

AMITY TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. # _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMITY TOWNSHIP AMENDING SUBPART C ENTITLED "BUILDING SEWERS AND CONNECTIONS" OF PART 3, ENTITLED "PUBLIC SEWAGE DISPOSAL SYSTEM" OF CHAPTER XXIII, ENTITLED "SEWERS AND SEWAGE DISPOSAL", OF THE TOWNSHIP OF AMITY CODE OF ORDINANCES", BY ADDING A NEW SECTION 316, ENTITLED "ILLEGAL SEWER CONNECTIONS," TO ESTABLISH COMPLIANCE CERTIFICATE REQUIREMENTS UPON THE SALE OF A HOME AND FURTHER AMENDING PART 3 BY RENUMBERING PREVIOUSLY NAMED SECTIONS 316 THROUGH 409.

WHEREAS, the Amity Township Board of Supervisors has hereinbefore established regulations to provide for the connection of improved properties to the Amity Township Sewer System, establishing certain rules and regulations, therefore, and prescribing penalties for violation of said regulations; and

WHEREAS, the Township of Amity, by and through its Board of Supervisors, owns, operates, and maintains certain municipal sewer collection, conveyance, and treatment facilities in accordance with permits issued by the Pennsylvania Department of Environmental Protection; and

WHEREAS, the Township of Amity wishes to set forth regulations and penalties concerning illegal sewer connections and procedures for sellers of homes in Amity Township to follow in order to prevent illegal sewer connections; and

WHEREAS, the Township of Amity wishes to require that, upon the sale of a home, the seller will be responsible to make application of a Compliance Certificate which will require them to have their lateral televised in conjunction with a physical inspection by Township staff to determine if there are any illegal connections to the Amity Township sewer system; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Amity, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. Subpart C entitled "Building Sewers and Connections" of Part 3, entitled "Public Sewage Disposal System" of Chapter XXIII, entitled "Sewers and Sewage Disposal", of the Township of Amity Code of Ordinances", is hereby amended by adding Section 316 entitled "Illegal Sewer Collections", as follows:

“Section 316. Illegal Sewer Connection.

- (a) Objectives. The Township of Amity wishes to set forth regulations and penalties concerning illegal sewer connections and procedures for sellers of homes in Amity Township to follow in order to prevent illegal sewer connections.
- (b) Definitions. When used herein the following words shall have the following meanings:

Applicant. Any person (defined below) selling improved property (defined below) or purchasing improved property (defined below) located within the Township.

Evidence of Compliance Certificate. A certificate from Amity Township confirming that it has on file a written report or statement from an inspector (defined below) certifying there is not located on a property any illegal connections (defined below) into the sanitary sewer system (defined below).

Illegal Connections. Connections to the sanitary sewer system that allow inflow to be discharged into the Township's sanitary sewer system.

Inspection. Shall include a physical inspection, which may include dye testing (a commonly accepted plumbing test whereby a nontoxic, non-staining dye is introduced into the storm/surface/groundwater collection system of improved property to determine if any storm/surface/groundwater is entering the sanitary sewer system), smoke testing to detect roof leaders, and any other reasonable and appropriate testing methodology(ies) acceptable; and shall require televising of the lateral from the home to the main (to be witnessed by the Township's representative and the video file to be provided to the Township) to determine if any storm/surface/groundwater is entering the sanitary sewer system.

Inspector. A representative of the Township.

Person. Any natural person, partnership, association, authority, syndicate, firm, corporation, developer, contractor, government, or other entity recognized by law as the subject of rights and duties.

Purchase of Improved Property and Purchasing Improved Property. Includes any and all acquisitions of title to improved property with or without consideration.

Purchaser. A person acquiring title to improved property with or without consideration.

Purchase of Improved Property and Purchasing Improved Property. Includes any and all acquisitions of title to improved property with or without consideration.

Sale of Improved Property, Sell Improved Property, and Selling Improved Property. Includes any and all transfers or changes in ownership of improved property, with or without consideration.

Sanitary Sewers. Sewers designed and built to carry sanitary sewage and/or industrial waste separately from water discharge.

Sanitary Sewer System. The entire sewer system of Amity operated by the Township.

Seller. A person transferring or conveying title to improved property to another person.

Storm Sewer System. A sewer system designed to accept and transport flows of storm/surface/groundwater, as distinct from sewage.

Temporary Evidence of Compliance Certificate. A certificate from the Township issued pursuant to Article VII of this article.

Township. Amity Township, Berks County, Pennsylvania.

(c) Prohibitions.

- (1) From and after the effective date of this article, it shall be unlawful for any person to construct, install, maintain, repair, operate, use, or allow an illegal connection to the sanitary sewer system on improved property owned by that person. This prohibition expressly includes, without limitation, illegal connections made prior to the effective date of this article, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) From and after the effective date of this article it shall be unlawful for any person whose improved property is connected to the sanitary sewer system to sell improved property located within the Township on which a building or improvement exists without first obtaining and delivering to the purchaser (defined above) an

evidence of compliance certificate or a temporary evidence of compliance certificate from the Township as required under this article.

- (3) From and after the effective date of this article it shall be unlawful for any person (purchaser) to purchase improved property located within the Township connected to the sanitary sewer system on which a building or improvement exists without first obtaining from a seller a valid evidence of compliance certificate or a temporary evidence of compliance certificate.

(d) Disconnection of Illegal Connections.

Illegal connections must be disconnected from the sanitary sewer system and redirected, as appropriate, to either a separate storm sewer system, or another appropriate legal place. Connection of the illegal connection to the Township's separate storm sewer system is subject to the prior approval of the Township. In no event is water to be discharged from the illegal connection upon or across public or private sidewalks or discharged onto adjacent property. Prior to the commencement of any work on the disconnection of an illegal connection or repair of a sewer lateral, all necessary and required building permits, street opening permits, sidewalk opening permits, tap-in permits, and other approvals and permits that may be necessary to accomplish the disconnection shall be acquired, and all fees paid, and a plan of corrective action shall be presented to the Township, for the Township's approval, on a Township Corrective Action Plan form (plan form). "Disconnection" shall mean that the illegal connection is disconnected and removed from the sanitary sewer system, and that the illegal connection access to the sanitary sewer system at that location is permanently capped and sealed. The disconnection of the illegal connection shall be certified by an inspector on the Township plan form.

(e) Evidence of Compliance Certificate for Sale of Improved Property.

