

BOROUGH OF YOE
YORK COUNTY, PENNSYLVANIA
ORDINANCE NO. 2011-02

AN ORDINANCE AMENDING CHAPTER 18 “SEWERS AND SEWAGE DISPOSAL” OF THE BOROUGH OF YOE CODE OF ORDINANCES TO UPDATE THE CURRENT ORDINANCE

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby enacted by the Borough Council of the Borough of Yoe as follows:

Section 1: Title 18 Section 401, “Definitions” of the Yoe Borough Code of Ordinances is hereby amended to add new definitions or replace existing definitions with the following:

BEST MANAGEMENT PRACTICES or BMP's: shown meeting schedules of activities, prohibitions of practices, maintenance procedures, and other management practices not limited to but including management plans, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

FOOD SERVICE FACILITY or FACILITY: shall mean any food service facility which prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to: food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, snack bars, grills, catering services, butchers and all other food service facilities not listed above.

GREASE INTERCEPTOR: shall mean a device located inside or outside a food service facility designed to collect, contain or remove food waste and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.

INDIRECT DISCHARGE or DISCHARGE: shall refer to the introduction of pollutants into the Borough and/or Township Wastewater Treatment Facility from a non-domestic source.

INSTANTANEOUS LIMIT: shall refer to 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.

PAST-THROUGH: shall mean a discharge, which exits the Wastewater Treatment Facility into the waters of the United States in quantities or concentrations, which, alone or in conjunction with other discharges, is a violation of the Wastewater Treatment Facility's NPDES permit, including an increase in the magnitude or duration of a violation.

PRETREATMENT REQUIREMENTS: shall mean any substantive or procedural requirements related to pretreatment imposed on a User, other than a Pretreatment Standard.

SIGNIFICANT NONCOMPLIANCE (SNC): shall mean any instance of noncompliance with pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) for which the Industrial User is liable for enforcement, including penalties:

A. violations of wastewater discharge limits:

- (1) Chronic violations. Sixty-six (66%) percent or more of the measurements exceed the same daily maximum limit, average limit instantaneous limit in a six (6) month period (any magnitude of exceedence) of a pretreatment standards or requirements.
- (2) Technical Review Criteria (TRC) violations. Thirty-three (33%) percent or more of the measurements exceed the same daily maximum limit, average limit, or instantaneous limit by more than the TRC in a six (6) month period (any magnitude of exceedence) of a pretreatment standard or requirement.
 - a. The multiplier for BOD, TSS, fats, oils and grease is 1.4
 - b. The multiplier for all other pollutants (except pH) is 1.2
- (3) Any other violation(s) of an effluent limit average, daily maximum or instantaneous limit that the control authority believes has caused, alone or in combination with other discharges, Interference or Pass-through or endangers the health of Borough or Township personnel or the public.

- (4) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- B. Violations of compliance scheduled milestones for starting and completing construction and obtaining final compliance by ninety (90) days or more after the scheduled date.
- C. Failure to provide reports for compliance schedules, self monitoring reports or categorical standards within forty-five (45) days from the due date.
- D. Failure to accurately report noncompliance.
- E. Any other violation or group of violations that the Borough or Township considers to be significant.

For an industrial user that is in the SNC, the Borough and/or Township must report the information to the approval authority as part of the pretreatment performance summary of industrial user noncompliance, list the industrial user in the largest daily newspaper as having significant violations and address SNC through appropriate enforcement action that may include administrative fines or document in a timely manner the reasons for withholding enforcement.

