

**AN ORDINANCE AMENDING CHAPTER 23 OF THE CHARLOTTE CITY CODE
ENTITLED "WATER, SEWERS AND INDUSTRIAL WASTE DISCHARGE"**

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Section 23-1 of the Charlotte City Code is amended as follows:

"*Commercial water-users* means those customers who desire water and/or sanitary sewer service for commercial use or for use in the transaction of their business."

Section 2. Section 23-10 of the Charlotte City Code is amended as follows:

"...

(d) Pollutants of Concern, and the established limit(s) for said Pollutants of Concern, to be surcharged are to be developed by a Certified Professional Engineer, experienced in the methodology for determining treatment costs in wastewater treatment processes. Pollutants of Concern to be surcharged are to be developed in CMU's sole discretion.

~~(d)~~ (e) _____ The bill for such surcharge shall be prepared in accordance with sections 23-4 and 23-5 of this chapter. Such bill shall be payable as provided in section 23-5 of this chapter, and delinquent fees and charges shall be assessed and collected as set forth in section 23-5."

Section 3. Section 23-77 of the Charlotte City Code is amended as follows:

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

...

Approval authority means the director of the ~~division~~Division of environmental managementWater Quality of the ~~state department~~North Carolina Department of environment, healthEnvironment and natural resourcesNatural Resources or his designee.

Authorized representative of the user means as follows:

(1) If the user is a corporation, authorized representative means:

...

b.— The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having gross annual sales the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or expenditures exceeding \$25,000,000.00, in second-quarter 1980 dollars, if actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

...

(5) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to Director prior to or together with any reports to be signed by an authorized representative.

...

Significant industrial user (SIU) means any user of the POTW who:

...

(4) Is found by CMU, the state Division of Water Quality or the Environmental Protection Agency to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

...

Slug load or discharge means any discharge at a flow rate and/or concentration which ~~could~~ has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 23-79 of this article.

...”

Section 4. Section 23-78 of the Charlotte City Code is amended as follows:

“ ...

TABLE INSET:

<u>BMR</u>	<u>Baseline Monitoring Report</u>
<u>CFR</u>	<u>Code of Federal Regulations</u>

...”

Section 5. Section 23-79 of the Charlotte City Code is amended as follows:

“ ...

(b) *Specific prohibitions.* No user shall discharge or cause to be discharged into the POTW the following:

...

(19) At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the POTW, or at any point in the POTW, be neither more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL).

(c) *Processing and storage.* Pollutants, substances or wastewaters prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

When CMU determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, CMU shall:

(1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section 23-95; and

(2) take appropriate actions in accordance with Article III, and the sections contained therein, for such user to protect the POTW from interference or pass through.

...

(e) *Specific pollutant limitations.* ~~To implement the general and specific discharge prohibitions outlined in this article,~~ An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits:

<u>CBOD</u>	<u>250.0</u>	<u>mg/l</u>	
<u>TSS</u>	<u>250.0</u>	<u>mg/l</u>	
<u>NH₃</u>	<u>25.0</u>	<u>mg/l</u>	
<u>Ammonia as N</u>	<u>20.0</u>	<u>mg/l</u>	
<u>Arsenic</u>	<u>0.003</u>	<u>mg/l</u>	
<u>Cadmium</u>	<u>0.003</u>	<u>mg/l</u>	
<u>Chromium</u>	<u>0.05</u>	<u>mg/l</u>	<u>(total chromium)</u>
<u>Copper</u>	<u>0.061</u>	<u>mg/l</u>	
<u>Cyanide</u>	<u>0.015</u>	<u>mg/l</u>	
<u>Lead</u>	<u>0.049</u>	<u>mg/l</u>	
<u>Mercury</u>	<u>0.0003</u>	<u>mg/l</u>	
<u>Nickel</u>	<u>0.021</u>	<u>mg/l</u>	
<u>Silver</u>	<u>0.005</u>	<u>mg/l</u>	
<u>Total Petroleum hydrocarbons</u>			<u>100.0 mg/l</u>
<u>Zinc</u>	<u>0.175</u>	<u>mg/l</u>	