- (1) Any person selling improved property (applicant) located within the Township, whose improved property is connected to the sanitary sewer system, shall have said improved property inspected by a Township inspector or representative; and, have their sewer lateral televised from the home to the main by a

professional qualified to conduct such work (electronic file to be provided to the Township). Said person shall arrange for an inspection by obtaining an application for evidence of compliance certificate (application) from the Township, submitting the completed application to the Township, and paying such fee(s) and cost(s) as required by the Township. The inspection must be scheduled in conjunction with the televising of the lateral to allow the Township's representative to witness the televising. Upon completion of the inspections, the inspector shall complete the appropriate section of the inspection results form (results form) confirming that the property has been inspected and certifying the results of such inspection.

- (a) If the inspector determines that there are no illegal connections on the improved property and the lateral is in good working order, he shall so note on the results form and the application, and the Township shall issue the evidence of compliance certificate promptly after the Township's receipt of the properly completed application and results form.
- (b) If the inspector determines that there is/are illegal connection(s) on the improved property or the lateral requires repair(s) he shall so note on the results form, and the applicant shall present a plan of corrective action, for the Township's approval, on a Township plan form. The time period for the completion of the remedial work (based upon the extent of the work required and the existing conditions) shall be such as the Township will approve. After the corrective action has been taken, the applicant shall submit a report thereof to the Township on the Township's corrective action report form (report form) and pay any additional fee(s) and cost(s) required by the Township. The improved property will be reinspected, and if the inspector determines that there are then no illegal connections on the improved property, he shall so certify on the report form, and the Township shall issue the evidence of compliance certificate promptly after the Township's receipt of the completed application and the report form.

- (c) If the reinspection reveals the existence of any illegal connections, the inspector shall so certify on the results form, and the Township shall reject the application as per Article VII of this article.
- (2) An evidence of compliance certificate shall expire three years following the date of its issuance. If any additions are made to the property within the period of three years or the property is re-sold within three years, a certification shall be obtained from an inspector that the addition has no illegal connections.
- (f) Evidence of Compliance Certificate for Purchase of Improved Property.
- (1) Any person purchasing improved property (purchaser) located within the Township connected to the sanitary sewer system on which a building or improvement exists without first obtaining from a seller a valid evidence of compliance certificate or a temporary evidence of compliance certificate shall have said improved property inspected by a Township inspector; and, have their sewer lateral televised from the home to the main by a professional qualified to conduct such work (electronic file to be provided to the Township). Said person shall arrange for an inspection by obtaining an application for evidence of compliance certificate (application) from the Township, submitting the completed application to the Township and paying such fee(s) and cost(s) as required by the Township. The inspection must be scheduled in conjunction with the televising of the lateral to allow the Township's representative to witness the televising. Upon completion of the inspection, the inspector shall complete the appropriate section of the inspection results form (results form) confirming that the property has been inspected and certifying the results of such inspection.
- (a) If the inspector determines that there are no illegal connections on the improved property and the lateral is in good working order, he shall so note on the results form and the application, and the Township shall issue the evidence of compliance certificate promptly after the Township's receipt of the properly completed application and results form.

- (b) If the inspector determines that there is/are illegal connection(s) on the improved property or the lateral requires repair(s) he shall so note on the results form, and the applicant shall present a plan of corrective action, for the Township's approval, on a Township plan form. The time period for the completion of the remedial work (based upon the extent of the work required and the existing conditions) shall be such as the Township will approve. After the corrective action has been taken, the applicant shall submit a report thereof to the Township on the Township's corrective action report form (report form) and pay any additional fee(s) and cost(s) required by the Township. The improved property will be reinspected, and if the inspector determines that there are then no illegal connections on the improved property he shall so certify on the application and the report form, and the Township shall issue the evidence of compliance certificate promptly after the Township's receipt of the properly completed application and report form.
 - (c) If the reinspection reveals the existence of any illegal connections, the inspector shall so certify on the results form, and the Township shall reject the application as per Article VII of this article.
- (2) An evidence of compliance certificate shall expire three years following the date of its issuance. If any additions are made to the property within the period of three years, a certification shall be obtained from an inspector that the addition has no illegal connections.
- (g) Temporary Evidence of Compliance Certificate.
- (1) In the event that an illegal connection is discovered, or lateral repairs are required pursuant to Article IV of this article, and the applicant believes that it would create an undue hardship to perform the necessary corrective action prior to the date of closing on the sale of the property, the applicant may apply to the Township for a temporary evidence of compliance certificate on a Township-approved form. The Township may issue a temporary

evidence of compliance certificate upon the payment of such fee(s) and cost(s) as the Township may from time to time establish, and provided there is strict compliance with all the following conditions:

- (a) The Township is provided with a bona fide, executed contract (hereinafter "contract") between the applicant and a contractor requiring the contractor to complete the necessary remedial work to correct and/or disconnect and remove the illegal connection or make lateral repair(s), and granting the Township the right and power to enforce the contract as a third-party beneficiary. The time period set forth in the contract for the completion of the remedial work (based upon the extent of the work required and the existing conditions) shall be such as the Township will approve.
- (b) Cash security (hereinafter "security") in the amount of 120% of the price of the contract is deposited with the Township or provision is made that, at closing, a security in the amount of 120% of the price of the contract shall be collected by the closing agent for the Township and immediately deposited with the Township. The security shall be held by the Township in a noninterest bearing account. Security shall be limited to cash, certified check, and treasurer's check.
- (c) A written agreement between the purchaser or transferee and the Township under which the purchaser or transferee agrees to be responsible for all cost overruns related to the remedial work together with a grant to the Township of a license to enter upon the property to complete the work at the expense and cost of the purchaser or transferee should the contractor or the applicant default on the contract. Any cost overrun exceeding the security posted with the Township shall remain the sole and exclusive liability of the purchaser or transferee and constitute a recordable lien against the improved property.

- (2) The temporary evidence of compliance certificate shall be effective for no more than 60 days, and the expiration date shall be noted thereon. In the event the required remedial work necessitated by the sale of improved property is not practical due to the absence of available remedies, and where the Township has adopted a plan of corrective action applicable to the sanitary sewers serving such improved property, then the temporary evidence of compliance certificate shall be extended until the planned corrective action is completed. In such event, the Township shall set security in the amount of 120% of the price of the applicant's anticipated pro rata cost of the anticipated remedial work.
- (3) If, upon expiration of the temporary evidence of compliance certificate, all remedial work has not been completed and the evidence of compliance certificate has not been issued, the security deposited with the Township shall be forfeited and the Township may use said security to have the required remedial work completed.

(h) Rejection of Application.

The Township may reject an application for an evidence of compliance certificate or for a temporary evidence of compliance certificate whenever the requirements of this article have not been met. In the event of such a rejection, the applicant may, within 15 days of the rejection, file an appeal with an appropriate appellate body.

(i) Township Resolutions.

