

**ORDINANCE NO. 7607**

**ORDINANCE AMENDING TITLE 15 ENTITLED “SEWERS AND SEWERAGE” OF THE CODE OF ORDINANCES OF THE CITY OF EAU CLAIRE TO INCLUDE NEW DEFINITIONS AND PERMIT TERMS PURSUANT TO WISCONSIN DEPARTMENT OF NATURAL RESOURCES REGULATIONS AND OTHER ADMINISTRATIVE UPDATES**

**THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:**

**SECTION 1.** *Chapter 15.04 entitled “Sewerage Service Charge” is hereby amended as follows:*

**15.04.020 Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used in this title shall be as follows:

22. “Non-Significant Categorical Industrial User” (NSCIU) means an industrial user subject to categorical pretreatment standards on a finding that the industrial user never discharges more than 100 gallons per day (GPD) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met: (1) the industrial user, prior to the city’s finding has consistently complied with all applicable categorical pretreatment standards and requirements; (2) the industrial user annually submits the certification statement defined in 14.020.020(5.1)(b) together with any additional information necessary to support the certification statement; and (3) the industrial user never discharges any untreated concentrated wastewater.

37. “Signatory requirements” means requirements that all reports be signed by the following:

a. By a responsible corporate officer if the User is a corporation. A responsible corporate officer means:

1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or

2) A manager of one or more manufacturing, production, or operation facilities ~~employing more than 250 persons, or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if provided the manager is authorized to make decisions which govern the operation of the facility, make major capital investment recommendations, initiate and direct comprehensive measures to assure long-term compliance with environmental laws, can ensure the necessary systems are established to gather complete and accurate information for the report and where~~ authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

39. “Significant noncompliance (SNC)” is a violation that meets any of the following criteria:

a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) of more of all the measurements taken during a six-month period exceed

~~the daily maximum limit or average~~ any numeric pretreatment standard or requirement including an instantaneous limit for the same pollutant parameter;

b. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for ~~each the same~~ pollutant parameter taken during a six-month period equaled or exceeded the product of the ~~daily maximum limit or the average limit~~ numeric pretreatment standard or requirement including any instantaneous limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH), or exceeded the upper or lower limits of pH by 0.4 standard units or more;

c. Any other violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);

d. 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;

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

f. Failure to provide, within ~~30~~ 45 days of the due date, any required reports containing all required monitoring results and other information such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

g. Failure to accurately report noncompliance;

h. Any other violation(s) which the city determines will adversely affect the operation or implementation of the local pretreatment program.

47. "Utilities ~~administrator~~ manager" means the city utilities ~~administrator~~ manager or the authorized deputy, agent, or representative of the utilities ~~administrator~~ manager.

**SECTION 2.** *Section 15.04.020 shall be renumbered.*

**SECTION 3.** *Chapter 15.08 entitled "Sewer Regulations" is hereby amended as follows:*

**15.08.070 General discharge prohibitions.**

E. 4. Payment to cover the added cost of handling and treating the wastes. If the city requires the pretreatment or equalization of waste flows, plans and specifications in connection therewith shall be submitted by the user to the city ~~engineer~~ for review and approval prior to construction.

**15.08.090 Powers and authority of plumbing supervisor and utilities administrator manager.**

A. The plumbing supervisor and utilities ~~administrator~~ manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this title. The plumbing supervisor and utilities ~~administrator~~ manager shall have no authority to inquire into any industrial or commercial processes, including

metallurgical, chemical, oil, refining, ceramic, paper, or other similar processes, beyond that information having a direct bearing as determined by the plumbing supervisor and utilities ~~administrator~~ manager, on the kind and source of discharge to the sanitary sewers or wastewater treatment facilities. All such information so obtained shall be maintained as confidential information, to the extent permitted by law, except as otherwise authorized by the industry involved, to the extent permitted by law.

B. While performing the necessary work on private properties referred to in subsection A of this section, the plumbing supervisor and utilities ~~administrator~~ manager or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company. The company shall provide any required special safety equipment for the temporary use and protection of city inspectors during inspections. The company shall be held harmless for injury or death to the 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, except as such may be caused by negligence or other fault of the company or the failure of the company to maintain a safe place as required by law.