Section 2. Section 18-405 "Permitting and Licensing" of the Yoe Borough Code of Ordinances is hereby Amended to add new or replace the following subsections:

1. Industrial User Permits. All industrial users proposing to contribute to the public sanitary sewage system shall make application for an industrial user permit. All existing significant industrial users contributing to the public sanitary sewage system at the time of the adoption of this article shall obtain an industrial user permit within 90 days after the effective date of this article. The users required to apply for an industrial user permit shall complete and file with the Borough and/or Township an industrial user permit application form approved by the Township, accompanied by a nonrefundable processing fee to be said through a resolution of the Borough Council and/or the Board of Supervisors. Proposed new industrial users shall apply at least 90 days prior to connecting to or contributing to the public sanitary sewage system. In support

of the application, the user shall submit, in units and terms appropriate for evaluation, the following information including, but not limited to:

3. Terms and Conditions of Industrial User Permits. Industrial user permit shall contain at least the following terms and conditions:
 - A. Maximum discharge flow rate.
 - B. Term of permit.
 - C. Statement of non-transferability.
 - D. Definitions.
 - E. Effluent limits, including Best Management Practices (if necessary), based on applicable Pretreatment Standards.
 - F. General limitations.
 - G. Specific limitations.
 - H. Special conditions.
 - I. Self monitoring and reporting requirements (including sampling, reporting, notification and recordkeeping).
 - J. Notification requirements for sludge dischargers.
 - K. Statement of applicable civil and criminal penalties.
 - L. Reopener clause.
 - M. Compliance schedules (if required).

Section 3. Section 18-406, "unacceptable waste and discharges" of the Borough of Yoe Code of Ordinances is hereby amended to add new or replace the following subsections:

18-406(2):

Q. any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives.

18-406(3) Specific Prohibitions. No person shall discharge to the public sanitary sewer system any sanitary sewage, industrial wastes or truck industrial waste containing the following measured pollutants:

G. Wastes having a BOD5 or total suspended solids or total phosphate as P or other pollutant concentration that causes interference with the treatment process.

I. Any wastes which contain the following substances in the solution or suspension in concentration exceeding those presented in the following table:

| <u>Substance</u> | <u>Daily Composite</u> | <u>Grab Sample</u> |
|------------------|------------------------|--------------------|
| Arsenic (As) | 0.75 mg/L | |
| Cadmium | 0.02 mg/L | |
| Chromium (Cr) | 0.8 mg/L | |
| Copper (Cu) | 1.4 mg/L | |
| Cyanide | N/A | 0.7 mg/L |
| Lead (Pb) | 0.39 mg/L | |
| Mercury (Hg) | 0.0001 mg/L | |
| Molybdenum (Mo) | 0.9 mg/L | |
| Nickel (Ni) | 3.0 mg/L | |
| Selenium (Se) | 1.2 mg/L | |
| Silver (Ag) | 0.31 mg/L | |
| Zink (Zn) | 2.60 mg/L | |

5. Sampling.

A. When required by the pretreatment administrator, any person discharging to the public sanitary sewage system any industrial wastes, combined industrial wastes, food service facility waste or sanitary sewage, shall install a suitable sampling manhole, a sanitary connection fitting into the service lateral for sampling, or manholes, flow metering chambers, flow monitoring equipment, pH monitoring equipment and other appurtenances on his connecting sewer or sewers to facilitate observation, sampling and measurement of the combined flow of wastes from his premises. Such manhole or manholes or metering chamber shall be accessible, safely located and secure and shall be constructed in accordance with plans approved by the pretreatment administrator.

B. The sampling manhole, sanitary connection fitting, or manholes, or metering chamber shall be installed by such person at his expense and shall be

maintained by him so as to be safe and accessible to the pretreatment administrator or his designated representative at all times. The construction and maintenance of such manholes or metering chamber shall be mandatory for significant industrial users and, if deemed necessary by the pretreatment administrator, flows from such manhole or metering chamber shall be continuously monitored, transmitted and recorded by means of an approved recording device.

C. The sampling procedure for the determination of unacceptable sanitary sewage and industrial waste specified in this Section shall be as follows:

- (1) Oil and grease.
- (2) Free chlorine.
- (3) Temperature.
- (4) Closed cup flashpoint.
- (5) pH.
- (6) Total cyanide.
- (7) Phenols.
- (8) 1,1,1 - Trichloroethane.
- (9) Chloroform.
- (10) Trichloroethylene.
- (11) Tetrachloroethylene.
- (12) Toluene.
- (13) Ethylbenzene.
- (14) Benzene.
- (15) Vinyl Chloride.
- (16) Carbon tetrachloride shall be by grab sample only.

