

Chapter 3-8 - WATER AND SEWERS^[1]

Footnotes:

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Cross reference— Administration, Ch. 1-2; housing, Ch. 1-8; solid waste, Ch. 1-12; fire protection, Ch. 2-2; health, Ch. 2-3; boats, docks and waterways, Ch. 3-1; buildings and building regulations, Ch. 3-2; mobile homes, Ch. 3-4; roads and bridges, Ch. 3-6; subdivision regulations, Ch. 3-7; fire districts, Ch. 4-3; sanitation districts, Ch. 4-4; sewer and water districts, Ch. 4-5; streets, drainage and lighting district, Ch. 4-6; waterway and canal districts, Ch. 4-7; industrial performance standards, § 3-9-81; well field protection, § 3-9-99.

State Law reference— Power of county to provide and regulate sewage collection and disposal and water supply, F.S. § 125.01(1)(k); water and sewer systems, F.S. Chs. 153, 367; water resources, F.S. Ch. 373; pollutant discharge prevention and removal, F.S. Ch. 376.

ARTICLE I. - RESERVED^[2]

Footnotes:

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Editor's note— Ord. No. 2018-038, § 1, adopted Sep. 25, 2018, repealed Art. I, §§ 3-8-1, 3-8-3, 3-8-4, which pertained to water and sewers in general and derived from Ord. No. 77-15, § 1, adopted Oct. 18, 1977; and Ord. No. 94-23, § 1, adopted May 17, 1994.

Secs. 3-8-1—3-8-10. - Reserved.

ARTICLE II. - STANDARDS FOR WATER AND WASTEWATER UTILITIES^[3]

Footnotes:

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Editor's note— Ord. No. 2007-092, § 1, adopted Dec. 18, 2007, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 3-8-11—3-8-73, pertained to standards for water and sewer utilities and derived from Ord. No. 86-25, §§ 1—64, adopted June 17, 1986.

DIVISION 1. - RESERVED^[4]

Footnotes:

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Editor's note— Ord. No. 2018-038, § 2, adopted Sep. 25, 2018, repealed Div. 1, §§ 3-8-11—3-8-15, 3-8-17—3-8-24, which pertained to standards for water and wastewater utilities generally and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Secs. 3-8-11—3-8-24. - Reserved.

DIVISION 2. - RESERVED^[5]

Footnotes:

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Editor's note— Ord. No. 2018-038, § 2, adopted Sep. 25, 2018, repealed Div. 2, §§ 3-8-25, 3-8-29, which pertained to administration and enforcement and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Secs. 3-8-25—3-8-29. - Reserved.

DIVISION 3. - RESERVED^[6]

Footnotes:

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Editor's note— Ord. No. 2018-038, § 2, adopted Sep. 25, 2018, repealed Div. 3, §§ 3-8-30—3-8-40, which pertained to certificate and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007; Ord. No. 2008-058, § 1, adopted July 22, 2008; and Ord. No. 2011-031, § 1, adopted Aug. 9, 2011.

Secs. 3-8-30—3-8-40. - Reserved.

DIVISION 4. - MANDATORY CONNECTION TO AVAILABLE WATER AND SEWER SYSTEMS^[7]

Footnotes:

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Editor's note— Ord. No. 2018-038, § 3, adopted Sep. 25, 2018, amended Div. 4 in its entirety to read as herein set out. Former Div. 4, §§ 3-8-41, 3-8-42, pertained to connections and derived from Ord. No. 2015-050, §§ 1, 2, adopted Nov. 10, 2015.

Sec. 3-8-41. - Connection to available sewer system required.

- (a) All developed property must connect the plumbing system for any structure on the property to an available public or private sewer system within three hundred sixty-five (365) days after written notification by the public or private sewer system that the system is available for connection.
- (b) *Available*, for purposes of this section, means that the public or private sewer system is capable of being connected to the plumbing of a structure and has adequate permitted capacity to accept the sewage generated by the structure, and:
 - (1) For developed residential property, or any non-residential structure that has an estimated sewage flow of one thousand (1,000) gallons per day or less, a public or private utility's sewer collection line exists in an easement or right-of-way that abuts the property line of the lot; or
 - (2) For a non-residential structure with an estimated sewage flow of more than one thousand (1,000) gallons per day, a public or private sewer line, force main, or lift station exists in an easement or

right-of-way that abuts the property line of the lot containing the non-residential structure, or is within fifty (50) feet of the property line of the lot, as measured and accessed via existing rights-of-way or easements; or

- (3) For proposed residential subdivisions with more than fifty (50) lots, for proposed commercial subdivisions with more than five (5) lots, or for areas zoned or used for an industrial or manufacturing purpose, a public or private sewer system exists within one-fourth (¼) mile of the development as measured and accessed via existing easements or rights-of-way.
- (4) For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewer system exists within five hundred (500) feet of an establishment's or residence's sewer stub-out as measured and accessed via existing rights-of-way or easements.
- (c) For property located in an area that is served by Charlotte County Utilities, sewer charges, as contained in the adopted rate resolution, shall be in effect upon connection, or beginning three hundred sixty-five (365) days from notification of the availability of sewer service, whichever is less. Failure to pay such charges will result in initiation of Charlotte County Utilities' delinquency process.
- (d) All charges, including late charges and interest, for sewer services rendered to any real property located in an area served by Charlotte County Utilities and which remain unpaid when due, shall become a lien against and upon the real property and such lien shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant, mortgagee or other person except the lien of county taxes and shall be on parity with the lien of any such county taxes. Nothing provided herein with respect to the county's lien authority shall affect or preclude any other remedy authorized by law or ordinance that the county may have to collect delinquent charges or fees.
- (e) Any person failing to connect their property to an available public or private sewer system within three hundred sixty-five (365) days of written notification of availability shall be guilty of an ordinance violation for each day in excess of three hundred sixty-five (365) days that the property is not connected to the sewer system.