The Township may, by resolution, adopt any or all of the following in order to accomplish the purposes of this article:

- (1) Establish and promulgate any and all forms, fees, procedures, regulations and/or guidelines necessary to implement and effectuate the objectives and purposes of this article.
- (2) Establish the procedures and guidelines for the retention, release, and/or payment of any security held by the Township under and pursuant to Article VI above.

(j) Access and Inspection.

- (1) Upon presentation of proper credentials, duly authorized representatives of the Township may enter at reasonable times upon any property within the Township to perform inspections to determine compliance with this article. The Township shall notify the property owner within 24 hours of entry.
- (2) Property owners shall allow persons working on behalf of the Township ready access to all parts of the premises for the purposes of determining compliance with this article.
- (3) If a property has security measures in force which require proper identification and clearance before entry into its premises, the owner and/or possessor shall, upon reasonable notice by the Township, make the necessary arrangements to allow access by representatives of the Township.
- (4) The owner and/or possessor of the property shall allow the Township reasonable access to all parts of a property necessary to the inspections of the property. The Township shall have the right to set up on any property such devices as are necessary in the opinion of the Township to conduct inspections of the property.
- (5) Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the owner and/or possessor of the property at the oral or written request of the Township and shall not be replaced until such inspection is completed and/or any violations of this article are corrected, and such corrections are certified by an inspector.
- (6) The Township may provide notice of the inspections of a property or properties orally or by written notice or publication. Notice is required if the owner and/or possessor specifically refuses access.
- (7) If the Township has been refused access to any part of a property on which an illegal connection is suspected, and the Township is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine program of inspection and sampling

designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Township may seek issuance of a search warrant from any court of competent jurisdiction.

(k) Violations and Penalties.

Notice of noncompliance/violation. Whenever the Township finds that a noncompliance or violation of this article has occurred, the Township may order compliance by written notice of noncompliance/violation. Said notice may be served personally on the owner and/or possessor of the property, or by leaving the same at the principal building on the property, or by posting the same conspicuously on the property, or by certified mail sent to the address of the property or at such other address for the owner and/or possessor as maintained in the Township or County of Berks records.

(1) The notice of noncompliance/violation shall contain:

- (a) The name and address of the alleged noncomplier/violator;
- (b) The address, when available, or a description of the building, structure, or land upon which the noncompliance/violation is occurring, or has occurred;
- (c) A statement specifying the nature of the noncompliance/violation;
- (d) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of noncompliance/violation is directed; and
- (f) A statement that the determination of violation may be appealed by filing a written notice of appeal with an appropriate appellate body within 15 days of the service of notice of noncompliance/violation.

- (2) Such notice of noncompliance/violation may require without limitation:
- (a) The performance of inspections, monitoring, analyses, and reporting;
 - (b) The elimination, disconnection, and removal of the illegal connection(s) in accordance with Article III of this article; and
 - (c) That the person whose discharges, practices, or operations are in noncompliance/violation of this article shall cease and desist from such noncompliance/violations.

(l) Appeal of notice of noncompliance/violation.

Any person receiving a notice of noncompliance/violation may appeal the determination of violation by filing a written notice of appeal with an appropriate appellate body within 15 days of the service of the notice of noncompliance/violation.

(m) Enforcement Measures.

- (1) If the noncompliance/violation(s) has/have not been corrected in accordance with the provisions and/or times established pursuant to this article, the Township is authorized to take any and all measures necessary to abate the noncompliance/violation, disconnect and remove the illegal connection(s), and/or restore the property. The costs of the enforcement measures taken by the Township shall constitute a recordable lien against the property.
- (2) Where correction of the noncompliance/violation cannot be made in accordance with the provisions and/or times established pursuant to this article, upon proof to the Township of a contract for performance of the correction work, or other document satisfactory to the Township showing good faith commencement of correction of the noncompliance/violation, abatement by the Township may be delayed up to a maximum of 60 days after the notice of noncompliance/violation or, in the case of appeal, for a maximum of 60 days after the decision of the appellate body upholding the determination of noncompliance/violation made by

the Township.

(n) Danger to Public Health or Safety.

In the event a noncompliance/violation of this article constitutes an immediate danger to public health or public safety, the Township is authorized to take any and all measures necessary to abate the noncompliance/violations, disconnect and remove the illegal connection(s), and/or restore the property. The costs of the measures taken by the Township shall constitute a recordable lien against the property.

(o) Nuisance; Injunctive or Other Relief.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of the provisions of this article is a threat to public health, safety, welfare, and the environment and is declared and deemed to be a nuisance, and the Township may seek abatement thereof by injunctive or other equitable relief as provided by law.

(p) Cumulative Remedies; Recovery of Fees and Costs.

- (1) The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state, or local law, and the Township may seek cumulative remedies.
- (2) The Township may recover attorney fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

SECTION 2. Subpart D, entitled "Sewer Rental Charges" through Subpart X, entitled "Declaration of Purpose," of Part 3, of Chapter XXIII, entitled "Sewers and Sewage Disposal", of the Township of Amity Code of Ordinances", is hereby amended by renumbering the entire Part from Sections 316 - 408 to become Sections 317 through Section 409, as follows:

"Subpart D. Sewer Rental Charges.

Section 317. Sewer Rentals and Charges. All others of property connected or connecting with the sewage system, and all of the owners of property who may hereafter connect with and use the same shall pay annual sewer rentals or charges in quarterly installments as hereinafter provided, for the use of such sewage facilities

based upon a schedule of rates to be established by resolution of the Board of Supervisors as may be enacted from time to time.

Section 318. Quarterly Payments. Sewer rentals or charges shall be paid quarterly in accordance with billings for sewage services; except that during the first quarter that a residential, commercial, or industrial user begins to be based on a per diem amount, they shall be prorated from the time such sewer connection is made until the next following quarterly billing period. All current unpaid charges for sewage service shall be subject to a (10%) penalty if not paid within 30 days after the billing date. In addition, a 5% penalty will be applied to the entire accrued principal balance if not paid within 55 days of the due date each quarter.

Section 319. Lien on Property. Annual sewer rental charges shall be a lien on the properties charged with payment thereof, from the effective date of this Part, and if not paid after thirty (30) days' notice, may, along with all costs and expenses associated therewith including, but not limited to, filing and legal fees, be collected in any manner provided by law, including without limitation the entry of a municipal lien of record in the Office of the Prothonotary of Berks County, Pennsylvania.

Section 320. Discretion of Township. No statement contained herein shall be construed as to prevent any special agreement or arrangement between the Township and any person or entity whereby an industrial waste of any strength or character may, subject to the discretion of the Township, be accepted by the Township for treatment, subject to payment therefore by the said person or entity.