The remaining substances are referenced in subsection 3 (Specific Prohibitions) shall be by a daily composite sample, except for those parameters listed under subsection 3 that may be determined by either a daily composite sample or on a grab sample (subject to the concentrations stated for each type of sample).

Section 4. Section 18-407, "Violation notice, remedies and penalties" of the Borough of Yoe Code of Ordinances is hereby amended to add new or replace the following subsections:

4. Administrative fine. Notwithstanding any other section of this article, any user, or waste hauler or waste generator who is found to have violated any provision of this article or an industrial user permit, or a commercial/industrial discharge permit, or a waste hauler license or a waste permit, or any order issued hereunder, or is found to be significant noncompliance (SNC) maybe fined in an amount no less than one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. All fine money shall be made payable to the Springettsbury Township WWTF. The Borough and/or Township shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the individual user's property.

- (a) Any user, or waste hauler or waste generator that desires to dispute such fines must file a request before the Township to reconsider the fine within 10 working days of being notified of the fine. The Springettsbury Township Treatment Facility shall include as part of the notice of an administrative fine, a description of the applicable appeals process to be followed, including the name, address and telephone number of the person responsible for accepting such appeal. Where the Township believes the request has merit, it shall convene a hearing on the matter within 15 working days of receiving the request from the user.
- (b) Anyone assessed an administrative fine shall have 30 days to pay the proposed fine in full or, if the user wishes to contest either the amount of the fine or the fact of the violation, the user must file an appeal of the action. All appeals are to be made pursuant to the instructions included in the notice of administrative fine assessment. Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the fine.

6. Injunctive relief. Whenever a user has violated or continues to violate the provisions of this article, and industrial user permit or a commercial/industrial discharge permit or an order issued hereunder, the pretreatment administrator, through counsel, may petition the court for the issuance of a preliminary or permanent injunction (or both, as may be appropriate), which restrains or compels the activities on the part of the user. The pretreatment administrator shall have such remedies to collect all fees incurred by the Township as a result of this petition as it has to collect other sewer service charges, including a request for payment of costs and attorney's fees as may be authorized by law.

12. Civil penalties and costs.

- B. Before assessing a civil penalty or costs, the Township shall provide the file later with a written notice of proposed assessment citing the ordinance provision, permit or regulation violated with an offer to conduct an assessment hearing to evaluate the violation and the amount of the penalty or costs. Said notice shall contain an explanation of the right to a hearing and the right to appeal from the assessment made.

- E. A civil penalty may be assessed whether or not the violation was willful. The amount of the penalty shall not be less than \$1,000.00 per day per violation; provided, however, that any industrial user who shall violate the Township's pretreatment standards and/or the requirements of the Township's approved pretreatment program may be assessed a penalty not to exceed \$25,000 per day per violation as provided in the Publicly Owned Treatment Works Penalty Law. In determining the amount of the penalty, the hearing officer shall consider the following:

Section 5. Section 18-408, "Reporting requirements" of the Borough of Yoe Code of Ordinances is hereby amended to add new or replace the following subsections:

7. Notification of Spills and Slug Loads. All users shall notify the Borough and/or Township immediately by phone or in person upon any planned or unplanned discharge of waste of a strength or character unusual for the discharger or in violation of the discharger's industrial user permit or any other regulations set forth in this article. All licensed waste haulers or permitted waste generators shall notify the Borough and/or Township in advance of the discharge of a waste that is of a strength or character unusual for the hauler or generator or is in violation of the hauler's license or the generator's permit or any other regulations set forth in this article. This report is to be followed within 10 working days of the day of the occurrence by a detailed written statement sent to the pretreatment administrator describing the cause and characteristics of the discharge and measures that are being taken to prevent further similar discharges. Such notification shall not relieve the user from any liability which may be incurred as a result of the discharge.
8.
 - E. In the case of any new regulations under § 3001 of RCRA, identifying additional characteristics of hazardous wastes or listing any additional substances as a hazardous waste, the 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.
11. Recordkeeping requirements. Any industrial user or waste generator subject to reporting requirements shall be required to retain for a minimum of three (3) years any records of monitoring activities, results and documentation associated with Best Management Practices. The Township shall retain all reports that it receives from industrial users and waste generators for a minimum of three (3) years. Any records of monitoring activities and results shall be made available for inspection and copying by the pretreatment administrator or his duly authorized representatives.

12. Federal requirements. Upon the promulgation of any federal standards or requirements (including, but not limited to, Federal Categorical Pretreatment Standards for any particular industrial subcategory found at 40 CFR Chapter 1, Subchapter N, Parts 405-471), the Federal standards or requirements shall immediately supersede the limitations imposed under this article if the federal standards are more stringent than the limitations imposed under this article. Any user or waste generator which is subject to Federal categorical standards is required to comply with all standards and requirements in accordance with § 307 of the Clean Water Act.

17. Notice of changed discharge requirements. Each user shall notify the pretreatment administrator of any planned significant changes to the User's operations or systems which might alter the nature, quality, volume or constitute a slug load, as defined in Section 18-401 of this ordinance, of its wastewater at least 45 days before the discharge.

Section 6. Section 18-303, "Computation of Sewer Rentals or Charges" of the Yoe Borough Code of Ordinances is hereby amended to add new or replace the following subsections:

2. Apartment-office use. The quarterly sewer service charges for each unit of apartment-office use within the Borough shall be the sum of the amount to be established, from time to time, by resolution of the Township Board of Supervisors for each unmetered unit, or if metered for water consumption, a minimum in an amount to be established, from time to time, by resolution of the Township Board of Supervisors.

Section 7. Section 18-311, "Reduction of Charges for water not entering system" of the Yoe Borough Code of Ordinances is hereby amended to add new or replace the following subsections:

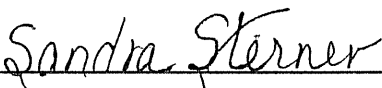
A. In any event it is established to the satisfaction of the Township that a portion of the water used in or on any property served by the public sanitary sewage system does not and cannot enter such system and in the event that the total water used in the war on such property exceeds 100,000 gallons per quarter or exceeds 400,000 gallons per year the Township may determine, in such manner and by such methods as it may deem practical, the percentage of the water entering the public sanitary sewage system or the Township may require or permit the installation of additional meters in such manner as to determine either the quantity of water excluded from the public sanitary sewage system or the quantity of water, sewage or industrial waste actually entering the public sanitary sewage system, exclusive of storm water runoff. In such case, the sewage service charge shall be based upon the quantity of water estimated, measured or computed by the Township to be actually entering the public sanitary sewage system, exclusive of storm water runoff and shall be subject to the sewage service charges set forth in this article.

Section 8. This Ordinance shall be effective five (5) days after adoption.

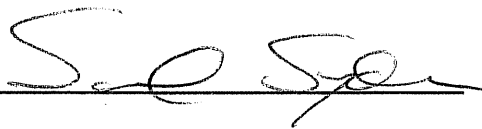
ENACTED AND ORDAINED, this the 1st day of March, 2011, by the Borough Council of the Borough of Yoe, York County, Pennsylvania, in lawful session.

ATTEST:

YOE BOROUGH COUNCIL

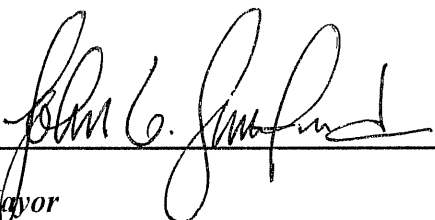


Secretary



President

APPROVED:



Mayor