazardous waste constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (e) above. The notification requirement in this section does not apply to pollutants already reported under the reporting requirements of subsections (a), (b) and (c) above.

- (2) Dischargers are exempt from the requirements of subsection (i)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR Part 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR Part 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial 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 and additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance 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 wastes generated to the degree it has determined to be economically practical.

(j) *Change of authorized representative of an industrial use.* Should the permittee's authorized representative change during the permit period because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the user, a completed copy of the approved authorization form (attached to the IWDP) for the new representative or position must be submitted to the Assistant to the City Manager for Public Services.

(k) *Maintenance of records.* Any SIUs subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with BMPs. Such records shall include for all samples:

- (1) The date, exact location, method and time of sampling, the names of the persons taking the samples, and chain of custody of the samples.
- (2) The dates analyses were performed.
- (3) The person that performed the analyses.
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(l) *Retention of records.* Any SIU subject to the reporting requirements established in this section, including documentation associated with BMPs, shall be required to retain for a minimum of three years records of all submitted periodic compliance reports and any other such monitoring activities and/or analytical data pertaining to these reports (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Assistant to the City Manager for Public Services, State or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the Assistant to the City Manager for Public Services, the State or EPA upon reasonable notice to the permittee.

(m) *Confidentiality*. Information and data on a user obtained from reports, questionnaires, IWDP applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user stamps the words "confidential business information" on each page containing such information at the time of submission, and is able to demonstrate to the satisfaction of the Assistant to the City Manager for Public Services that the release of this specific material, would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. Those portions of any document identified in writing by the permittee as disclosing trade secrets or secret processes shall not be made available to the public pursuant to section 308(b) of the Act unless determined by a court of competent jurisdiction to be subject to disclosure. These documents shall, however, be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(n) *Timing*. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern. Faxed copies of the report will only be accepted if the complete original report is received by the City within five working days of the fax copy.

(o) *Sampling and analytical requirements*. The following regulations apply to all wastewater sampling and analytical methods and techniques required by this division:

- (1) Except as indicated in section (2) below, wherever wastewater sampling is required by the terms of this division or IWDP, such sampling shall be performed using flow proportional composite collection techniques in order to collect a representative wastewater sample throughout the total daily period of effluent discharge by the user. ~~Alternatively, In the event flow proportional sampling is deemed to be technically infeasible by the control authority City, it may authorize the use of time proportional sampling or a minimum of eight (8) grab aliquots composited into a single sample where the user-SIU demonstrates that this will provide a representative sample of the effluent being discharged. Where time-proportional composite sampling or aliquot grab sampling is authorized by the City, the decision to allow the alternative sampling must be documented in the industrial user file for that facility. In addition, grab samples may be required to show compliance with instantaneous maximum discharge limits.~~
- (2) Samples for oil and grease, temperature, specific conductance, pH, cyanide, total phenols, sulfides and volatile organic compounds shall be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in Chapter 62-160, F.A.C., and DEP-SOP-001/01, multiple grabs collected during a 24-hour period may be composited prior to analysis as follows: 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 City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- (3) Oil and grease samples shall be collected in accordance with paragraph (2) above unless the sampling location or point cannot be physically accessed to perform a direct collection of a grab sample. In these instances, the sample shall be pumped from the sampling location or point into the sample container using a peristaltic-type pump. All pump tubing used for sample collection must be new or pre-cleaned and must be changed between sample containers and sample points. The pump tubing shall not be pre-rinsed or flushed with sample prior to collecting the sample. The report of analysis shall indicate that a peristaltic pump was used to collect the oil and grease sample.
- (4) All sample preservation procedures, container materials, maximum allowable holding times and analytical techniques to be submitted as part of any application or report required by this division shall be performed in accordance with the procedures and techniques specified in "The Department of

Environmental Protection Standard Operating Procedures for Field Activities"(DEP-SOP-001/01) February 2004 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If DEP-SOP-001/01 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with Rule 62-625.600(1)(e)6b & 6c or procedures approved by the EPA.

(45) All pollutant analyses, 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 shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority or other parties approved by EPA. All analyses shall be performed by a laboratory certified by Florida Department of Health for environmental analysis for all pollutants concerned.