(Ord. No. 2018-038, § 3, 9-25-18)

Sec. 3-8-42. - Connection to available private potable water distribution system.

- (a) All residential and non-residential structures must connect the plumbing system for that structure to an available private potable water distribution system within one hundred eighty (180) days of notification that the private potable water distribution system is available.
- (b) *Available*, for purposes of this section, means that the potable water distribution system is capable of being connected to the plumbing of a structure and has adequate permitted capacity to supply potable water to the structure, and:
 - (1) For a residential lot or any structure that has an estimated water usage of one thousand (1,000) gallons per day or less, a water line exists in an easement or right-of-way that abuts the property line of the lot or structure; or
 - (2) For a non-residential structure with an estimated water usage of more than one thousand (1,000) gallons per day, a water line exists in an easement or right-of-way that abuts the property or is within two hundred (200) feet of the property line of the structure as accessed via existing rights-of-way or easements; or
 - (3) For proposed residential subdivisions with more than fifty (50) lots, for proposed commercial subdivisions with more than five (5) lots or for areas zoned or used for an industrial or manufacturing purpose, a potable water distribution line exists within one-fourth (¼) mile of the development as measured and accessed via existing easements or rights-of-way.
- (c) For purposes of chapter 3-8 of this Code, the term "private potable water distribution system" means an entity that owns and operates a potable water system that is properly permitted by all applicable federal, state, and local agencies; is in regulatory compliance; and provides potable water to the public,

for human consumption, through pipes or other constructed conveyances and has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year, and is either (1) an investor-owned potable water utility company or (2) a non-profit corporation, association or cooperative that provides potable water service to its members.

- (d) Owners previously approved for an exception to the mandatory connection requirement for an existing well or cistern shall, at their own expense, have the water from the well and/or cistern tested annually for coliform bacteria and nitrates through the Charlotte County Health Department. Testing protocol shall be as contained in Chapter 64E-8 of the Florida Administrative Code. The test results must be provided to the county by the Charlotte County Health Department annually. If the results of the test indicate that the water contains coliform bacteria or that the levels of nitrates exceed ten (10) milligrams per liter, the owner shall disinfect the well or cistern and have the water retested by the Charlotte County Health Department within thirty (30) days of the date of the failed test. If the presence of coliform bacteria or high nitrate levels still is not remedied by the second test, the owner shall be required to connect the structure to an available private potable water distribution system within sixty (60) days.
- (e) The exception from the mandatory connection requirement previously authorized expires on January 1, 2021. All property previously approved for an exception from the mandatory connection requirement shall notify prospective purchasers of the property that the exception will expire on January 1, 2021, and the property will be required to comply with the mandatory connection requirement in section 3-8-42(a) on that date.
- (f) Except as provided in section 3-8-42(b) above, any person failing to connect their property to an available private potable water system within the applicable time period for mandatory connection shall be guilty of an ordinance violation for each day in excess of the applicable time period that the property is not connected to the potable water system.

(Ord. No. 2018-038, § 3, 9-25-18)

Sec. 3-8-43. - County-owned sewer system availability.

- (a) *Availability*, for purposes of this section 3-8-43, means the county-owned sewer system has adequate permitted capacity to provide sewer service and a sewer line exists in a public easement or right-of-way that abuts the property, or is within one hundred (100) feet of the property as accessed via existing rights-of-way or easements.
- (b) Where a county-owned sewer line is located within one hundred (100) feet of the property, the property owner is responsible for all costs necessary to connect the property to the county-owned sewer system.

(Ord. No. 2018-038, § 3, 9-25-18)

Secs. 3-8-44. - Reserved.

DIVISION 5. - UTILITY EXTENSION STANDARDS

Sec. 3-8-45. - Purpose and applicability.

The purpose of this article is to establish criteria and requirements for the connection to, and extension of, potable water distribution, wastewater collection facilities, and reclaimed water facilities for previously unserved areas of Charlotte County. The board of county commissioners has adopted utility master plans to provide for the orderly expansion of its utility system to those areas where density of development and environmental factors indicate that such expansion is economically feasible and in the interest of public health, safety, and welfare. County reserves the right to determine the feasibility of extending utility infrastructure based on relevant factors.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-46. - Definitions.

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

Accrued guaranteed revenue fee (AGRF): The fee that is collected by county and used to pay the costs of reserving, operating, and maintaining the unused water and wastewater plant and transmission capacity in county's utility system that is being held for future utility customers.

Administrative fee: The fee charged to prepare the utility agreement.