Section 320.1. Correct Mailing Address. It shall be the responsibility of each owner of an improved property to provide this Township with, and thereafter to keep this Township continuously advised of, the correct mailing address of such owner. Failure of any owner to receive a bill for charges due and payable shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the net bill shall be payable.

Subpart E. Rules and Regulations Governing Building Sewers and Connections to Sewers.

Section 321. Improved Properties. Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such house sewer line, as a building sewer. Pre-existing building sewers may be used in connection with said building only when such connection is approved, in writing, by the Township and said connection meets the requirements of this Part and any and all other statutes, ordinances, rules, or regulations as may be otherwise adopted, enacted, and promulgated by the Township.

Section 322. Inspection Required. No building sewer shall be covered until it has been inspected and approved by this Township. If any part of a building sewer is covered before so being inspected and approved, it shall, at the direction of the Township, be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.

Section 323. Safe Operating Condition. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

Section 324. Protection of Public Property. Every excavation for a building sewer shall be guarded adequately with barricades, lights, and/or other safety devices to protect all persons from damage and injury. Streets, sidewalks, and all other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the Township, and in accordance and compliance with any and all statutes, ordinances, rules, or regulations as may be enacted, adopted, and/or promulgated by the Township and any other regulatory department, agency, board, or bureau as may have jurisdiction regarding such public property.

Section 325. Notice of Unsatisfactory Conditions. If any person shall fail or refuse, upon receipt of a notice from this Township, in writing, to remedy any unsatisfactory conditions with respect to a building sewer, within thirty (30) days of receipt of such notice, this Township may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory conditions shall have been remedied to the satisfaction of this Township.

Section 326. Approval by Township. The size and slope of the building sewer shall be subject to the approval of the Township, but in no event shall the diameter be less than four (4) inches. The slope of such four (4) inch pipe shall not be less than one-quarter (1/4) inch per foot.

Section 327. Elevation. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Cleanouts, in accordance with standards and specifications as may be adopted by the Township or otherwise directed by the Township Engineer, are required to be installed and maintained at every one hundred (100) feet in length of the building sewer.

Section 328. Artificial Flow. In a building in which the building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer, the specifications, design, and installation of which shall be subject to the advance review and approval of the Township Engineer.

Section 329. Additional Rules. This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be in the form of a Resolution and shall be construed as a part of this Part.

Subpart F. General Sewer Use Requirements.

Section 330. Prohibited Discharge Standards

- (a) General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams, with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow to the POTW resulting in interference with the proper operation of the POTW. Such substances include, but are not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, bones, rags, feathers, tar, plastic, wood, paunch, manure, butchers' offal, whole blood, bentonite, lye, building materials, rubber, hair, leather, porcelain, china, ceramic wastes, asphalt, paint, waxes, needles or syringes of any type, but in no case solids greater than two inches (2") in any dimension.

- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature greater than 104°F or lower than 32°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's effluent, thereby violating the Township's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the reasonably established norm for aquatic life;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Township in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, sump pump discharges, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Township. Where unauthorized discharge of these waters

into the POTW exists, they shall be remedied in a manner approved by the Township within ninety (90) days of receipt of a notice from the Township. In the event such condition is not remedied, the Township shall cause the condition to be remedied at the owner's expense;

- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Township in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/L.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

Section 331. Federal Categorical Pretreatment Standards. The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

Section 332. State Pretreatment Standards. No State pretreatment standards exist so, in their place, categorical pretreatment standards are hereby incorporated.

Section 333. Local Limits. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits.

900 mg/L	CBOD ₅
0.200 mg/L	cadmium
2.67 mg/L	chromium
1.00 mg/L	copper
2.83 mg/L	cyanide
2.00 mg/L	lead
0.00 mg/L	mercury

2.00 mg/L	nickel
100 mg/L	oil and grease (petroleum, mineral, or vegetable oil products)
2.00 mg/L	silver
750 mg/L	total suspended solids
2.55 mg/L	zinc
0.37 mg/L	tin
10.00 mg/L	iron
0.80 mg/L	phenol
0.025 mg/L	arsenic
1,500 mg/L	total dissolved solids
75 mg/L	ammonia nitrogen
0.09 mg/L	selenium

The above limits may be revised by Resolution of Amity Township Board of Supervisors.

The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Township may impose mass limitations in addition to or in place of the concentration-based limitations above.

Deductions will be made from these limited substances equal to the concentrations of each substance that is contained in the potable water supply.

Section 334. Township's Right of Revision. The Township reserves the right to adopt, from time to time by ordinance or in wastewater discharge permits, such additional rules and regulations as it shall deem necessary and proper relating to connection to and proper operation of the POTW, which rules and regulations shall be construed as a part of this Part.

Section 335. Special Agreement. The Township reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, a user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. A user also may request a variance from the categorical pretreatment standard from the approved authority. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

Section 336. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Township may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

Subpart G. Pretreatment of Wastewater.

Section 337. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this Part and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 330 of this Part within the time limitations specified by the EPA, the State, or the Township, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Township for review, and shall be acceptable to the Township before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce an acceptable discharge to the Township under the provisions of this Part.

Section 338. Additional Pretreatment Measures. The Township may provide legal authority to do the following:

- (a) Whenever deemed necessary, the Township may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Part.
- (b) Each person discharging into the POTW greater than 25,000 gallons per day or greater than five percent (5%) of the average daily flow in the POTW, whichever is less, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow over a 24-hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Township. A wastewater discharge permit may be issued solely for flow equalization.

- (c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Township, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Township and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense. The Township may require documentation from the user to confirm that adequate grease, oil, and sand interceptor maintenance is being performed.
- (d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Section 339. Accidental Discharge/Slug Control Plans. At least once every two years the Township shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Township may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Township may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW of any accidental or slug discharge, as required by Section 363 of this Part; and
- (d) Procedures to prevent 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.

Section 340. Hauled Wastewater. Hauled waste will not be accepted into the POTW without prior written approval from the Township.

Subpart H. Wastewater Discharge Permit Application.

Section 341. Wastewater Analysis. When requested by the Township, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Township is authorized to prepare a form for this purpose and may periodically require users to update this information.

Section 342. Wastewater Discharge Permit Requirement.

- (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Township, except that a significant industrial user that has filed a timely application pursuant to Section 343 of this Part may continue to discharge for the time period specified therein.
- (b) The Township may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Part. A fee for other user discharge would follow the schedule established by Resolution of the Township.
- (c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Part and subjects the wastewater discharge permittee to the sanctions set out in Subparts N through P of this Part. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

Section 343. Wastewater Discharge Permitting: Existing Conditions. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Part and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Township for a wastewater discharge permit in accordance with a wastewater discharge permit issued by the Township.