(56) An SIU may request the control authority to perform all sampling and analysis of its wastewater in lieu of self monitoring by the SIU. This sampling and analysis shall be performed by the control authority according to part (3) above following the control authority's FDEP approved written comprehensive quality assurance plan.

(67) Where an SIU performs its own sampling, the SIU shall develop a written procedure for the sampling based on ~~part (3) paragraph (4)~~ above and shall submit this to the control authority for approval. The SIU shall be required to demonstrate the complete field sampling procedure at its facility to the satisfaction of the control authority prior to the issuance of approval.

(78) Where a private contractor is selected by a SIU to perform the necessary sampling and/or laboratory analysis, the SIU shall submit and maintain current copies of the following private contractor=s documents to the control authority prior to any sampling or analysis data being accepted by the control authority.

- a. FDOH Environmental Water Certification Analytes List.
- b. Environmental Water Certificate as issued by the Office of Laboratory Services, Jacksonville, Florida.
- c. The latest FDEP approval correspondence containing the FDEP assigned Comprehensive Quality Assurance Plan number.
- d. The sampling protocols contained in the Comprehensive Quality Assurance Plan.

The contractor may be required, at the control authority's request, to demonstrate the complete field sampling procedure at the SIU's facility. Analytical results will not be accepted from the SIU or its selected private laboratory until the sampling procedure has been approved by the City.

(Code 1988, § 22-84)

Sec. 78-138. Enforcement Procedures.

(a) *Notice of Violation (NOV) and Compliance Meeting.* When the Assistant to the City Manager for Public Services finds that a User has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Assistant to the City Manager for Public Services may serve upon that User a written Notice of Violation. Within ten (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 Assistant to the

City Manager for Public Services. 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 the Assistant to the City Manager for Public Services to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. The user may also be directed to attend a compliance meeting with representatives of the City. The purpose of the compliance meeting shall be for the industrial user to present and establish such procedures, investigations, studies, and compliance measures as are necessary to control and prevent future violations of this article. The user shall be bound by such procedures, etc., and during the compliance meeting the user shall agree to a date certain beyond which no further violations shall occur. Failure to comply with the compliance meeting procedures, etc., or the date shall be deemed a violation of this article and may be grounds for revocation of the user's wastewater discharge permit and grounds for such other actions, penalties or enforcement or all or any combination of these things as may be authorized for violation of this article.

(b) *Notice of Significant Noncompliance (NOSNC)*. Whenever an SIU has violated the IWDP or any provision of 40 CFR Part 403 or 62-625 F.A.C., a Notice of Significant Noncompliance shall be issued if the City determines the violation to constitute Significant Noncompliance as defined in Section 78-127. The NOSNC shall clearly state the noncompliance and require the SIU, within ten (10) working days of the receipt date of this Notice, to respond in writing to the violation and submit a written plan outlining what steps will be taken to gain compliance and prevent reoccurrence of the violation. In addition to the NOSNC the City shall insert an annual public notification of all SIUs in SNC in the daily newspaper with the largest circulation in the immediate area serviced by the POTW.

(c) *Consent Orders*. The Assistant to the City Manager for Public Services may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the compliance or cease and desist orders issued pursuant to subsections (d) and (g) of this ordinance and shall be judicially enforceable.

(d) *Compliance Orders*. When the Assistant to the City Manager for Public Services finds that a User has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Assistant to the City Manager for Public Services may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(e) *Emergency Suspensions and Termination of Service*. The City may suspend the wastewater treatment service and an industrial wastewater discharge permit when such suspension is necessary, in the opinion of the Assistant to the City Manager for Public Services, in order to stop an actual or threatened discharge which represents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, which causes interference to the POTW or which causes or may cause the City to violate any conditions of its NPDES permit.

- (1) Any person notified of a suspension of the wastewater treatment service or the IWDP or either of these things shall immediately stop or eliminate the discharge. Methods of notice shall include but shall not be limited to personal conversation between the user or his representative and the Assistant to the City Manager for Public Services; telephone calls of this same nature; letters, either mailed or hand-delivered; hand-delivered messages; or notices posted at the user's premises or the point of discharge into the City's wastewater system.

- (2) If the person fails to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including but not limited to immediate severance of the sewer connection or water connection, to prevent or minimize damage to the POTW system or endangerment to any individuals.
- (3) The City may reinstate the IWDP and the wastewater treatment service upon proof of the elimination of the non-complying discharge and demonstration of measures to prevent future occurrences.
- (4) A detailed written statement submitted by the user describing the cause of the discharge and the measures taken to prevent any future occurrence shall be submitted to the City within 15 days of the date of the occurrence.