Bill of sale: A legal document that transfers ownership of an asset from one (1) party to another.

Certificate of contributory assets: A document that describes all utility system components to be conveyed to county.

Collection fee: The fee charged for new connections to recover the developer's share of the acquisition, installation, and maintenance costs of the wastewater collection system.

Developer: Any person, corporation, or other legally recognized entity engaged in the business of making utility improvements to serve real property located within the utility service area of Charlotte County as either the owner or the legally authorized agent of the owner of such real property.

Distribution fee: The fee charged to new connections to recover the Developer's share of the acquisition, installation and maintenance costs of the potable water and/or reclaimed water distribution systems.

Equivalent residential connection (ERC): The unit of measure of potable water, and wastewater system capacity required to provide service to an average single family residential customer. One potable water ERC is equal to two hundred twenty-five (225) gallons per day and one (1) wastewater ERC is equal to one hundred ninety (190) gallons per day. One (1) ERC is serviced by a meter size of ¾ inch or less.

Estimate of probable costs: An estimate of the probable costs of construction of the proposed utility facilities prepared by a Florida-licensed professional engineer regularly engaged in the field of potable water, wastewater, and reclaimed water system design, and submitted by, or on behalf of, developer.

Fee credit: A monetary credit for developer contributed facilities that can be used to offset distribution or collection fees.

Inspection fee: The fee charged by county to inspect and monitor the utility work being performed by developer. Inspections include physical inspections of the utility facilities, ongoing monitoring of the progress of the project through completion, review of as-builts/record drawings, review of electronic submittal(s) and data transfer to GIS, and final project closeout.

Multi-family residential property: Property that contains three (3) or more attached dwelling units, regardless of whether the units are under common or individual ownership.

Municipal service benefit unit (MSBU): The statutorily authorized mechanism by which county can fund a service or capital project through the impositions of a service charge or a special assessment against the property that receives a special benefit from the service or capital project.

Off-site utility facilities: Utility facilities such as potable water mains, wastewater collection mains, wastewater force mains, pumping stations, lift stations, and/or reclaimed water mains usually located outside the perimeter boundary of the developer's property and are intended to connect the on-site utility facilities with the county's existing utility system. The geographic location of such facilities shall not change the character of the off-site components of the utility system.

On-site utility facilities: Utility facilities such as potable water mains, wastewater collection mains, wastewater force mains, pumping stations, lift stations, and/or reclaimed water mains located in rights-of-

way or in permanent public utility easements, normally located within the perimeter boundary of the developer's property exclusive of individual service lines located on the customer's side of the potable water meter or sewer service lateral clean out.

Plan review fee: The fee charged by county to review developer's engineering plans or specifications, including providing the developer's engineer with information regarding utility facility location and criteria.

Plant capacity: The amount of potable water that can be produced, or the amount of wastewater that can be treated, expressed in terms of average annual gallons per day.

Potable water: Water that is satisfactory for human consumption, dermal contact, culinary purposes, or dishwashing as approved by the State of Florida Department of Health.

Reclaimed water: Wastewater effluent that has received at least secondary treatment and basic disinfection and is made available through a reclaimed water system, which is part of county's wastewater utility system used to dispose of treated effluent.

Reserved capacity: The amount of potable water, wastewater treatment, and reclaimed water, expressed in terms of equivalent residential connections (ERCs), that county has agreed to provide for specified uses to the developer, provided the applicable fees have been paid.

TAP (transmission, AGRF, and plant) fee: The fee representing the proportionate share of the capital costs of the utility system capacity allocated to a new or modified connection. TAP fees include three (3) components: plant capacity, transmission capacity, and accrued guaranteed revenue fee (AGRF).

Transmission capacity: The amount of potable and reclaimed water that can be transported by county's potable water or reclaimed water transmission facilities to an individual customer or the amount of wastewater that can be transported from an individual customer by the county's wastewater transmission facilities to county's wastewater treatment plant(s).

Utility agreement: The agreement between county and developer that contains the obligations of the parties with respect to the installation by developer of either on-site or off-site utility facilities.

Utility system: Any plant, facility or property, and additions, extensions and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment or purification and distribution of potable or reclaimed water for domestic or industrial use or the collection, treatment and disposal of wastewater from domestic or industrial users and, without limiting the generality of the foregoing, shall include wells, reservoirs, water treatment facilities, storage tanks, pumping stations, transmission mains, distribution mains, potable water lines, hydrants, supply pipes, valves, laterals, meters, meter boxes, service connections, lift stations, vacuum stations, wastewater collection mains, pipes and lines, manholes, wastewater treatment facilities, holding tanks, reclaimed water lines, and ponds for the purpose of obtaining, treating and carrying water to and collecting, treating and disposing of wastewater from the premises connected with such system, and shall include all real and personal property and any interest therein, rights and easements of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

Waiver of lien: A notarized statement from the contractor who performed the utility work that all subcontractors and suppliers have been paid in full.

Wastewater: The combination of the liquid and water-carried pollutants from a residence, commercial building, industrial plant, or institution, together with any groundwater, surface runoff, or leachate that may be present.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-47. - Utility agreement(s) required.