Industrial Waste Survey information will be used to develop user-specific local limits ~~will be developed in an effort when necessary to ensure that the POTW's maximum allowable headworks loading is~~ are not exceeded for particular pollutants of concern for each industrial user. Unless otherwise allowed by the issuance of an LCD, where specific local limits are not contained for a given parameter or pollutant in an industrial user wastewater discharge permit, the following limits will apply to all users:

Industrial user. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. ~~CMU may impose mass based limits in addition to, or in place of, the concentration-based limits in this subsection. Such~~

~~limits apply at the point where the wastewater is charged to the POTW. All concentrations for metallic substances are for "total" metal based limits.~~

TABLE INSET:

mg/l	Substance
0.003	Arsenic
0.003	Cadmium
0.060	Copper
0.040	Cyanide
0.049	Lead
0.000012	Mercury
0.050	Molybdenum
0.021	Nickel
0.005	Silver
0.050	Total chromium
0.175	Zinc
235.0	BOD 5
235.0	eBOD 5
250.0	TSS
20.0	Ammonia as N
100.0	Total petroleum hydrocarbons

”

Section 6. Subsection (a) of Section 23-83 of the Charlotte City Code is amended as follows:

~~“(a) Pretreatment facilities. Industrial users (IU) IUs shall provide wastewater treatment as necessary to comply with this article and wastewater permits issued under section 23-87 and shall achieve compliance with applicable standards and requirements within the time limitations as specified by the Environmental Protection Agency, the state or CMU, whichever is most stringent.”~~

Section 7. Section 23-85 of the Charlotte City Code is amended as follows:

"(a) Each significant industrial user (SIU) shall provide protection from accidental discharges and slug discharges of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharges and slug discharges of prohibited materials shall be provided and maintained at the owner's or user's expense.

...

(b) At least once every two years, CMU shall evaluate whether each SIU needs both a plan to control and prevent slug discharges and accidental and slug discharge plans discharges as defined in Section 23-77 and if any current plan needs updating. CMU may require any user to develop, deliver for review, and implement such plans. Plans for accidental discharges and slug discharges shall address, at a minimum, the following:

- ~~(1) Description of discharge practices, including nonroutine batch discharges;~~
- ~~(2) Description of stored chemicals;~~
- ~~(3) Procedures for notifying CMU and the POTW treatment plant of any accidental discharge, as required in section 23-91(f) of this article; and~~
- ~~(4) Procedures to prevent the adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response.~~

(c) Plans for accidental discharges and slug discharges shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for notifying CMU and the POTW treatment plant of any accidental discharge, as required in section 23-91(f) of this article; and
- (4) Procedures to prevent the adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response.

...

(d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 23-91(e) & (f).

Section 8. Subsection (c) of Section 23-86 of the Charlotte City Code is amended as follows:

“(c) *Failure to comply.* Should CMU determine that a monitoring facility does not comply with this article, or that access thereto has been denied, CMU may require the IU, at ~~it~~the IU’s own expense, to modify or relocate the monitoring facility.”

Section 9. Section 23-87 of the Charlotte City Code is amended as follows:

“...

(c) *Contents of application.* Each industrial user required to apply for a permit shall complete and file with CMU an application, in the form prescribed by CMU, which may include, but not be limited to, the following:

...

(3) Analytical data on wastewater constituents and characteristics, including, but not limited to, those mentioned in section 23-79(e) of this article, any of the priority pollutants (section 307(a) of the act) which the applicant knows or suspects are present in the discharge as determined by a laboratory certified by the state to perform the analysis associated with the determination, and any other pollutant of concern to the POTW. Sampling and analysis shall be performed in accordance with procedures approved by the Environmental Protection Agency and CMU- and as required in Sections 23-91(l) & (m).

...

(d) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by ~~an~~the current authorized representative of the user on file with the Control Authority as defined in Section 23-77 and contain the following certification statement:

...”