(f) *IWDP Revocation.* Any industrial user who violates the conditions outlined in Section 78-136(j) of this ordinance or other applicable local, regional, state, or federal laws, regulations and case decisions is subject to having the IWDP revoked by the Assistant to the City Manager for Public Services:

(g) *Cease and Desist Order.* When the Assistant to the City Manager for Public Services finds that a User has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Assistant to the City Manager for Public Services may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(h) *Show Cause Hearing.* The City may order any user who causes or allows an unauthorized discharge or who otherwise violates this article in any way to show cause before the code enforcement board why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten days before the hearing. Service may be made on any agent or officer of a corporation or on the local representative as identified in the permit application. The code enforcement board may itself conduct the hearing and take evidence or may designate any of its members or any officer or employee of the City to:

- (1) Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing.
- (2) Take evidence.
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the code enforcement board for action thereon. After the code enforcement board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or unless existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. The industrial user shall have the opportunity to appear before the code enforcement board prior to its final decision and present oral and written arguments. Nothing in this subsection may prevent the City from taking immediate, appropriate, or emergency actions or all of these things to prevent a violation or a further violation of this article when, in the City's sole discretion, circumstances warrant an immediate response to any such violation.

(i) *Injunctive Relief.* The City may, immediately upon discovering an ongoing or potential discharge of pollutants into the City's POTW which reasonably appears to exceed the requirements or conditions described in this article, petition the circuit court of the county or the federal district court for a temporary restraining order or preliminary injunction to halt or prohibit such discharge. Prior to the filing of such a petition, the Assistant to the City Manager for Public Services shall attempt to notify the user of the City's intention to file such action. Notice may be of the type outlined in this section, but shall not be a condition precedent to the City's petitioning for and obtaining such an order or injunction.

(j) *Recovery of Costs to City.* In addition to remedies available to the City as set forth elsewhere in this article, if the City is fined by the state or the EPA or any other governmental agency for a violation of water quality standards as the result of a discharge of pollutants, the fine and all City legal, sampling, analytical testing and any other related costs shall be charged to the responsible user. Such charges shall be in addition to and not in lieu of any other remedies the City may have under this article or under any statutes or regulations, at law or in equity.

(k) *Obstructions.* If the discharge from any user causes a deposit, obstruction, or damage to any of the City's wastewater facilities, the Assistant to the City Manager for Public Services shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired, at the sole cost of the person or user causing such deposit, obstruction, or damages.

(l) *Remedies Non-exclusive.* The remedies provided for in this ordinance are not exclusive. The Assistant to the City Manager for Public Services may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Assistant to the City Manager for Public Services may take other action against any User when the circumstances warrant. Further, the Assistant to the City Manager for Public Services is empowered to take more than one enforcement action against any noncompliant User.

(m) *Affirmative Relief.* In addition to any fine levied under this article, the City may, where the circumstances of the particular case so dictate, but in the sole discretion of the Assistant to the City Manager for Public Services, seek injunctive relief to prohibit the user from discharging any wastewater into the City's sanitary sewer system or to provide such other affirmative relief as may be appropriate.

(n) *Excess Flow.* A person or user whose discharge flow exceeds 50,000 gallons per day on the day of the violation or 50,000 gallons as an average during the month that the violation occurs may be assessed up to and including twice the amounts described in this section.

(o) *Administrative fines.* Any industrial user who violates any section of this article shall be subject to a penalty not exceeding \$1,000.00 per day per violation for each day that the user is in violation of this article. Administrative fines shall be issued in accordance with the City of Winter Garden Enforcement Response Plan as approved by the Florida Department of Environmental Protection. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User. The City may provide for larger penalties where appropriate (e.g., where the industrial user has a history of violations, etc.). This minimum penalty shall in no way limit the City's ability to seek larger penalties in appropriate cases or to allow the City to mitigate the penalty depending upon the circumstances of each case or violation.

(p) *City Analyses.* If there is a difference in understanding between the City and the user as to the characteristics in the wastewater, the City reserves the right to use the City analyses and results to thereafter compute any fees that may be assessed.