(a) Utility agreements are required for all developer installed utility facilities.

- (b) All utility agreements must be executed by the developer before the county will sign off on and forward the permit application to the Florida Department of Environmental Protection (FDEP) for Developer installed Utility Facilities.
- (c) All utility agreements shall include a stated term. Failure of the developer to complete all requirements of the utility agreement within the stated term, or any mutually agreed to extension thereof, may result in county declaring the utility agreement null and void.
- (d) Utility agreements are specific to an individual property and are not assignable or transferable to any other parcel of property. Utility agreements run with the land and are binding on developer, its successors and assigns, and any other subsequent owner of the property.
- (e) Capacity is reserved according to the terms of the utility agreement. Any changes, such as downgrading of meter size, may require modification or amendment of the utility agreement.
- (f) Developer installed utility facilities are not eligible for rebates or refunds.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-48. - Developer installed off-site potable water, wastewater, and reclaimed water facilities.

- (a) Where the location, proposed density, or proposed use of developer's property makes service to a proposed development dependent upon the extension or upgrading of off-site potable water, wastewater, and reclaimed water facilities, such facilities shall be designed and constructed to county's current standards and installed by developer at developer's expense. County reserves the right to require oversizing of off-site utility facilities. Costs of oversizing will be reimbursed as provided in the utility agreement.
- (b) County reserves the right to require oversizing and or additional extension of the off-site utility facilities beyond what is needed for the proposed development. Developer will be reimbursed for the costs of oversizing or extending as provided in section 3-8-52 herein.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-49. - Developer installed on-site utility facilities.

- (a) *Developer's obligations.* For new developments that require the installation of on-site utility facilities:
 - (1) Utility facilities shall be designed and constructed by the developer, to the county's current standards at developer's expense.
 - (2) Developer must furnish county with accurate information concerning engineering, proposed occupancy type for all buildings and dwellings, and proposed land use densities.
 - (3) Upon acceptance by the county, developer may convey title of the completed utility facility to county.
- (b) *Distribution and/or collection fee credits.*
 - (1) Developer is entitled to distribution and/or collection fee credits equal to the actual construction cost of contributed on-site utility facilities as detailed in the executed utility agreement.
 - (2) Distribution and/or collection fee credits are provided on a dollar for dollar basis only and calculated at the rate(s) in effect when the connections are made based on the cost approved by county.
 - (3) The amount of distribution and/or collection fee credits may not exceed the total amount of distribution and/or collection fees due for the property covered by the utility agreement.

- (4) Distribution and/or collection fee credits are non-transferable and may only be used to offset the distribution and/or collection fees owed by developer for the property covered by the utility agreement.
- (c) *Partially constructed on-site utility facilities.* If developer abandons the development and the on-site utility facilities have been partially constructed and not accepted by county, the developer or successor in interest, prior to completing or revising the configuration of the development, will be required to enter into an amended utility agreement to address, at a minimum, the following:
 - (1) Status of any collection and/or distribution fee credits and previously paid TAP fees, if any, taking into consideration the percentage of completion of the existing on-site utility facilities, the length of time since any development activity, and other relevant factors; and
 - (2) Requirements for testing, repair, reconfiguration, or replacement of installed on-site utility facilities, prior to acceptance by county.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-50. - Performance guarantees.

- (a) Developer must provide evidence to demonstrate financial responsibility to ensure that the installation of the off-site utility facilities is completed. Financial surety for a subdivision shall be considered evidence of financial responsibility and no further surety is required.
- (b) Projects with an estimate of probable costs of construction for off-site utility facilities greater than two hundred thousand dollars (\$200,000.00), require a construction performance bond or letter of credit in favor of county. The amount of the performance bond or letter of credit shall be one hundred ten (110) percent of the developer's estimate of probable costs of construction of the off-site utility facilities as approved by county, exclusive of equipment costs. The performance bond or letter of credit shall be provided at the time the utility agreement is executed by county.
- (c) Performance bonds shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition and subject to the approval of the County Attorney. Performance bonds must provide that: "Unless released by Charlotte County, this bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the Charlotte County Attorney, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
- (d) If developer fails to complete work in accordance with the utility agreement, any damage or loss suffered by county as a result shall be recoverable jointly and severally from the principal and surety of the bond, including, but not limited to: the cost of removal, repair, or completion the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-51. - Conveyance of utility easements and rights-of-way.

Developer is responsible for obtaining and transferring to county any utility easements and rights-of-way required for the proposed utility facilities that will be conveyed to county. The grant or conveyance of utility easements and rights-of-way shall be in a form satisfactory to the county attorney. The conveyances shall be made without cost to county.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-52. - Reimbursement for oversizing or additional extension of utility facilities.