C. For purposes of enforcing this title, the plumbing supervisor and utilities ~~administrator~~ manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties for the purposes such as, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater collection system. All entry and subsequent work, if any, shall be done in full accord with the terms of this title.

**SECTION 4.** *Chapter 15.12 entitled “Industrial Pretreatment” shall be amended as follows:*

**15.12.020 Pretreatment standards.**

B. Local limits are required for each POTW to control industrial discharges of cadmium, chromium, copper, nickel, zinc, cyanide, mercury, lead, silver, oil and grease, and pH. The following limits are herein established:

<u>Parameter</u>	<u>Limits (mg/l)</u>
Cadmium	1.3
Chromium	18.0
Copper	2.5
Nickel	10.5
Zinc	4.7
Cyanide	2.0
Mercury	<u>0.0008</u>
Lead	1.0
Silver	14.0
Oil & grease	100.0
pH	6-10.5 pH units

Limits for these parameters, with the exception of oil and grease and pH, may also be expressed in lbs/day and are kept on file with the utilities manager. ~~These limits are based on the total city wide allocation to industries. The total lbs/day from all industries may not exceed the following:~~

<u>Parameter</u>	<u>Limits (mg/l)</u>
<del>Cadmium</del>	<del>1.3</del>

<del>Chromium</del>	<del>18.0</del>
<del>Copper</del>	<del>2.5</del>
<del>Nickel</del>	<del>10.5</del>
<del>Zinc</del>	<del>4.7</del>
<del>Cyanide</del>	<del>2.0</del>
<del>Mercury</del>	<del>0.0008</del>
<del>Lead</del>	<del>1.0</del>
<del>Silver</del>	<del>14.0</del>
<del>Oil &amp; grease</del>	<del>100.0</del>
<del>pH</del>	<del>6-10.5 pH units</del>

**15.12.040 Accidental discharges.** A. Each industrial discharger shall provide protection from the accidental discharge of prohibited or regulated materials or substances established by this ordinance, including, but not limited to, slug discharges. Where necessary, facilities to prevent the accidental discharge of prohibited materials shall be provided and maintained at the discharger's expense. Users shall notify the utilities ~~administrator~~ manager, ~~8:00 a.m. to 5:00 p.m. (Monday through Friday, except holidays)~~ or the wastewater treatment plant during non-office hours, immediately upon the occurrence of an accidental discharge of substances prohibited by this chapter, process operational upsets, and periods of noncompliance. The notification shall include location of any discharge, date and time thereof, type of waste, concentration and volume, and corrective actions taken.

E. ~~At least once every two (2) years,~~ The city shall evaluate whether each significant industrial user needs a plan to control accidental or slug discharges. The city may require any user to develop, submit for approval, and implement such a plan. Alternatively, the city may develop a plan for any user. A plan to control accidental or slug discharges shall contain the following information:

**15.12.070 Wastewater discharge permits.** All industrial dischargers that are regulated by federal pretreatment requirements or in the opinion of the city are deemed significant or that ~~may~~ have a substantial impact on the POTW treatment processes shall obtain a wastewater discharge permit. New industries shall obtain the permit prior to connection to the POTW. Existing industries shall obtain a permit within 90 days after the effective date of this chapter. A non-regulated industry shall obtain a permit within 6 months of the promulgation of federal or local standards with which they ~~must~~ shall comply. The city will act on permit applications within 30 days upon receipt of acceptable information.

**15.12.080 Permit application and issuance.**

B. Proposed new industrial dischargers shall apply at least 90 days prior to connecting to the POTW. Such application will be on the wastewater discharge permit application/notice of intent form provided by the city and available on the city website. These applications shall be sent to WWTP, 1000 Ferry Street, Eau Claire, WI 54703 or submitted digitally following the instructions on the city website.

D. No discharge permit shall be issued unless and until the discharger provides the following information:

5. The average daily wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the utilities ~~administrator~~ manager due to cost or nonfeasibility.

14. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge.