(q) *Penalties owing.* The City also reserves the right to revoke a discharge permit or disconnect wastewater service to, or both of these things, any user whenever penalties or fees are due and owing for a period of more than 14 days following the date of notification to the user that a chargeable violation has occurred.

(r) *Falsification.* Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article or

pursuant to any wastewater discharge permit or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sampling or analysis or information-gathering method required under this article shall be subject to the penalties and costs provided in this section and any other penalty that may be provided under this Code or any other applicable local, state, or federal law or regulation.

(s) *Civil Penalties.* A User who has violated, or continues to violate, any provision of this ordinance, an industrial wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of not less than \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- (1) The Assistant to the City Manager for Public Services may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (2) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(t) *Criminal Prosecution.* Any SIU who willfully or negligently violates any provision of the City's Sewer Use Ordinance (SUO), permit, or order issued hereunder, or any other pretreatment requirement shall, upon conviction, be punished by a fine of not more than \$1,000 per violation per day or the maximum civil penalty permitted under State law per violation per day or imprisonment or both. Any SIU who knowingly makes false statements, representations, or certifications in any application, record report, plan or other documentation filed, or required to be maintained, pursuant to the SUO, Permit, or order, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the SUO, shall, upon conviction, be punished by a fine of not more than \$1,000 per violation per day or the maximum civil penalty permitted under State law per violation per day or imprisonment or both.

#### Sec. 78-139. Appeal of Enforcement Action.

(a) *Appeal procedure.* The following appeal procedure is designed to allow any person or user the right to appeal the requirements of this article if he thinks they are incorrect and to have the right to a hearing regarding his appeal before the City Commission:

- (1) Complaints requiring inspection or personnel approval shall be dealt with on a case-by-case basis. If necessary, documentation required to substantiate the user's complaint shall be filed with the City. After review of the information presented, a determination by the Assistant to the City Manager for Public Services will be made known to the complainant. All documentation, review notes, and written resolution of the complaint shall be filed and retained by the City clerk for a period of not less than three years.
- (2) The user shall also have the right to an administrative review of the Assistant to the City Manager for Public Services' determination by the City Commission. In order to exercise this right, the user shall comply with all applicable requirements of this ordinance, as it may be from time to time amended.
- (3) The City Commission shall schedule a hearing thereon at its next regularly scheduled meeting at which this matter can reasonably become part of the agenda, but no later than 30 days following receipt of such notice. The user shall be notified of the date and time of the hearing, and shall be permitted to present evidence and argument at the hearing. The City Commission shall make a determination on the matter at that time, and this determination shall be binding upon the user and the City and shall constitute the official position of the City with respect to the matter.

- (4) If the City Commission upholds the Assistant to the City Manager for Public Services' decision, all penalties previously assessed against the user shall be paid immediately, but no later than five days following the City Commission's determination. If the City Commission overrules the Assistant to the City Manager for Public Services' decision in part or in full, the City Commission may, at its discretion, waive part or all of the penalties charged to the complainant.
- (5) All decisions rendered by the City Commission shall be considered final and binding on all parties involved.

(b) *Immediate Action.* Nothing in this section or in this article as a whole is intended to preclude the City from taking immediate action to temporarily modify a permit or to sever service of an industry completely when there is imminent risk of injury to the public sewer system or to the health and welfare of the public or to the environment.

Sec. 78-140. Affirmative Defenses to Discharge Violations.

(a) *Upset.* An upset is defined in Section 78-127 above.

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

(b) *Prohibited Discharge Standards.* A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 78-132(a). of this ordinance or the specific prohibitions in Sections 78-132(b)(3) through (7) and (9) through (21) of this ordinance if it can prove that it

did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- (1) Local limits exist for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- (2) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.* Bypass is defined in Section 78-127 above. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c)(1) and (c)(2) of this Section.

- (1) Bypass notifications are required if;
  - a. If a User knows in advance of the need for a bypass, it shall submit prior notice to the Assistant to the City Manager for Public Services, at least ten (10) days before the date of the bypass, if possible.
  - b. A User shall submit oral notice to the Assistant to the City Manager for Public Services of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Assistant to the City Manager for Public Services may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (2) Bypass is prohibited, and the Assistant to the City Manager for Public Services may take an enforcement action against a User for a bypass, unless;
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The User submitted notices as required under paragraph (c)(1) of this section.
- (3) The Assistant to the City Manager for Public Services may approve an anticipated bypass, after considering its adverse effects, if the Assistant to the City Manager for Public Services determines that it will meet the three conditions listed in paragraph (c)(2) of this Section.