Section 10. Subsection (c) of Section 23-88 of the Charlotte City Code is amended as follows:

“(c) *Permit conditions.* Conditions may be placed on the permit as follows:

(1) CMU shall have the authority to grant a permit with such conditions attached as are necessary to achieve the purpose of this article and G.S. 143-215.1. Wastewater discharge permits shall contain, but are not limited to, the following:

e. Notification requirements for ~~slug~~ notifying the POTW in the event of an accidental discharge; or slug load as defined in Section 23-77;

f. requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 23-77 if determined by CMU to be necessary for the User;

f.g. requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in Section 23-77. Also see Sections 23-91(e) & (f); and

h. A statement that the permittee is subject to applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

a. Limits on the average and daily maximum wastewater flows, based on water used, as defined by CMU.

b. Limits on average and daily maximum rates and/or times of discharge and/or requirements for flow regulations and equalization.

c. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

ed. Requirements for installation and maintenance of inspection and sampling facilities.

e.e. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules.

ef. Compliance schedules for meeting pretreatment standards and requirements;

fg. Requirements for submission of periodic self-monitoring or special notification reports.

~~g-h.~~ Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 23-91(o) and affording CMU access thereto.

~~h-i.~~ Requirements for prior notification and approval by CMU of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the POTW.

~~i-j.~~ Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

~~j-k.~~ Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

~~k.~~ Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges.

l. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

m. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.

n. Requirements for the prior notification to and approval by CMU of any change or expansion in the manufacturing/production and/or pretreatment process used by the permittee, which has potential to impact the characteristics or volume of the discharge or the manner in which the discharge is regulated.

~~o.~~ Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.

~~p-o.~~ A statement that compliance with the 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 permit.

~~q-p.~~ Other conditions as deemed appropriate by CMU to ensure compliance with this article and state and federal laws, rules and regulations.”

Section 11. Subsection (e) of Section 23-89 of the Charlotte City Code is amended as follows:

“(e) *Conduct of hearing.* Procedures for the conduct of the hearing are as follows:

(1) The hearing shall be conducted by the director and shall be subject to such rules as have been approved by the council or the director as set forth in this subsection. If the demand for a hearing is not made in accordance with this section, the director shall reject the demand, and any right to a hearing shall be terminated. If any person demanding a hearing shall fail to comply with an order of the director or with any rules issued by the director or approved by the council concerning the conduct of the hearing, the director may reject the demand, and any right to a hearing shall be terminated. Within 90180 days of the receipt of the written demand for a hearing, the director shall conduct a hearing and issue a final order or decision. The director shall transmit a copy of the final order or decision to the person demanding the hearing by registered or certified mail. No further review of the director's final order or decision will be allowed, except as set forth in section subsection (h) of this section.”

Section 12. Subsection (b) of Section 23-90 of the Charlotte City Code is amended as follows:

“(b) *Permit modification.* CMU may modify the terms and conditions of the permit as limitations or requirements are modified or other just cause exists. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.”

Section 13. Section 23-91 of the Charlotte City Code is amended as follows:

“(a) *Categorical baseline monitoring reports.* Categorical baseline monitoring reports are required in accordance with the following:

...

(2) *Information required.* Users described in subsection (a)(1) of this section shall deliver to CMU the following information:

...

e. *Measurement of pollutants.* Measurement of pollutants as follows:

...

2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by CMU, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and ~~longterm~~long-term average concentrations, or mass, where required, shall be reported. ~~The~~All samples

collected shall be representative of daily operations, with supporting documentation submitted that establishes the samples as representative, and shall be analyzed in accordance with procedures set out in subsection (l) of this section.

3. Sampling must be performed in accordance with procedures set out in section 23-91(m) of this ordinance. Baseline Monitoring Reports and 90 day Compliance Reports shall require 4 grab samples unless historical sampling data acceptable to CMU is presented prior to report submission. Non-flow proportional or grab samples require the submission of documentation that establishes the samples as representative of the daily operation.

f. *Certification.* A statement, reviewed by the user's current authorized representative as defined in Section 23-77 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

...