**15.12.110 Reporting requirements.**

A. 5. b. A minimum of four (4) grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples ~~must~~ shall be obtained through flow-proportional composite sampling techniques where feasible unless time proportional grab sampling is authorized in the sole discretion of the city. Where such alternative sampling is authorized by the city, the samples shall be representative of the discharge and the decision to allow alternative methods shall be documented in the industrial user's file. Multiple grab samples collected during a 24-hour period may be composited prior to analysis provided appropriate protocols specified in ch. NR219, EPA, and Wisconsin Department of Natural Resources guidance are followed. Samples for cyanide, total phenols and sulfides may be composited in the laboratory or in the field. Samples for volatile organics and oil and grease may be composited in the laboratory. Other samples may be composited using approved methodologies as authorized by the city. The city may waive flow proportional composite sampling for any industrial user who demonstrates that flow proportional sampling is infeasible. In such cases, samples may be obtained through time proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

C. Periodic compliance reports (PCR). Significant industrial users meeting the definition in 15.04.020 (39) shall submit to the city ~~For any discharger subject to an applicable pretreatment standard. After the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge to the city sanitary system, the discharger shall submit to the city no later than July 15 for the period January 1-June 30, and no later than July 15 for the period January 1-June 30, and no later than January 15 of the year following for the period of July 1-December 31, unless required more frequently by the city, a report indicating the nature and concentration of prohibited or regulated substances in the effluent that are limited by the pretreatment standards herein~~ where the city may require more detailed reporting on flows. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period required herein. Flows shall be reported on the basis of actual measurement, except, where cost or feasibility considerations justify, the city may accept reports of average and maximum flows estimated by verifiable techniques. The city may authorize the submittal of said reports on months other than those specified above.

1. Periodic compliance reports shall be based on sampling and analysis performed in the period covered by the report and performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question or where the city determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling procedures suggested by the city. This sampling and analysis may be performed by the city in lieu of the significant noncategorical industrial users only. ~~Where~~ If the city itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report. If the City has performed the original sampling and analysis in lieu of the industrial user, the city of Eau Claire shall perform the repeat sampling and analysis within 30 days of becoming aware of the violation unless it notifies the user of the violation and requires

the user to perform the repeat analysis a second sampling and analysis shall occur within 30 days and the city may require the user to perform such work.

5. The city may determine that an industrial user subject to categorical pretreatment standards may reduce the frequency of the reports required under 15.12.110 C. of the Code of Ordinances to once per year at the discretion of the utilities manager and provided the industrial user meets the definition of a non-significant categorical user.

6. An industrial user is subject to categorical pretreatment standards as a non-significant categorical industrial user (“NSCIU”) rather than a significant industrial user on a finding by the utilities manager that all of the following conditions are met:

a. The industrial user never discharges more than 100 gallons per day of total categorical wastewater excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard.

b. The industrial user has consistently complied with all applicable categorical pretreatment standards and requirements.

c. The industrial user never discharges any untreated concentrated wastewater.

d. The industrial user annually submits the certification statement in 15.12.110 D. 2. of the Code of Ordinances of the City of Eau Claire.

D. Applicable signatories and certifications.

1. All wastewater discharge permit applications, user and reports, initial monitoring waivers, baseline monitoring reports, periodic compliance reports, and users submitting an initial request to forego sampling of a pollutant to the POTW listed in this subsection shall be signed by a person who meets the applicable signatory requirements as defined in sec. 15.04.020 and include the certification statement:

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

2. Non-significant categorical industrial users (NSCIU) as defined in 15.04.020 and the conditions of 15.110 C. 7. shall annually submit the following certification statement signed in accordance with the signatory definition requirements in 15.04.020. This certification shall also accompany any report required by the utilities manager: “Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR, I certify that, to the best of my knowledge and belief that during that period from \_\_\_\_\_ to \_\_\_\_\_ (month, date, year) (1) the facility described as \_\_\_\_\_ (facility name) met the definition of a non-significant categorical industrial user as defined in 15.04.020; (2) the facility complied with all applicable pretreatment standards and requirements during this reporting period; and (3) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based on the following information.”