Section 78-141. Effective Date.

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

City of Winter Garden City Commission  
Regular Meeting Agenda for July 14, 2011

Secs. 78-142--78-165. Reserved.

**ORDINANCE NO. 11-13**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 118, ARTICLE VI, DIVISION 7, SECTION 118-1297 OF THE WINTER GARDEN CODE OF ORDINANCES RELATING TO STANDARDS AND REQUIREMENTS FOR FENCES, WALLS, AND SWIMMING POOL ENCLOSURES; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission has the authority to regulate commercial activity within its jurisdictional boundaries pursuant to Article VIII, § 2(b) of the Florida Constitution and Chapter 166, Florida Statutes;

**WHEREAS**, the City Commission desires to enact reasonable regulations regarding locations and standards for fences within the City to promote and maintain property values and aesthetic coherence within the City and further protect the health, safety, welfare, and morals of its citizens; and

**WHEREAS**, the City Commission desires to update the specific location, height, and other related requirements to fences and other similar screen structures; and

**WHEREAS**, the City is identifying the locations, standards and location requirements for fences in required yards and enclosures of swimming pools; ~~and~~.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:**

**SECTION 1:** **Authority.** The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII, § 2(b) of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

**SECTION 2:** **Adoption.** Chapter 118, Article VI, Division 7. Fences, Buffers Section 118-1297 of the City of Winter Garden Code is amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

**DIVISION 7. FENCES, BUFFERS**

**Sec. 118-1297.** Fences: and walls ~~and enclosure~~ of swimming pools.

(a) *Permitted in required yards.* Notwithstanding other sections of this chapter, fences and walls may be permitted in any required yard or along the edge of any yard subject to the following:

(1) *Front yards.* Three feet in height, ~~with the exception of chainlink fences which shall not exceed four feet in height~~, and set back from the property line one-half foot. Chain link fences are not permitted in the front yard. Exceptions to no chain link fence in the front yard are:

a. For corner lots, the yard that is located on the side of the house oriented toward the street will be allowed for chain link fence not to exceed four (4) feet in height along with the installation of a landscape hedge in front of the fence;

b. For parcels larger than two acres for agricultural use, a chain link fence not to exceed four (4) feet in height in the front yard and six (6) feet in height in the side and rear yard is permitted.

(2) *Side yards.*

a. Three feet in height, ~~with the exception of chainlink fences which shall not exceed four feet in height~~, to the building line and six feet in height for the remaining side yard. Chain link fence is not permitted in the front yard area.

b. ~~Set back from the property line one half foot or on the line with the consent of adjoining property. Setback can be located on the side property line (or immediately on the inside of the property line) with the submission of a scaled drawing indicating the location and dimensions of fence or wall overlaid on a scaled survey. Alternatively, setback from the property line of one half foot from the property line or on the property line with the written consent of the adjoining property owner(s) with a drawing showing the location of the fence.~~

Option 1: With the submission of a scaled drawing indicating the location and dimensions of the fence or wall overlaid on a scaled survey, the fence or wall can be located on the property line.

Option 2: Without the submission of a scaled drawing indicating the location and dimension of the fence or wall overlaid on a scaled survey, the fence or wall must be located at least six inches from the property line.

Option 3: Without the submission of a scaled drawing indicating the location and dimension of the fence or wall overlaid on a scaled survey, the fence or wall may be located on the property line if written consent from the adjoining property owners is submitted with the permit application.

(3) *Rear yards.* Fences and walls in rear yards may be a maximum of six feet in height. ~~If the City determines there is a potential conflict with a proposed residential fence or wall that is adjacent to commercial or industrial property, the City will evaluate the appropriate alternative to provide necessary screening from the commercial or industrial property.~~

Option 1: With the submission of a scaled drawing indicating the location and dimensions of the fence or wall overlaid on a scaled survey, the fence or wall can be located on the property line.

Option 2: Without the submission of a scaled drawing indicating the location and dimension of the fence or wall overlaid on a scaled survey, the fence or wall must be located at least six inches from the property line.