- (a) County may request that developer oversize or extend utility lines or facilities, beyond what is required for the proposed development, for future anticipated development.
- (b) County will reimburse developer for the actual, invoiced construction costs, that are attributable to the oversizing or extension. Developer costs for design, project engineering, permitting, and inspection are not eligible for reimbursement.
- (c) The oversizing or extension reimbursement amount shall be determined by county based on the difference between the construction cost of the utility facilities required to serve the developer's project and the cost to oversize or extend the utility facilities.
- (d) The maximum reimbursement amount shall be based on difference between the county-approved developer's estimate of probable costs for the utility facilities required for the project and the county-approved developer's estimate of probable costs for the oversized or extended utility facilities.
- (e) The utility agreement between developer and county shall specify the maximum reimbursement amount attributable to the oversizing or extension.
- (f) Any utility agreement that includes an oversizing or extension reimbursement to developer for utility facilities that exceeds the purchasing authority limit of the county administrator must be approved by the board of county commissioners. At county's option, the amount of the reimbursement may be deducted from the amount due for TAP fees for the property.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-53. - Design, construction and conveyance of developer-constructed utility facilities.

- (a) All utility facilities constructed by developer that are intended to be conveyed to county must be designed by a Florida-licensed professional engineer regularly engaged in the field of potable water, wastewater, and reclaimed water system design.
- (b) All design plans and specifications must conform to county's most current adopted utilities' design compliance standards and the completed design plans must be reviewed and approved by the county utility department prior to the issuance of any permits for construction.
- (c) All utility facilities must be designed and constructed to extend to the limits of the property to make the facilities available to serve adjacent property.
- (d) No service laterals or facilities on the utility customer's side of the meter and/or property line/utility easement shall be transferred to county. Such utility facilities shall remain the maintenance responsibility of developer and subsequent owners of the property.
- (e) The plan review fee and administrative fee are due at the time the utility plans are submitted. Any additional plan review fees incurred due to plan rejection or revision must be paid prior to issuance of the first certificate of occupancy.
- (f) Developer is responsible for obtaining all required permits and must pay permit, inspection, and any other applicable fees.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-54. - Inspection of utility facilities installed by developers.

- (a) Right to inspect. During all phases of construction, county shall have the right to inspect all utility facilities installed by developer to ensure that they comply with the county's most current utilities' design compliance standards and the plans and specifications approved by county. County shall have the right to be present during all tests of the component parts of the utility system installed by developer to ensure that the utility system, as constructed, conforms to county standards and the approved plans and specifications.

- (b) Inspection Fee. Developer shall pay county an inspection fee at the time the utility agreement is executed, provided, however, that if the development is being phased, the utility agreement may provide that a proportionate amount of the inspection fee is due at the beginning of each phase.
- (c) All constructed utility facilities that do not comply with county requirements must be corrected by developer at developer's expense.
- (d) Connection to county utilities. Upon completion of construction, developer must connect the utility facilities it constructed to the county's utility system and schedule an inspection by county. Any connection completed and covered by developer without inspection by county may result in developer being required to uncover the connection, at developer's cost, for inspection by county.
- (e) Indemnification. Developer, its contractors and subcontractors, shall be insured against all losses and injury that may result from the construction and installation of utility facilities by developer. Developer shall indemnify and hold harmless county, its officers and employees, from all liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of developer, and firms employed or utilized by developer, in installation of the utility facilities. Developer shall include county as a named insured on all applicable insurance policies.
- (f) Damage caused by developer. Developer shall reimburse county for all damage caused by developer's installation or construction of utility facilities; and reimburse or restore to every owner of property abutting the location of any utility facilities installed by developer for any physical injury or loss caused by the installation or construction activities. Restoration shall include the re-sodding of all swales that have been damaged by the construction and the repair of all physical damage caused to abutting property.
- (g) Release of lien. After completion of construction and final inspection by county, the developer shall, prior to transfer of all constructed utility facilities to county, provide county with:
 - (1) Release of lien executed by the utility contractor; and
 - (2) Certificate of contributory assets that lists the utility facilities being conveyed to county; and
 - (3) A bill of sale in a form that is acceptable to the county attorney; and
 - (4) Signed releases from all affected adjacent property owners.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-55. - Reservation of capacity in county's utility system.

- (a) TAP fee. Payment of the TAP fee is required to reserve capacity in county's utility system.
 - (1) Fifty (50) percent of the TAP fee is due and payable within forty-five (45) days of execution of the utility agreement, or prior to the preconstruction meeting with the utility department, whichever occurs first, and will reserve fifty (50) percent of the planned capacity for the project. The balance of the TAP fee is due and payable, at the county's rate in effect when payment is made by developer to reserve the remaining capacity required by the project, prior to issuance of the first certificate of occupancy.
 - (2) At developer's option, developer may pay one hundred (100) percent of the TAP fee to reserve all capacity required for the project at the time the utility agreement is executed.
- (b) Phased development.
 - (1) If a development is being constructed in phases, capacity is only reserved for those phases where the TAP fee has been paid, and only for the percentage of the TAP fee that has been paid
 - (2) If developer elects to develop and pay TAP fees in phases, the TAP fee for each phase must be paid in full prior to the commencement of utility facility construction for the next phase.

- (3) A TAP fee deferred for future phases shall be paid at the rate in effect at the time of payment.
- (4) Separate utility construction permits are required for each phase and TAP fees are calculated based on the ERCs served for each phase.
- (c) Reserved capacity utilized within five (5) years of the date of the utility agreement will be at the same rate and upon the same terms as provided in the executed utility agreement.
- (d) Reserved capacity utilized more than five (5) years, but less than ten (10) years from the date of the utility agreement will require the payment of an additional TAP fees (based on the difference between the amount of the TAP fee previously paid and the current TAP fee rate).
- (e) Reserved capacity not utilized within ten (10) years from the date of the utility agreement. All reserved capacity not utilized within ten (10) years from the date of the utility agreement will be recaptured by county and payment of current TAP fees will be required to reserve capacity and connect to the county's system.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-56. - Recapture of reserved capacity.