3. Certification of pollutants not present. Users that have an approved monitoring waiver outlined in 15.12.110 C. 5. must certify each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user: “Based on my

inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR (specify applicable national pretreatment standard part(s)), I certify that to the best of my knowledge and belief, there has been no increase in the level of (list pollutants) in the wastewaters at the facility since a monitoring waiver was approved.”

E. All categorical and non-categorical industrial users shall notify the city immediately of all discharges that could cause problems to the POTW, including any slug load by the industrial user. Such notification shall also be made if any changes at the facility affect the potential for a slug discharge and the need for a slug control plan.

**15.12.115 Categorical pollutant sampling waiver.** The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

b. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The user shall submit a new request for a waiver before such waiver can be granted for each subsequent individual wastewater discharge permit.

c. In making a demonstration that a pollutant is not present, the industrial user shall provide data from a reputable, licensed source from at least one sampling of the facility’s process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes demonstrating a lack of pollutant.

d. The request for a monitoring waiver shall be signed in accordance with signatory requirements defined in section 15.04.020 of the Code of Ordinances of the City of Eau Claire and include the certification statement in section 15.12.110 D. 3.

e. Nondetectable sample results may be used only as demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

f. Any grant of the monitoring waiver is at the discretion of the utilities manager and if granted shall be included as a condition in the user’s permit.

g. Upon approval of the monitoring waiver and revision of the user’s permit by the utilities manager, the industrial user shall certify on each report with the statement that there has been no increase of the pollutant in its waste stream due to activities of the industrial user.

h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user’s operations, the user shall immediately notify the utilities manager. The user shall also comply with all requirements of 15.12.110 A-C or other more frequent monitoring requirements imposed by the utilities manager.

i. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

**15.12.120 Entry of premises.** The utilities ~~administrator~~ manager, DNR, EPA, or other duly authorized employees bearing proper credentials and identification shall be permitted to enter premises either scheduled or unscheduled for the purpose of:

- A. Inspection of premises;
- B. Copying any records required to be kept under the provisions of this ordinance;
- C. Inspecting any monitoring equipment or method, any pretreatment facilities;
- D. Sampling any discharge of wastewater to the wastewater treatment system.

**15.12.140 Enforcement procedures.** The utilities ~~administrator~~ manager or designee is authorized to enforce the requirements of this chapter. The city shall provide a suitable enforcement response to noncompliance with or violation of any provisions of this chapter. In determining the level of enforcement response to user noncompliance or violation, the city may consider the historical compliance of the user with permit requirements; adherence to previously established compliance schedules; the impacts of the noncompliance on the public health and welfare, environment, wastewater treatment system, city employees, wastewater treatment effluent or sludge; the frequency and degree of exceedance of discharge limits or permit requirements; cooperation of the discharger in determining compliance status; previous enforcement actions taken; and good faith efforts of the discharger to attain compliance. In addition to other enforcement mechanisms permitted by law, the city may proceed under any or all of the enforcement responses that follow:

A. Informal notice (IN) – Informal notice shall be achieved through a telephone call, inspection visit, informal meeting, or letter. Using any of these methods, an authorized representative of the city may discuss with the user the noncompliance and its timely correction.

B. Notice of violation (NOV) – A notice of violation may be issued by the utilities ~~administrator~~ manager or an authorized representative of the city for noncompliance based on the criteria contained in this chapter, and the user's discharge permit. The NOV will state the specific nature of the violation and the applicable permit or ordinance section(s) violated. The NOV will require a response from the user within 30 days to establish the reasons for the noncompliance and to provide a written plan for the satisfactory and expeditious correction of the noncompliance.

C. Compliance order (CO) – The city may issue an administrative order based on the criteria contained in this chapter, and the user's discharge permit. Such CO may contain requirements and deadlines for specific action by the user, compliance schedules or prohibit certain actions or discharges by the user. A CO shall not require termination of sewer or water service but may require elimination of a specific noncomplying discharge. No later than 14 days following issuance of a CO, the industrial user shall submit to the city a progress report, including at a minimum a statement of whether the required actions were completed by the required deadlines and if not, a reason for the delay, the steps being taken to return to the schedule, and the date which the required action will be completed.

(SEAL) \_\_\_\_\_  
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(ATTESTED) \_\_\_\_\_  
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