Section 344. Wastewater Discharge Permitting: New Connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 345 of this Part, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

Section 345. Wastewater Discharge Permit Application Contents. All users required to obtain a wastewater discharge permit must submit a permit application. The Township may require all users to submit as part of an application the following information:

- (a) All information required by Section 358(b) of this Part;
- (b) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (d) Each product produced by type, amount, process or processes, and rate of production;
- (e) Type and amount of raw materials processed (average and maximum per day);
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (g) Time and duration of discharges;
- (h) Any other information as may be deemed necessary by the Township to evaluate the wastewater discharge permit application; and
- (i) An application fee to be paid upon submitting a completed permit application. This fee shall be established by Resolution of the Township, from time to time.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

Section 346. Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following 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.”

Section 347. Wastewater Discharge Permit Decisions. The Township will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Township will determine whether or not to issue a wastewater discharge permit. The Township may deny any application for a wastewater discharge permit.

Subpart I. Wastewater discharge Permit Issuance Process.

Section 348. Wastewater Discharge Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Township. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Section 349. Wastewater Discharge Permit Contents. A wastewater discharge permit shall include such conditions as are reasonably deemed necessary by the Township to prevent pass through or interference, protect the quality of the water body receiving the treatment plant’s effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- (a) Wastewater discharge permits must contain the following conditions:
- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
 - (2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the Township, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - (3) Effluent limits based on applicable pretreatment standards;
 - (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

- (5) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (b) Wastewater discharge permits may contain, but need not be limited to, the following special conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;\
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (8) Other conditions as deemed appropriate by the Township to ensure compliance with this Part, and State and Federal laws, rules, and regulations.

Section 350. Wastewater Discharge Permit Appeals. Any person, including the user, may petition the Township to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (d) In the event of an appeal, the Township shall conduct a hearing and decide the appeal as provided by administrative law and procedure. In the event, after hearing and decision, the appealing party wishes to make a further appeal, it may do so by filing an appropriate appeal to the Court of Common Pleas of Berks County within thirty (30) days of the final order of the Township.

Section 351. Wastewater Discharge Permit Modification. The Township may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- (b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge poses a threat to the Township's POTW, Township personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the wastewater discharge permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

- (h) To correct typographical or other errors in the wastewater discharge permit; or
- (i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

Section 352. Wastewater Discharge Permit Transfer. Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 60 days advance notice to the Township and the Township approves the wastewater discharge permit transfer. The notice to the Township must include a written certification by the new owner and/or operator which:

- (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (b) Identifies the specific date on which the transfer is to occur; and
- (c) Acknowledge full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

Section 353. Wastewater Discharge Permit Revocation. Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- (a) Failure to notify the Township of significant changes to the wastewater prior to the changed discharge;
- (b) Failure to provide prior notification to the Township of a changed condition pursuant to Section 362 of this Part;
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d) Falsifying self-monitoring reports;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the Township timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;

- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Part.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Section 354. Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 346 of this Part, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. An application fee shall be submitted along with the completed permit application in the amount as established by Resolution of the Township, from time to time.

Section 355. Municipal Wastewater Discharge Permits. In the event another municipality contributes all or a portion of its wastewater to the POTW, the Township may require such municipality to apply for and obtain a municipal wastewater discharge permit.

- (a) A municipal wastewater discharge permit application shall include:
 - (1) A description of the quality and volume of the wastewater at the point(s) where it enters the POTW;
 - (2) An inventory of all users discharging to the municipality;
 - (3) Such other information as may be required by the Township; and

- (4) An application fee to be paid upon submitting a completed permit application. This fee shall be established by Resolution of the Township, from time to time.
- (b) A municipal wastewater discharge permit shall contain the following conditions:
- (1) A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this Part, and local limits which are at least as stringent as those set out in Subpart F of this Part. Such ordinance and limits must be revised as necessary to reflect changes made to the Township's sewer use ordinance and/or local limits;
 - (2) A requirement for the municipal user to submit a revised user inventory on at least an annual basis;
 - (3) A requirement for the municipal user to conduct pretreatment implementation activities including wastewater discharge permit issuance, inspection and sampling, and enforcement; or authorize the Township to take or conduct such activities on its behalf;
 - (4) A requirement for the municipal user to provide the Township with access to all information that the municipal user obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the municipal user's discharge; and
 - (7) A provision ensuring the Township access to the facilities of users located in the municipal user's jurisdiction for the purpose of inspection, sampling, and any other duties deemed necessary by the Township.
- (c) Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Subparts N through P of this Part.

Section 356. Commercial Wastewater Discharge Permit. In the event that a commercial user contributes all or a portion of its wastewater to the POTW, the Township may require such commercial user to apply for and obtain a commercial wastewater discharge permit. The Township may require a commercial user to have a

discharge permit if, in the opinion of the Township, it is necessary in order for the Township to operate and maintain the POTW and meet its NPDES requirements.

- (a) A commercial wastewater discharge permit application shall include:
 - (1) A description of the quality and volume of the wastewater at the point where it enters the POTW.
 - (2) Such information as may be required by the Township.
 - (3) An application fee to be paid upon submitting a completed permit application. This fee shall be established by Resolution of the Township, from time to time.

- (b) A commercial wastewater discharge permit may include, but not be limited to, the following:
 - (1) Grease trap cleaning requirements.
 - (2) Flow requirements.
 - (3) Recycling requirements.
 - (4) A provision ensuring the Township access to the facility during normal hours of business for the purpose of inspection and sampling.

- (c) Violation of the terms and conditions of the commercial user's wastewater discharge permit subjects the commercial user to the sanctions set out in Subparts N through P of this Part.

Section 357. Special Use Discharge Permit. In the event that a user contributes all or a portion of its wastewater to the POTW and the user is not considered industrial, commercial, or domestic, the Township may require such user to apply for and obtain a special use discharge permit. The Township may require a user to have a special use discharge permit if, in the opinion of the Township, it is necessary in order to operate and maintain the POTW and meet its NPDES requirements.

- (a) A special use discharge permit application shall include:
 - (1) A description of the quality and volume of the wastewater at the point where it enters the POTW.
 - (2) Such information as may be required by the Township.

- (3) An application fee to be paid upon submitting a completed permit application. This fee shall be established by Resolution of the Township, from time to time.
- (b) A special use discharge permit may include, but not be limited to, the following:
 - (1) Grease trap cleaning requirements.
 - (2) Flow requirements.
 - (3) Recycling requirements.
 - (4) A provision ensuring the Township access to the user's facility during normal hours of business for the purpose of inspection and sampling.
- (c) Violations of the terms and conditions of the special use discharge permit subjects the special user to the sanctions set out in Subparts N through P of this Part.