The county will recapture any unused reserved water, sewer, and reclaimed water capacity in the following instances:

- (1) Failure of the developer, or its successor, to comply with the requirements of the executed utility agreement; or
- (2) Expiration of the stated term of the utility agreement.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-57. - Fees required to connect to county's utility system.

- (a) All new connections to county's utility system are required to pay all applicable fees contained in county's current utility rate resolution.
- (b) TAP fees and collection or distribution fees.
 - (1) *Single family residences, master-metered multi-family residential properties, mobile homes, duplexes, commercial properties, and other non-residential properties.* TAP fees and collection or distribution fees for single family residences, mobile homes, duplexes, commercial properties, and other non-residential properties are determined based on the meter size and the corresponding number of equivalent residential connections (ERCs) calculated according to the ERC use table below. The minimum TAP fee and collection or distribution fee for any use is one (1) ERC.

General Service	ERCs*
¾" Meter	1.0
1" Meter	2.5
1½" Meter	5.0

2" Meter	8.0
3" Meter	16.0
4" Meter	25.0
6" Meter	50.0
8" Meter	80.0
* Amounts as published by the American Water Works Association (AWWA), adopted by County, to apply the monthly base facility charges for potable water and wastewater monthly service. The factors are based on the estimated hydraulic capacities of each meter size as published by the AWWA.	

- (2) *Multi-family residential properties.* For individually metered multi-family residential properties, water and wastewater TAP fees and collection or distribution fees are assessed per dwelling unit and are calculated based on one hundred fifty-seven and one-half (157.5) gallons per day (maximum daily flow) per dwelling unit.
 - (3) *Multi-family developments.* For multi-family developments, all separately metered water uses for the common areas of such developments, including, but not limited to, recreational facilities, clubhouses, meeting rooms, carwash and laundry room facilities, shall be treated the same as non-residential uses.
 - (4) *Meter sizing.* Developer's determination of meter size must be approved by county to ensure that there will be sufficient water pressure during peak use periods.
- (c) Collection and distribution fees.
- (1) A collection and/or a distribution fee is charged for new connections to county-owned collection and/or distribution systems to recover the developer's share of the acquisition, installation, and maintenance costs incurred by the county for the collection and distribution systems. The amounts due for collection and distribution fees are determined based on ERC's associated with applicable meter size. Fifty (50) percent of the collection and distribution fees are due and payable within forty-five (45) days of execution of the utility agreement, or prior to the preconstruction meeting, whichever occurs first, and the balance (fifty (50) percent) is due and payable prior to issuance of the first certificate of occupancy.
 - (2) MSBUs. Collection and/or distribution fees are not charged when the collection and distribution systems are/were installed pursuant to an msbu and all properties have been assessed for the cost of installing the collection and distribution systems, provided that any change in use of the property that results in additional ERCs may require payment of additional collection and/or distribution fees.
 - (3) Collection and/or distribution fees for connections made within five (5) years of the date of the utility agreement will be at the same rate and upon the same terms as provided in the executed utility agreement.
 - (4) Collection and/or distribution fees for connections made more than five (5) years, but less than ten (10) years from the date of the utility agreement will require the payment of an additional

collection and/or distribution fees (based on the difference between the amount of the collection and/or distribution fees previously paid and the current collection and/or distribution fee rate).

- (5) Collection and/or distribution fees for connections made more than ten (10) years from the date of the utility agreement. All connections made more than ten (10) years from the date of the utility agreement will require payment of the current collection and/or distribution fee.
- (d) Equipment, meter, and miscellaneous fees. Where applicable, equipment, meter, and miscellaneous fees, as contained in the current utility rate resolution, are due and payable at the time of connection to the county's utility system. In instances where equipment or meter fees have been prepaid by the developer and the county's actual costs for such meters or equipment have increased, additional equipment or meter fees, based on the difference in cost, will be due at the time the equipment or meters are installed.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-58. - Refund of TAP fees.

- (a) County may refund TAP fees, upon the written request of developer, and provided:
 - (1) TAP Fees were paid for a project which requires a Florida Department of Environmental Protection (DEP) permit and DEP refuses or fails to issue the permit; or
 - (2) A change in developer's project plans results in a lesser amount of TAP fees owed to county; or
 - (3) Developer fails to commence any construction within six (6) months of building permit issuance, final site development plan approval, or final detail plan approval, provided, however, that county shall deduct from the refund an amount equal to twenty (20) percent of the TAP fees for each year, or portion thereof, that has elapsed since execution of the utility agreement.
- (b) Prior to receiving the refund, developer must provide county with a letter or other documentation from FDEP verifying that the FDEP permit is no longer valid.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-59. - Refund of collection or distribution fees.