Option 3: Without the submission of a scaled drawing indicating the location and dimension of the fence or wall overlaid on a scaled survey, the fence or wall may be located on the property line if written consent from the adjoining property owners is submitted with the permit application.

If the City determines there is a potential conflict with a proposed residential fence or wall that is adjacent to commercial or industrial property, the City will evaluate the appropriate alternative to provide necessary screening from the commercial or industrial property.

(4) *Fences adjacent to alleyways.* Fences may be located no closer than four feet from the edge of pavement of an alley, or the unpaved right-of-way of the alley (rear yard or side yard) providing the fence is a maximum of four feet in height and the fence is semi-opaque. Fences that are greater than four feet in height (but no greater than six feet in height) and are fully opaque may be constructed adjacent to an alley (rear or side yard) providing the fence is no closer than eight feet from the edge of pavement of the alley. Driveways to alleyways may be gated providing the gate does not swing open toward the alley.

(5) *General.* All fences must be installed with the smooth side or most finished side facing out towards the adjacent property. All fences and walls must be outside the triangle of visibility.

(b) *Enclosure of swimming pools and spas.*

(1) ~~Every outdoor swimming pool or family pool shall be completely surrounded by a fence or wall not less than five feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four inches in any dimension except for doors or gates. If a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of such enclosure. Fencing or enclosing of swimming pools shall additionally comply with the adopted version of the Florida Building Code, Section 424, Swimming Pools and Bathing Places.~~

(2) All gates or doors opening through such enclosure shall be equipped with a self closing and self latching device for keeping the gate or door securely closed at all times when not in actual

use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Screen enclosures shall be located at least five (5) feet from the side or rear property line or outside of any utility or drainage easement whichever is greater.

~~(3) This subsection (b) shall be applicable to all new swimming pools or family pools constructed, other than indoor pools, and shall apply to all pools which have a minimum depth of 18 inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant or licensee, upon which is situated a swimming pool or family pool having a minimum depth of 18 inches shall fail to provide and maintain such fence or wall as provided in this article. No permanent structures (such as concrete pool decks) are permitted in utility easements. Fences are allowed uses in utility easements provided this construction does not interfere with the utility improvements in the easement.~~

~~(4) The city manager may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the protection as sought under this section is not reduced thereby. The city manager may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described in this subsection. The city manager shall allow a reasonable period within which to comply with the requirements of this section.~~

(c) *Electric fences.* It shall be unlawful for any person to erect, install or maintain any electrically charged fence within the city, except that the building official may issue a permit for an electrically charged fence to retain animals upon proof that the fence will not be hazardous to life.

(d) *Barbed wire fencing.* For the purpose of these regulations, barbed wire includes concertina wire, razor wire, or any similar device.

Notwithstanding the above regulations, it shall be unlawful for any person to erect, construct or maintain any barbed wire fencing within the city except:

(1) Not more than three courses of barbed wire not to exceed one (1) additional foot in height to the fence may be installed above the top line of a six-foot (~~1.83 meters~~) chain link fence. Barbed wire may only be used in the following zoning districts:

- a. I-2;
- b. I-1; and
- c. C-2 with a special exception.

Regardless of the zoning district, no barbed wire may be used in locations without a special exception permit that are:

- d. Visible to a residential zoned property; or
- e. Within 20 feet of a public road.

~~without a special exception permit.~~

Existing nonconforming situations--All existing nonconforming barbed wire as of the date of this subsection [~~July 22, 1999~~ July 14, 2011] shall be considered vested and may be allowed to remain.

(2) Barbed wire fences which comply with state statutes may be erected, constructed and maintained on premises zoned for agricultural uses.

(e) *Fences creating safety hazards.* It shall be unlawful for any person to erect, install, or maintain a fence which obscures clear view of traffic at intersections or driveways or which creates a safety hazard to pedestrians or vehicular traffic.

(f) *Permits.* It shall be unlawful for any person to install, erect, construct, relocate or alter a fence within the city without first obtaining a permit ~~therefor~~ from the building ~~inspector~~ division. No permit shall be issued if the building inspector determines that the proposed fence does not meet any of the requirements of this section. A sketch or design of the proposed fence, including a description of materials to be used and specification of height, shall be submitted with the application for a permit.

(g) *Application of section to existing fences.* This section does not apply to fences in existence before the effective date of the ordinance from which this section derives, except that on sale or transfer of the property upon which a nonconforming fence is located, such fence shall be made to conform to the requirements of this section or shall be removed within 30 days of closing or transfer.