Subpart J. Reporting Requirements

Section. 358. Baseline Monitoring Reports.

- (a) Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later), existing categorical users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Township a report which contains the information listed in Paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Township a report which contains the information listed in Paragraph b below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (b) Users described above shall submit the information set forth below.
 - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) Measurement of Pollutants.
 - (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the Township) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 367 of this Part.
 - (iii) Sampling must be performed in accordance with procedures set out in Section 368 of this Part.
- (6) Certification. A statement, reviewed by the user's authorized representative 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.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the

applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 359 of this Part.

- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 346 of this Part.

Section 359. Compliance Schedule Progress Report. The following condition shall apply to the schedule required by Section 358(b)(7) of this Part:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the Township no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to the Township.

Section 360. Report on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Township a report containing the information described in Section 358(b)(4-6) of this Part. 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 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 346 of this Part.

Section 361. Periodic Compliance Reports.

- (a) All significant industrial users shall, at a frequency determined by the Township but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 346 of this Part.
- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirements in this section monitors any pollutant more frequently than required by the Township, using the procedures prescribed in Section 368 of this Part, the results of this monitoring shall be included in the report.

Section 362. Report of Changed Conditions. Each user must notify the Township of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

- (a) The Township may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 345 of this Part.
- (b) The Township may use a wastewater discharge permit under Section 347 of this Part or modify an existing wastewater discharge permit under Section 351 of this Part in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants.

Section 363. Reports of Potential Problems.

- (a) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Township 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 user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the Township, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed pursuant to this Part.
- (c) Failure to notify the Township of potential problem discharges shall be deemed a violation of this Part.
- (d) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Paragraph (a) above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

Section 364. Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Township as the Township may require.

Section 365. Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Township within 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 repeat analysis to the Township within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Township monitors at the user's facility at least once a month, or if the Township samples between the user's initial sampling and when the user receives the results of this sampling.

Section 366. Notification of the Discharge of Hazardous Waste. The discharge of hazardous waste into the sewer system is prohibited.

Section 367. Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

Section 368. Sample Collection.

- (a) Except as indicated in Section b below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Township may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

Section 369. Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Section 370. Record Keeping. Users subject to the reporting requirements of this Part shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Part and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. 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 or the Township, or where the user has been specifically notified of a longer retention period by the Township.

Subpart K. Compliance Monitoring

Section 371. Right of Entry: Inspection and Sampling. The Township shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Part, and any permit or order issued hereunder. Users shall allow the Township ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Township will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (b) The Township shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (c) The Township may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy and certificates of calibration shall be sent to the Township.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Township and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (e) Unreasonable delays in allowing the Township access to the user's premises shall be a violation of this Part.

Section 372. Search Warrants. If the Township has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Part, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Township designed to verify compliance with this Part or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Township may seek issuance of a search and/or seizure warrant from the Berks County Court.

Subpart L. Confidential Information.

Section 373. Confidential Information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Township's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Township, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Subpart M. Publication of Users in significant Non-Compliance.

Section 374. Publication of Users. The Township shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (6.4 for BOD, TSS, fats, oils, and grease, and 6.2 for all other pollutants except pH);
- (c) Any other discharge violation that the Township believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Township's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of 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;
- (f) Failure to provide within thirty (30) days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report non-compliance; or
- (h) Any other violation(s) which the Township determines will adversely affect the operation or implementation of the local pretreatment program.

Subpart N. Administrative Enforcement Remedies.

Section 375. Notification of Violation. When the Township finds that a user has violated (or continues to violate) any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Township may serve upon that user a written Notice of Violation. Within seven (7) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Township. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Township to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 376. Consent Orders. The Township may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 378 and 379 of this Part and shall be judicially enforceable.

Section 377. Show Cause Hearing. The Township may order a user which has violated or continues to violate any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Township and show cause why the proposed enforcement action should not be taken. Notice shall be serviced on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Section 378. Compliance Orders. When the Township finds that a user has violated or continues to violate any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Township may issue an order to the user responsible for the discharge directing that the user come into compliance within fifteen (15) days. If the user does not come into compliance within thirty (30) days, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 379. Cease and Desist Orders. When the Township finds that a user has violated (or continues to violate) any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Township may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 380. Administrative Fines.

- (a) When the Township finds that a user has violated or continues to violate any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Township may fine such user in an amount not to exceed \$1,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (b) Unpaid charges, fines, and penalties shall, after fifteen (15) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- (c) Users desiring to dispute such fines must file a written request for the Township to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the Township may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Township may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 381. Emergency Suspensions. The Township may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Township may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- (a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Township may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Township may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Township that the period of

endangerment has passed, unless the termination proceedings in Section 382 of this Part are initiated against the user.

- (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Township prior to the date of any show cause or termination hearing under Sections 377 and 382 of this Part.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

Section 382. Termination of Discharge. In addition to the provisions in Section 346 of this Part, any user who violates the following conditions is subject to discharge termination:

- (a) Violation of wastewater discharge permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purposes of inspection, monitoring, or sampling; or
- (e) Violation of the pretreatment standards in Subpart E of this Part.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 377 of this Part why the proposed action should not be taken. Exercise of this option by the Township shall not be a bar to, or a prerequisite for, taking any other action against the user.

Subpart O. Judicial Enforcement Remedies.

Section 383. Injunctive Relief. When the Township finds that a user has violated (or continues to violate) any provision of this Part, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Township may petition the Berks County Court through the Township's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirements imposed by this Part on activities of the user. The Township may also

seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 384. Civil Penalties.

- (a) An Industrial User who willfully or negligently violates any pretreatment standards and/or requirements may be assessed a civil penalty by the Township in an amount not to exceed \$25,000 per day for each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct offense under this Section.
- (b) For purposes of this Section, a single operational upset which leads to simultaneous violations of more than one pretreatment standard or requirement shall be treated as a single violation as required by the Federal Water Pollution Control Act.
- (c) In addition to the civil penalty, the Township may recover the costs for re-establishing the operation of the POTW.
- (d) The Township shall include as part of the notice of an assessment of civil penalties a description of the appeals process to be followed, including the name, address, and telephone number of the person responsible for accepting such appeal.
- (e) The Township may publicly adopt a formal, written civil penalty assessment policy and make it publicly available. Each industrial discharger with an industrial waste discharge permit shall be given written notice of the policy. In developing the penalty assessment policy, the POTW shall consider damage to air, water, land, or other natural resources of this Commonwealth and their uses; cost of restoration and abatement; savings resulting to the person in consequence of the violation; history of past violations; deterrence of future violations; and other relevant factors.
- (f) Civil penalties collected pursuant to this act shall be placed in a restricted account and shall only be used by the POTW for the repair of damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed, to pay any penalties imposed on the POTW by the Federal or State government for violation of pretreatment standards, for the costs incurred by the POTW to investigate and take the enforcement action that resulted in a penalty being imposed, for the monitoring of discharges in the pretreatment program and for capital improvements to the treatment works, including

sewage collection lines, which may be required by the pretreatment program. Any remaining funds may be used for capital improvements to the treatment works, including collection lines.