County may refund collection or distribution fees, upon the written request of developer, and provided:

- (a) The collection or distribution fees were paid for a project which requires a Florida Department of Environmental Protection (DEP) permit and DEP refuses or fails to issue the permit; or
- (b) A change in developer's project plans results in a lesser amount of collection or distribution fees owed to county, in which case the developer may obtain a partial refund of the excess fees; or
- (c) Developer fails to commence any construction of the on-site utility facilities within six (6) months after FDEP approval.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-60. - Change of use.

- (a) When there is a change in use of a property that is already connected to the county utility system, or a property is redeveloped and the number of ERCs for the new use is greater than for the prior use, additional TAP, distribution, and collection fees, at the then current rate, may be required.

- (b) If the change of use requires an increase in the meter size, additional distribution and collection fees will be due, with a credit given for distribution and collection fees previously paid.
- (c) There are no refunds of TAP, distribution or collection fees when a meter is downsized.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-61. - County initiated utility line extensions.

In unincorporated areas of Charlotte County, where public health and welfare may be endangered by the absence of potable water and wastewater service, county may, in the interest of the public health, safety, and welfare, approve construction of utility line extensions using any funding source that is available for such purpose.

(Ord. No. 2020-014, § 3, 4-14-20)

Sec. 3-8-62. - Municipal service benefit units (MSBUs) for potable water distribution, wastewater collection facilities, and reclaimed water facilities.

Certain areas of Charlotte County have been previously subdivided into building sites and sold to individuals for investment or later development with commercial or residential structures. County may extend its potable water distribution, wastewater collection facilities, and reclaimed water facilities, into areas of the county where demands for the services have reached reasonable levels in relation to undeveloped sites, or the extensions may be deemed necessary due to public health or environmental factors as identified in the county's utility master plans. In such instances, the county may decide to extend such utility facilities by establishing a municipal service benefit unit (MSBU). In assessing properties to be improved by the extension of potable water distribution, wastewater collection facilities, or reclaimed water facilities, the principles of this extension policy shall prevail in that the assessment imposed shall be based upon the pro rata share of the on-site and off-site utility facilities properly allocable to each buildable property.

(Ord. No. 2020-014, § 3, 4-14-20)

Secs. 3-8-63—3-8-65. - Reserved.

DIVISION 6. - HEARING PROCEDURES

Sec. 3-8-66. - Reserved.

Editor's note— Ord. No. 2018-038, § 4, adopted Sep. 25, 2018, repealed § 3-8-66, which pertained to hearing procedures generally and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Sec. 3-8-67. - Reserved.

Editor's note— Ord. No. 2018-038, § 4, adopted Sep. 25, 2018, repealed § 3-8-67, which pertained to powers and duties and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Sec. 3-8-68. - Reserved.

Editor's note— Ord. No. 2018-038, § 4, adopted Sep. 25, 2018, repealed § 3-8-68, which pertained to prehearing statement and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Sec. 3-8-69. - Reserved.

Editor's note— Ord. No. 2018-038, § 4, adopted Sep. 25, 2018, repealed § 3-8-69, which pertained to prehearing conference and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Sec. 3-8-70. - Procedure for due process.

The board shall afford each party in a hearing authorized under the provisions of this article the right to:

- (1) Receive twenty-one (21) calendar days' notice of the time, place and nature of the hearing, and the matters of fact and law asserted;
- (2) Present his case or defense by oral and documentary evidence;
- (3) Submit rebuttal evidence and conduct such cross-examination as may be required for a full and true disclosure of the facts;
- (4) Submit for the consideration of the hearing examiner or the board, if it receives the evidence, proposed findings and conclusions and supporting reasons therefor;
- (5) Submit exceptions to a recommended order, if one is made, and make oral arguments in support of any such exceptions;
- (6) Make offers of settlement or proposals of adjustment;
- (7) Be accompanied, represented and advised by counsel, or represent himself; and
- (8) Be notified within twenty-one (21) calendar days of the denial in whole or in part of any written application, petition or other request.

(Ord. No. 2007-092, § 1, 12-18-07)

Sec. 3-8-71. - Evidence.

In adjudicatory hearings, irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in the trial of a civil action in the courts of Florida.

(Ord. No. 2007-092, § 1, 12-18-07)

Sec. 3-8-72. - Reserved.

Editor's note— Ord. No. 2018-038, § 4, adopted Sep. 25, 2018, repealed § 3-8-72, which pertained to legislative functions and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Sec. 3-8-73. - Reserved.

Editor's note— Ord. No. 2018-038, § 4, adopted Sep. 25, 2018, repealed § 3-8-73, which pertained to rate case expenses and derived from Ord. No. 2007-092, § 1, adopted Dec. 18, 2007.

Secs. 3-8-74, 3-8-75. - Reserved.

ARTICLE III. - YEAR-ROUND CONSERVATION AND WATER SHORTAGE MEASURES^[8]

Footnotes:

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Editor's note— Ord. No. 2020-045, § 1, adopted Nov. 24, 2020, repealed the former Art. III, §§ 3-8-76—3-8-83, and enacted a new Art. III as set out herein. The former Art. III pertained to Year-Round and Shortage/Emergency Water Conservation Measures and derived from Ord. No. 2010-016, § 1, adopted March 23, 2010.