(c) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with the applicable categorical standards, or for a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements must deliver to CMU a report containing the information required by subsection (a)(2)d-f of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's ~~long-term~~long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 23-87(d).

(d) *Periodic compliance reports.* Periodic compliance reports shall be submitted in accordance with the following:

(1) All SIUs shall, at a frequency determined by CMU, but in no case less than ~~two times per year~~once every six months, deliver a report to CMU indicating the nature and concentration of pollutants in the discharge limited by pretreatment standards and the applicable measured or estimated average and maximum daily flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out

in Section 23-91(l) & (m). All periodic compliance reports must be signed and certified in accordance with section 23-87(d).

...

(3) If a user subject to the reporting requirements in this section monitors any pollutant in samples collected at the monitoring point more frequently than required by CMU, using procedures prescribed in subsections (l) & (m) of this section, the results of this monitoring shall be delivered to CMU by the 20th of the month following the month in which the extra samples were collected.

(e) *Reports of changed conditions.* Each industrial user must notify CMU of any planned significant changes to the IU's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change. Failure of CMU to respond does not relieve the IU from complying with this article. See section 23-91(f) for other reporting requirements.

...

(f) *Reports of potential problems.* Reports of potential problems are required in accordance with the following:

(1) For any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug discharge, load as defined in Section 23-77, that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify CMU and the POTW treatment plant of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the IU.

...

(5) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 23-77.

...

(j) *Report of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation of this article and/or applicable wastewater discharge permit, the user must report the violation to CMU within the twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the report analysis to CMU within the thirty (30) days after becoming aware of the violation.

...

(m) *Sample collection.* Sample collection shall be conducted in accordance with the following:

(1) Except as indicated in subsection (m)(2) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. Composite samples must have individual aliquots collected at least hourly. CMU shall specify the terms under which other composite collection techniques may be used. In addition, CMU may require grab samples be collected to show compliance with daily maximum discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, total phenols (Environmental Protection Agency method number 420), sulfides, and volatile organic compounds must be obtained using grab collection techniques. Baseline Monitoring Reports and 90 day Compliance Reports shall require 4 grab samples unless historical sampling data acceptable to CMU is presented prior to report submission. Non-flow proportional or grab samples require the submission of documentation that establishes the samples as representative of the daily operation.

...

(o) *Recordkeeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained to monitoring activities undertaken by the user independent of such requirements. Records of self-monitoring activities required by this article, the wastewater discharge permit and/or other documents issued by or entered into with CMU or the city shall conform to 40 CFR 403.12(o)(1) and CMU-established procedures for reporting requirements. Any information required shall conform to subsection (g) of this section. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user's indirect discharge to the POTW unless otherwise ordered by the court in which the litigation is pending, or where the user has been notified of a longer retention period by CMU.-

(p) *Electronic Reporting.* CMU may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Sections 23-95 and 23-96."

Section 14. Section 23-95 of the Charlotte City Code is amended as follows:

“ ...

~~(e) *Termination of Permit or Permission to Discharge.* — Any user who violates the following conditions this article, applicable state or federal regulations, is subject to having its~~CMU may revoke a wastewater discharge permit or, in the absence of a permit, sewer service terminated permission to discharge for good cause, including, but not limited to, the following reasons:

...

(4) Violation of any condition of the permit or permission to discharge, conditions of this ordinance, or any applicable State and/or Federal regulations;

...

(g) *Civil penalties.* Civil penalties may be imposed in accordance with the following:

(1) Any user that violates, fails to comply, or continues to violate any section of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement shall be liable to CMU for a maximum civil penalty of \$25,000.00 per violation per day for as long as the violation continues. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. For a monthly or other ~~long term~~ long-term average discharge limit, penalties shall accrue for each day during the period of the violation. Civil penalty assessment shall be based on the following:

~~(2) CMU may recover from the responsible user any repair or maintenance cost and any damage incurred by anyone for which the city is liable, if such cost or damage arises in any manner from the user's violation. For purposes of this subsection, repair or maintenance includes, without limitation, the removal of any accumulation of any pollutant from the POTW that the user's violation has caused or contributed to.~~

a. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

- i. For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or
- ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

b. All penalties shall take into account relevant circumstances as outlined in subsection (g) (2) of section 23-95.