- (g) The industrial user charged with the penalty shall have thirty (30) days to pay the proposed penalty in full or, if the industrial user wishes to contest either the amount of the penalty or the fact of the violation, the industrial user must file an appeal within thirty (30) days pursuant to 2 Pa. C.S. (relating to administrative law and procedure). Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. In the event of an appeal, the Township shall conduct a hearing and decide the appeal as provided by administrative law and procedure. In the event, after hearing and decision, the industrial user wishes to make a further appeal, it may do so by filing an appropriate appeal to the Court of Common Pleas of Berks County within thirty (30) days of the final order of the Township.

Section 385. Criminal Prosecution.

- (a) A user who violates any provision of this Part, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a summary offense and be subject to a fine of not more than \$1,000 per violation, per day.
- (b) A user who introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a summary offense and be subject to a fine not more than \$1,000. This fine shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (c) A user who knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Part, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this Part shall, upon summary conviction, be punished by a fine of not more than \$1,000 per violation per day.

Section 386. Remedies Non-Exclusive. The remedies provided for in this Part are not exclusive. The Township may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with this Part unless the Township chooses to develop and adopt an enforcement response plan. However, the Township may take other action against any user when the circumstances warrant. Further, the Township is empowered to take

more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

Subpart P. Supplemental Enforcement Action.

Section 387. Performance Bonds. The Township may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Part, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the Township, in the sum not to exceed a value determined by the Township to be necessary to achieve consistent compliance.

Section 388. Liability Insurance. The Township may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Part, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

Section 389. Water Supply Severance. Whenever a user has violated or continues to violate any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Township will request that the public water supplier sever the water service to the user. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Section 390. Informant Rewards. The Township may pay up to one hundred dollars (\$100.00) for information leading to the discovery of non-compliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the Township may dispense up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed one hundred dollars (\$100.00).

Section 391. Contractor Listing. Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Township. Existing contracts for the sale of goods or services to the Township held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the Township.

Subpart Q. Affirmative Defenses to Discharge Violations.Section 392. Upset

- (a) For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if the requirements of Paragraph (c) are met.
- (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the Township and treatment plant operator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (i) A description of the indirect discharge and cause of non-compliance;
 - (ii) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- (e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pretreatment standards.
- (f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Section 393. Prohibited Discharge Standards. A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general prohibitions in Section 330(a) of this Part or the specific prohibitions in Section 330(b)(3) of this Part if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Township was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Section 394. Bypass.

- (a) For the purposes of this section:
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to be inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Paragraphs (c) and (d) of this Section.

- (c) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Township, at least ten (10) days before the date of the bypass, if possible.

A user shall submit oral notice to the Township of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Township may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (d) Bypass is prohibited, and the Township may take an enforcement action against a user for a bypass, unless:
- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The user submitted notices as required under Paragraph (c) of this Section.

The Township, after consulting with its Consulting Engineer, may approve an anticipated bypass, after considering its adverse effects, if they determine that it will meet the three conditions listed in (d) above.

Subpart R. Miscellaneous Provisions.

Section 395. Pretreatment Charges and Fees. The Township may adopt reasonable fees for reimbursement of costs of setting up and operating a Pretreatment Program which may include:

- (a) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (c) Fees for reviewing and responding to accidental discharge procedures and construction;
- (d) Fees for filing appeals; and
- (e) Other fees as the Township may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Part and are separate from all other fees, fines, and penalties chargeable by the Township.

All fees may be updated by Resolution of the Township.

Section 396. Extraordinary Maintenance Charge. Any person discharging any waste which, in the judgment of the Township, causes any extraordinary maintenance expenses shall be billed by the Township in the amount of said expenses. The billing amount shall be determined by the Township and shall include charges for labor of Township personnel and other costs incurred by the Township.

Section 397. Severability. If any provision of this Part is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Subpart S. Determination of Charges for Strong Wastes.

Section 398. Strong Waste Surcharges. There may be additional charges for wastes having concentrations of BOD, suspended solids, dissolved solids, ammonia-nitrogen, and phosphorus in excess of the average concentration of these pollutants in normal domestic waste. Normal domestic waste shall be considered as having the following concentrations:

- (a) CBOD₅ - 300 mg/L.
- (b) Suspended solids - 250 mg/L.
- (c) Dissolved solids - 500 mg/L.
- (d) Ammonia nitrogen - 25 mg/L.

Maximum acceptable wastewater strength concentrations are as follows:

- (a) CBOD₅ - 900 mg/L.
- (b) Suspended solids - 750 mg/L.
- (c) Dissolved solids - 1,500 mg/L.
- (d) Ammonia nitrogen - 75 mg/L.

Section 399. Strong Waste Surcharge Formula. In order to determine the additional charges for wastes with strength greater than that of domestic waste, the following formula shall be used:

$$S_Q = 0.00834 Q_I [(CBOD_5 - 300) TC_{BOD} + (SS_I - 250) TC_{SS} + (DS_I - 500) TC_{DS} + (NH_3N_I - 25) TC_{NH_3N}]$$

Where:

S_Q is the quarterly surcharge to be added to the normal sewer rent.

0.00834 is a constant to convert waste concentrations expressed in mg/L to thousands of pounds of waste.

Q_I is the quarterly waste flow expressed in million gallons.

CBOD₅, SS_I, DS_I, and NH₃N_I are the respective concentrations of CBOD₅, suspended solids, dissolved solids, and ammonia nitrogen of the waste expressed in mg/L.

300, 250, 500, and 25 are constants which express the waste load concentrations in mg/L for normal domestic waste.

TC_{CBOD5} is the treatment cost incurred by the Township as updated annually per 1,000 pounds of CBOD₅.

TC_{SS} is the treatment cost incurred by the Township as updated annually per 1,000 pounds of suspended solids.

TC_{DS} is the treatment cost incurred by the Township as updated annually per 1,000 pounds of dissolved solids.

TC_{NH3N} is the treatment cost incurred by the Township as updated annually per 1,000 pounds of ammonia nitrogen.

When a value of CBOD, suspended solids, dissolved solids, and/or ammonia nitrogen is less than the normal domestic waste concentration set forth in the strong waste surcharge formula, then the normal domestic waste concentration shall be used in the calculation of strong waste surcharge. The Township may choose not to apply the surcharge formula for any of the above parameters depending on the parameters listed in its NPDES permit.

