

ORDINANCE NO. 1-2020

AN ORDINANCE TO MODIFY PORTIONS CODIFIED ORDINANCE CHAPTER 939, SEWAGE PRETREATMENT OF THE CITY OF NEW PHILADELPHIA OHIO, TO COMPLY WITH NEW REGULATIONS AS MANDATED BY THE OHIO ENVIRONMENTAL PROTECTION AGENCY (OEPA), AND DECLARING AN EMERGENCY.

**WHEREAS**, The OEPA has mandated that changes be made pertaining to the City of New Philadelphia's Codified Ordinance, Chapter 939 Sewage Treatment;

**WHEREAS**, said changes will enhance the health, safety and welfare of the citizens of New Philadelphia; and

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF NEW PHILADELPHIA, OHIO:

**SECTION 1.** The current Codified Ordinance Section 939.01(5) Definition of "Discharger-Industrial Discharger" shall be replaced to read as follows:

(5) "Industrial Discharger or Industrial User" means any non-residential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto.

**SECTION 2.** The current Codified Ordinance Section 939.01(13) Definition of "Slug Load" shall be replaced to read as follows:

(13) "Slug Load" shall mean the discharge of any pollutant, including oxygen demanding pollutants released at a flow rate and/or pollutant concentration which will affect the collection system and/or performance of the wastewater treatment works and which results in Interference, or Pass Through.

**SECTION 3.** The current Codified Ordinance Section 939.01(19) Definition of "Pass-Thru" shall be replaced to read as follows:

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

**SECTION 4.** The current Codified Ordinance Section 939.01 DEFINITIONS, shall be modified to add the following definition paragraphs:

(29) “Significant Noncompliance” The term Significant Noncompliance shall be applicable to any Significant Industrial User that meets the criteria set forth in Section 939.08(f), or any other Industrial Discharger that meets the criteria set forth in Section 939.08)(f)(3),(4), or (8).

(30) “Best Management Practices or BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 939.02. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**SECTION 5.** The current Codified Ordinance Section 939.02 GENERAL DISCHARGE PROHIBITIONS, Sections (j) and (n) shall be modified to read as follows:

(j) Any slugload, which means the discharge of any pollutant, including oxygen demanding pollutants, released at a flow rate and/or pollutant concentration which will affect the collection system and/or performance of the wastewater treatment works and which results in Interference or Pass Through.

(n) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

**SECTION 6.** The current Codified Ordinance Section 939.03 LIMITATIONS ON WASTEWATER STRENGTH, shall be modified to include Sections (e) Permit Required and shall read as follows:

(e) Permit required. Industrial users shall apply for and obtain a wastewater discharge permit before discharging process wastewaters to the New Philadelphia sanitary sewer. No industrial user may discharge to the New Philadelphia sanitary sewer except in compliance with the effluent limits, terms and conditions in the user’s discharge permit.

**SECTION 7.** The current Codified Ordinance Section 939.04 ACCIDENTAL DISCHARGES, Section (e) and (f) shall be modified to read as follows:

(e) The Authority will evaluate new Significant Industrial Users before construction of the facility, existing Significant Industrial Users at least once every permit cycle, and any other Significant Industrial User within 1 year of being designated a Significant Industrial User, for the need to develop a plan or other action to control Slug Discharges. For purposes of this subsection, 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. Significant Industrial Users are required to notify the POTW immediately of any changes

at its facility affecting potential for a Slug Discharge. If the Authority determines that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including non-routine batch Discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the Authority of Slug Discharges, including any Discharge that would violate a prohibition under § 403.5(b) with procedures for follow-up written notification within five days;
  - (4) If necessary, procedures to prevent adverse impact from accidental spills, including 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;
- (f) A bypass may be permitted if it does not result in a permit violation and only if the bypass is necessary for maintenance to ensure efficient operation.

**SECTION 8.** The current Codified Ordinance Section 939.07 ADMINISTRATION, Sections (c) Reporting Requirements for Discharger shall be modified to read as follows:

(c) Reporting Requirements for Discharger.