(3) (2) In determining the amount of the civil penalty, CMU shall take into account all relevant circumstances, including, but not limited to, the following:

...

(4)(3) The assessment of civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(5)(4) Appeals of civil penalties assessed in accordance with this section shall be provided in section 23-89.

(6)(5) Such assessments may be added to the user's next scheduled sewer service charges, and CMU shall have such remedies for collection of such assessments as it has for collection of other charges.

(h) In addition to any civil penalties that CMU may impose against a user in accordance with Section 23-95(g), CMU may assess against and recover from a responsible user any repair, restoration or maintenance cost and any damage incurred by anyone for which the city is liable, if such repair, restoration or maintenance cost or damage arises in any manner from the responsible user's violation(s). For purposes of this subsection, repair or maintenance includes, without limitation, the removal of any accumulation of any pollutant from the POTW that the user's violation(s) has caused or contributed to. Such assessments may be added to the user's next scheduled sewer service charges, and CMU shall have such remedies for collection of such assessments as it has for collection of other charges.

~~(h)~~(i) Any user that violates, fails to comply with, or continues to violate any section of this article, a wastewater discharge permit or order issued under this article, or any other pretreatment standard or requirement shall undertake such sampling, monitoring and analysis of its discharge and to report the results thereof in accordance with section 23-91 as CMU may require.”

Section 15. Section 23-96 of the Charlotte City Code is amended as follows:

“(a) *Criminal violations.* CMU shall assist any federal or state agency, office or authority responsible for criminal investigations or prosecutions for violation of any section of this article or other federal or state law concerning the discharge of wastewater or other substances into the POTW or the waters of the state. CMU may request any appropriate federal or state agency, office or authority to undertake an investigation or prosecution of any person for any violation of this article or other federal or state law concerning the discharge of wastewater or other substances into the POTW or the waters of the state. The District Attorney for the applicable Judicial District may, at the request of the City of Charlotte, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is

a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]

(b) *Annual publication of significant noncompliance.* At least annually, CMU shall publish in the largest daily newspaper circulated in of general circulation that provides meaningful public notice within the jurisdiction(s) served by the county POTW, a list of those industrial users which were determined by CMU found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous calendar year.—12 months.

(c) *Civil relief.* If any person discharges sewage, industrial wastes or other wastewater into the POTW contrary to this article, pretreatment requirements or standards, any order of CMU, or violates its wastewater discharge permit, an action may be commenced in the name of the city for appropriate legal and/or equitable relief in the appropriate division of the state's general court of justice.— This shall include but is not limited to:

(1) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the Director, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(2) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(3) Public Nuisances

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the City of Charlotte governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

...”

Section 16. Subsection (c) of Section 23-98 of the Charlotte City Code is amended as follows:

~~“(e) *Bypass.* An affirmative defense of bypass may be used for noncompliance with this article in accordance with the following:~~

(c) *Bypass.*

(1) Bypass is prohibited, and CMU may take an enforcement action against a user for a bypass, unless authorized by CMU pursuant to subsection (c)(4) of this section or unless:

...

(5) Notwithstanding subsections (c)(1)--(4) of this section ~~which permit a~~ bypass, the user shall be liable at all times and under all circumstances for injury to any person and damage to any property caused in whole or in part by the bypass. For purposes of this subsection, the term "person" includes, but is not limited to, the POTW personnel, and the term "property" refers to, but is not limited to, the POTW.”