Section 400. Additional Surcharges. The formula specified in Section 399 of this Part is to determine additional charges or surcharges for the treatment of wastes having concentrations of CBOD₅, suspended solids, dissolved solids, and ammonia nitrogen in excess of those of domestic waste. It is, however, recognized that the discharge of any waste or other substance containing any one of the prohibited substances listed in Section 330 may result in extraordinary laboratory, labor, maintenance and/or treatment expenses to the Township. Hence, in the event of the discharge of any wastes or other matters or substance containing any one of the prohibited substances listed in Section 330 or Section 334 multiplied by the TRC, the Township shall have the power to bill the owner of the property from which such discharge is made an additional surcharge of three hundred dollars (\$300.00). Each day that such discharge is made shall result in a separate three hundred dollar (\$300.00) additional surcharge. This three hundred dollar (\$300.00) charge shall be in addition to the normal sewer rental and/or any strong waste surcharge as incurred under Section 399 of this Part.

Section 401. Methods of Payment of Extra Charges by Industrial Users. The strong waste surcharge shall be paid quarterly. The Township shall cause the water meter of each industrial user where the wastewater flow determination is based upon metered water consumption, and the wastewater meter where the wastewater flow determination is based upon wastewater flow measurement, to be read on a quarterly basis, and the Township shall cause strong waste surcharge bills to be mailed forthwith following each reading.

- (a) The Township shall cause periodic sampling of the wastewater discharged by each industrial user in accordance with Section 403 of this Part.
- (b) The analysis of the sample shall be the basis for computing strong waste surcharges.
- (c) Bills for strong waste surcharge shall be mailed to the owner's address specified on the industrial waste permit. Failure to receive a bill as a result of incorrect address or otherwise shall not excuse non-payment of charges or extend the time for payment.
- (d) The strong waste surcharge formula will be updated annually using current operation and maintenance costs and wasteload quantities to reflect actual costs to remove specific pollutants.

Section 402. New Industrial Users. A new industrial user is one which connects to the treatment works after the effective date of this Section. Strong waste surcharge payments by a new industrial user shall begin on the date treatment works use is initiated and continue indefinitely.

Subpart T. Measurement of Concentration of Industrial Waste.

Section 403. Industrial Waste Sampling. Industrial wastes being discharged into the sewer system shall be subject to sampling and inspection to be used as a basis for determining additional charges due to excessive concentrations of CBOD₅, suspended solids, dissolved solids, ammonia nitrogen, and/or substances prohibited in Section 330 of this Part. Such sampling and inspection shall be made by the Township as frequently as may be deemed necessary. The analysis of the sample so obtained shall be the basis for computing additional charges in accordance with Section 401 of this Part. The cost of such sampling and testing thereof shall be borne by the user.

The industry may request that samples be taken in addition to the samples taken by the Township. The cost of making this collection and analysis shall be borne by the user.

Samples and the analysis of samples shall be made in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

Section 404. Control Manhole. When required by the Township, the owner of any property discharging industrial waste into the sewer system shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the waste. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Township. The manhole shall be installed by the property owner, at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Subpart U. Measurement of Volume of Industrial Wastes for Strong Waste Surcharges.

Section 405. Measurement. Whenever a person purchasing his entire water supply from a water purveyor discharges only industrial waste into the sewer system, the volume of water purchased may be used as a measure of the quantity of industrial waste discharged.

Whenever a person purchasing his entire water supply from a water purveyor discharges combined domestic waste and industrial waste into the sewer system, the volume of water purchased chargeable as industrial waste shall be the total volume of water purchased less the volume determined to be domestic waste. The domestic waste shall be determined by the Township in either of the following two ways:

- (a) Actual measured flow; or
- (b) By multiplying the average number of employees in the establishment during the preceding billing period by ten gallons per day.

Whenever a person purchasing his entire water supply from a water purveyor and discharging industrial waste into the sewer system also discharges unpolluted cooling water to either a separate storm sewer or other outlet, an allowance for the amount of water so discharged shall be made in computing the sewer charges. The person so discharging cooling water shall, at his own expense, install a meter or meters, as required, to indicate accurately and to the satisfaction of the Township the amount of water claimed as a credit.

The Township shall be responsible for the reading of water and/or sewage meters when installed in industrial establishments within its jurisdiction. All meters shall be installed at a location approved by the Township. All meters shall be accessible to the Township at all times.

Subpart V. Access.

Section 406. Access. The Township shall have the right of access to any part of any improved property served by the POTW as shall be required for purposes of inspection, measurement, sampling, and testing, and for performance of other functions relating to service rendered by the Township through the POTW.

Subpart W. Enforcement.

Section 407. Enforcement. Any person who shall violate this Part shall be liable, upon conviction for a first offense and upon conviction for each subsequent offense, to a fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00), together with the costs of prosecution, including but not limited to reasonable attorney's fees in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such. Nothing herein shall preclude the Township from seeking such additional remedies as may be available at law or in equity including, but not limited to, request for injunctive relief, as may be otherwise permitted and from pursuing such additional means of enforcement concurrently.

Section 408. Fines and Costs. Fines and costs imposed under provisions of this Part shall be enforceable and recoverable in the manner at the time provided by applicable law.

Subpart X. Declaration of Purpose.

Section 409. Declaration. It is declared that the enactment of this Part is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this Township.”

SECTION 3. Any and all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 4. This Ordinance shall become effective five (5) days following the date of adoption.

SECTION 5. The Code of Ordinances, as amended, of the Township of Amity, Berks County, Pennsylvania, shall be and remain unchanged and in full effect except as amended, supplemented and/or modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances, as amended, of the Township of Amity, Berks County, Pennsylvania, upon adoption.

DULY ENACTED AND ORDAINED into law this ____ day of December, 2022 by the Board of Supervisors of the Township of Amity, Berks County, Pennsylvania.

Attest:

TOWNSHIP OF AMITY
BOARD OF SUPERVISORS

Pamela L. Kisch, Secretary

Kim McGrath, Chairperson

(SEAL)

David Hackett, Vice Chairperson

Paul Weller

Terry Jones

Kevin Keifrider

MUNICIPAL CERTIFICATION

I, Pam Kisch, Secretary of the TOWNSHIP OF AMITY, BERKS COUNTY, PENNSYLVANIA, do hereby certify that the foregoing Ordinance No. _____ was advertised in the *Reading Eagle*, a daily newspaper of general circulation in the Township of Amity, on _____, 2022, and was duly enacted and approved as set forth at a Regular Meeting of the Board of Supervisors held on _____, 2022.

(SEAL)

Pam Kisch, Secretary

Date: _____, 2022