- (1) Baseline report. Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under § 403.6(a)(4), whichever is later, existing Industrial Dischargers subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Authority a report which contains the information required in 40 CFR 403.12(b)(1-7). At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the Authority a report which contains the information listed in 40 CFR 403.12(b)(1)-(5). New sources shall also include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs (b) (4) and (5) of this section
- (2) 90 Day Compliance report. Within 90 days following the date for final compliance by the Discharger with applicable Pretreatment Standards set forth in this chapter or 90 days following commencement of the introduction of wastewater into the POTW by a New Discharger, any Discharger subject to this chapter shall submit to the Authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O and M and/or pretreatment is necessary to bring the Discharger into compliance with the applicable

Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Discharger.

- (3) Periodic compliance reports. Any Discharger subject to a Pretreatment Standard set forth in this chapter, after the compliance date of such Pretreatment Standard or, in the case of a New Discharger, after commencement of the discharge to the Authority, and Significant Non-categorical Industrial Users, shall submit to the Authority during the months of January and July, unless required more frequently by the Authority, a report indicating the nature and concentration, of prohibited or regulated substances in the effluent which are limited by the Pretreatment Standards and local limitations. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period in subsection (c)(1) hereof. Flows shall be reported on the basis of actual measurement, provided, however, where cost or feasibility considerations justify, the Authority may accept reports of average and maximum flows estimated by verifiable techniques. The Authority, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

- A. Reports of Dischargers required in 937.07(c)(1-3) shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the Authority. The frequency of monitoring by the Discharger shall be as prescribed by the Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. (Comment: Where 40 CFR, Part 136, does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the Environmental Protection Agency publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. Environmental Protection Agency.) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Authority, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples

collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & 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 Authority, as appropriate.

**SECTION 9.** The current Codified Ordinance Section 939.07 ADMINISTRATION, Section (h) Signatory and Certification Requirements shall be modified to read as follows:

(h) Signatory and Certification Requirements. All applications and reports submitted to the Authority shall be signed and certified:

(1) By a responsible corporate officer, if the Industrial User is a corporation. For the purpose of this paragraph, a responsible corporate officer means:

(i) a president, secretary, treasurer, or 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

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which 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 control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the Industrial User is a partnership, or sole proprietorship respectively.

(3) By a duly authorized representative of the individual designated in paragraph (1) or (2) of this section if:

(i) The authorization is made in writing by the individual described in paragraph (1) or (2);

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(iii) the written authorization is submitted to the Authority.

(4) If an authorization under paragraph (3) of this section 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 paragraph (3) of this section must be submitted to the Authority prior to or together with any reports to be signed by an authorize representative.

(i) Septic Haulers. All septic haulers shall apply for a Permit before discharging to the POTW. All septic haulers will be subject to random sampling. Septic haulers shall be tested at the septic receiving station at the WWTP.

**SECTION 10.** The current Codified Ordinance Section 939.08 ENFORCEMENT, Section (f) Enforcement Actions - Annual Publication shall be modified to read as follows:

(f) Enforcement Actions - Annual Publication. At least annually, the Authority shall publish a list of all Industrial Users which at any time during the previous twelve months were in significant noncompliance with the applicable pretreatment requirements. For the purposes of this provision, an Industrial User is in significant noncompliance if its violations meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits.
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the 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);
- (4) Any discharge of a pollutant that has caused imminent endangerment of human health, welfare or to the environment or has resulted in the POTW's exercise of emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 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;
- (7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the Authority determines will or has adversely affected the operation or implementation of the City's pretreatment program.


**SECTION 11.** The current Codified Ordinance Section 939.99 Penalties, Section (a) Penalties shall be modified to read as follows:

- (a) Penalties. Any Discharger who is found to have violated an Order or Permit issued by the Authority, who has failed to comply with any provision of this chapter, the regulations or rules of the Authority, or orders of any court of competent jurisdiction shall, upon conviction, be punished by the imposition of a fine of not more than \$1,000.00. A separate offense shall be deemed committed each day for each violation during or on which a violation occurs or continues.

**SECTION 12.** This Ordinance is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

**SECTION 13:** This Ordinance shall take effect and be in force immediately upon passage.

PASSED: February 10, 2020

  
DONALD C. KEMP  
PRESIDENT OF COUNCIL

ATTEST:

  
JULIE COURTRIGHT  
CLERK OF COUNCIL

APPROVED:

  
JOEL B. DAY  
MAYOR

SPONSORED BY: SAFETY, HEALTH, AND SERVICE COMMITTEE