Section 17. Section 23-99 of the Charlotte City Code is amended as follows:

~~“**Sec. 23-99. Protection from damage** Damage, Destruction of & Tampering with Equipment or Materials.~~

~~No person shall maliciously or negligently damage, or destroy or tamper with any equipment or materials belonging used to CMU, including that left upon the premises of a user discharging wastewater into the POTW. ensure compliance with this chapter. The user shall be responsible for the safety of such equipment and materials placed on the user’s premises and may be held liable for any such damage or destruction.~~

~~No person shall tamper or interfere with or falsify or render inaccurate any equipment or materials used to ensure compliance with this chapter, including, but not limited to, monitoring and sampling equipment at or near a user’s premises.”~~

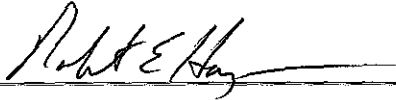
Section 18. Section 23-100 of the Charlotte City Code is amended as follows:

~~“**Sec. 23-100. Falsifying information; damages to monitoring equipment.**~~

~~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 the wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine of not more than \$500.00.”~~

Section 19. This ordinance shall become effective upon adoption.

Approved as to Form:



Sr. Dye City Attorney

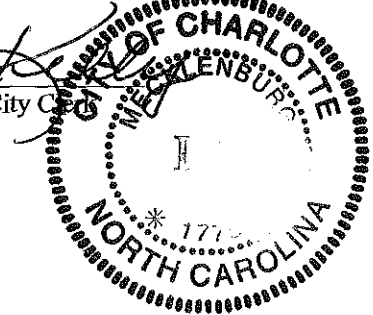
CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the city of Charlotte, North Carolina, in regular session convened on the 9th day of March, 2009, the reference having been made in Minute Book 128, and recorded in full in Ordinance Book 56, Pages (66-83).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 11th day of March, 2009.



Stephanie C. Kelly, CMC, City Clerk



ORDINANCE NO. 4128-X

O-44

AN ORDINANCE TO AMEND ORDINANCE NUMBER 3937-X, THE 2008-2009 BUDGET ORDINANCE PROVIDING APPROPRIATIONS FOR JARC AND NEW FREEDOM GRANT PROGRAMS

BE IT ORDAINED, by the City Council of the City of Charlotte;

Section 1. That the sum of \$1,085,238.90 is hereby estimated to be available from the following sources:

<u>Source</u>	
Federal JARC Grant	\$888,363.00
CATS Operating (7801) Fund Balance	\$196,875.90
Total	\$1,085,238.90

Section 2. That the sum of \$1,085,238.90 is hereby appropriated to Fund 2078, Cost Center 8101108 FY06 - FY08 JARC Program

Section 3. That the sum of \$699,044.75 is hereby estimated to be available from the following sources:

<u>Source</u>	
Federal New Freedom Grant	\$608,670.00
CATS Operating (7801) Fund Balance	\$90,374.75
Total	\$699,044.75

Section 4. That the sum of 699,044.75 is hereby appropriated to Fund 2078, Cost Center 8101208 FY06 - FY08 New Freedom Program

Section 5. Sections of this ordinance estimate federal grant participation. Upon receipt of the grant assistance, the sources and levels of funding for the project specified may be adjusted to reflect permanent financing. Until permanent financing is realized, the Finance Director is hereby authorized to advance funding from Fund 7801 fund balance as necessary to cover the estimated grant revenues specified above. Upon receipt of grant revenues, funds advanced to the project shall revert back to the Fund 7801 fund balance. If grant funding is not realized, the advance may be designated as the permanent source of funding. The total project appropriation level will not exceed the amounts specified, unless amended by a subsequent ordinance(s).

Section 6. All ordinances in conflict with this ordinance are hereby repealed.

Section 7. This ordinance shall be effective upon adoption.

Approved as to Form:

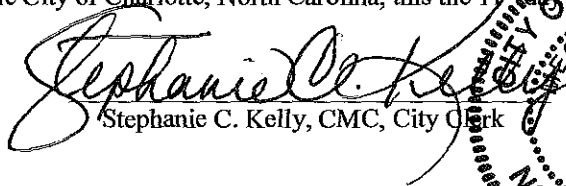
[Signature]

Sr. Dep. City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the city of Charlotte, North Carolina, in regular session convened on the 9th day of March, 2009, the reference having been made in Minute Book 128, and recorded in full in Ordinance Book 56, Pages (84-85).

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 11th day of March,


Stephanie C. Kelly, CMC, City Clerk