(h) *Chain linked fence.* Notwithstanding the above regulations, all new chain linked fences that are visible from either a public road or from a residential or commercial property must be coated in green, black, or brown vinyl. The exceptions to this requirement are:

- (1) Existing chain link fences;
- (2) Chain linked fences on single family or duplex residential property; or
- (3) New chain linked fences that receive specific permission by the planning and zoning board to be uncovered.

(i) *Subdivision walls and/or buffers.* All new perimeter lots in new subdivisions that back up to a public right-of-way must have some type of screen wall, fence, vegetative screen, or buffer at the time of final plat approval. The construction of said improvements must be approved by the planning and zoning board at the time of preliminary plat approval. Height of the screen wall shall be six (6) feet from the finished grade of the location of the wall. These improvements shall provide both a desirable buffer for the residents of the subdivision from the street as well as provide an aesthetic buffer for the motorist. This can be accomplished with the installation of berms, walls and/or vegetation. In general, compliance with this section will require a brick facade wall (or berm or considerable amount of open space such as a golf course), hedges, canopy trees (at 50-foot spacing) and understory trees (at two trees per 50 feet). Inset sections of perimeter walls for landscaping are allowed. The following are not considered adequate buffers for compliance with this section:

- Chain linked fences.
- Wood fences.
- Painted or untreated block walls.
- Insufficient planting area for maturing landscaping.

Maintenance of these improvements will be the responsibility of the homeowners' association and must be clearly defined on the final plat.

(j) *Retention ponds.* All retention ponds that are required to have chain link fencing by St. John's River Water Management District must be coated in green, brown, or black vinyl. The exception to this requirement are retention ponds that:

- (1) Are not visible from any public right of way or from a commercial or residential property; or
- (2) If the owner of the retention pond fencing receives specific permission by the planning and zoning board.

(k) *Maintenance.* All fences, walls or other similar structures erected in any residential district shall be maintained by the property owner. Property owners shall be responsible for maintaining the appearance of the fence, wall, hedge or other similar structure in a manner that there are no missing boards or slats, cracks, open gaps, leaning sections, crooked posts, missing blocks or bricks, cracked or crumbling blocks or bricks and to maintain the structural integrity of the fence, wall or similar structure.

**SECTION 3: Codification.** Sections 2 through 6 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

**SECTION 4: Control.** In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance shall control to the extent such conflict exists.

**SECTION 5: Severability.** It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall survive and remain effective despite such invalidity or unconstitutionality.

**SECTION 6: Effective Date.** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** \_\_\_\_\_ June 23 \_\_\_\_\_, 2011

**SECOND READING AND PUBLIC HEARING:** \_\_\_\_\_, 2011

City of Winter Garden City Commission  
Regular Meeting Agenda for July 14, 2011

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

\_\_\_\_\_  
JOHN REES, Mayor/Commissioner

**ATTEST:**

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

**RESOLUTION NO. 11-08**

**A RESOLUTION OF THE CITY OF WINTER GARDEN AMENDING  
THE CITY OF WINTER GARDEN PURCHASING MANUAL ADOPTED  
BY RESOLUTION NO. 09-13 AND PROVIDING FOR AN EFFECTIVE  
DATE.**

**WHEREAS**, the City Commission desires to amend the City of Winter Garden Purchasing Manual adopted by Resolution No. 09-13 on September 9, 2009 as specified by Exhibit "A" attached hereto; and

**WHEREAS**, the City Commission finds that the revisions to the Purchasing Manual adopted by this Resolution are in the best interest of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:**

**Section I.**        Recitals. The foregoing recitals are correct and are incorporated herein as findings of the City Commission.

**Section II.**        Adoption. The City Commission of the City of Winter Garden hereby adopts the amendments to the City of Winter Garden Purchasing Manual as set forth in **Exhibit "A"** attached hereto and incorporated herein (~~stricken through~~ language are deletions and underlined language are additions).

**Section III.**      Effective Date. This Resolution shall take effect immediately upon its final adoption by the Winter Garden City Commission.

**ADOPTED AND RESOLVED** this \_\_\_\_ day of July 2011, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

\_\_\_\_\_  
John Rees, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
Kathy Golden, City Clerk