Sec. 3-8-76. - Intent and purpose.

It is the intent and purpose of this article to protect the water resources of Charlotte County from the harmful effects of wasteful and unnecessary use of water by assisting the state water management districts and the Florida Department of Environmental Protection through year-round water conservation and during declared water shortage/emergency conditions.

(Ord. No. 2020-045, § 1, 11-24-20)

Sec. 3-8-77. - Definitions.

FAC means the Florida Administrative Code.

Irrigation means the application of water to plants for the purpose of sustaining plant life, promoting plant growth or to facilitate crop production.

SWFWMD means the Southwest Florida Water Management District, a government entity created under F.S. ch. 373, that regulates water management in portions of Charlotte County.

SFWMD means the South Florida Water Management District, a government entity created under F.S. ch. 373, that regulates water management in portions of Charlotte County.

User means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the state and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including, but not limited to, uses from groundwater wells and private or public utility systems, uses under water use permits issued by either SWFWMD or SFWMD, or uses from individual wells or pumps.

Water resource means any and all water on or beneath the surface of the ground, including natural or artificial water sources, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, specifically including water withdrawn from wells, but excluding seawater.

Water shortage means a drought or other situation within all or part of a district, for which the governing board has determined that there is insufficient water to meet the present and anticipated needs of users, or conditions are such that there is a need to require temporary reduction in water use within a particular area to protect the water resource from serious harm. Charlotte County recognizes

the declaration of a water shortage by either SWFWMD or SFWMD for properties located within the district's respective jurisdictions.

Water shortage emergency means a water shortage for which a determination has been made that the powers exercised by either SWFWMD or SFWMD are not sufficient to protect the public health, safety, or welfare; the health of livestock and other animals, fish or aquatic life; or other essential uses. Charlotte County recognizes the declaration of a water shortage emergency by either SWFWMD or SFWMD for properties located within the respective jurisdictions.

(Ord. No. 2020-045, § 1, 11-24-20)

Sec. 3-8-78. - Application.

The provisions of this article shall apply to all users in unincorporated Charlotte County, whether from public or privately-owned water utility systems, private wells, or private connections with surface water bodies. This article shall not apply to users using treated reclaimed water or saltwater.

(Ord. No. 2020-045, § 1, 11-24-20)

Sec. 3-8-79. - Year-round or shortage/emergency water conservation measures.

(a) *Year-round water conservation measures.*

- (1) The year-round water conservation measures set forth by SWFWMD in FAC 40D-22, as amended from time to time, are applicable to all users in unincorporated Charlotte County.
- (2) Any violation of the year-round water conservation measures promulgated by SWFWMD shall be a violation of this Code.

(b) *Declarations of water shortage or water shortage emergency.*

- (1) *SWFWMD water shortage plan.* Upon such declaration of a water shortage or a water shortage emergency by SWFWMD, all water use restrictions for users within the jurisdiction of SWFWMD, and any other measures adopted by the SWFWMD, pursuant to FAC 40D-21, applicable to users within the jurisdiction of SWFWMD, or any portion thereof, shall be subject to enforcement action. Water shortage or water shortage emergency measures adopted by SWFWMD and enforced by Charlotte County shall supersede mandatory year-round water conservation measures until the more restrictive measure is rescinded by SWFWMD.
- (2) *SFWMD water shortage plan.* Upon such declaration of a water shortage or a water shortage emergency by SFWMD, all water use restrictions for users within the jurisdiction of SFWMD, and any other measures adopted by the SFWMD, pursuant to FAC 40E-21, applicable to users within the jurisdiction of SFWMD, or any portion thereof, shall be subject to enforcement action. Water shortage or water shortage emergency measures adopted by SFWMD and enforced by Charlotte County shall supersede mandatory year-round water conservation measures until the more restrictive measure is rescinded by SFWMD.
- (3) Any violation of the water use restrictions or other adopted measures pursuant to a water shortage or water shortage emergency declared by either SWFWMD or SFWMD by users within the respective jurisdictions shall be a violation of this Code.

(Ord. No. 2020-045, § 1, 11-24-20)

Sec. 3-8-80. - Enforcement.

- (a) Every law enforcement official having jurisdiction in unincorporated Charlotte County shall, in connection with all other duties imposed by law, diligently enforce the provisions of this Code by

issuance of a citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief.

- (b) The county administrator may also delegate enforcement responsibility for this article of the Code to agencies and departments of county government in the service areas governed by this article, in accordance with this Code, state and local law.

(Ord. No. 2020-045, § 1, 11-24-20)

Sec. 3-8-81. - Penalties.

- (a) Violation of any provision of this article shall be subject to the following penalties:
 - (1) When written warnings are not prohibited by the management district:
 - a. First offense: Written warning
 - b. Second offense: \$200.00 fine
 - c. Third and subsequent offense: \$300.00 fine
 - (2) When written warnings are prohibited by the management district:
 - a. First offense: \$100.00 fine
 - b. Second offense: \$200.00 fine
 - c. Third and subsequent offense: \$300.00 fine
- (b) Each day a user is in violation of this article shall constitute a separate offense. Law enforcement officials may provide violators with no more than one (1) written warning. The county, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including, but not limited to, emergency injunctive action, to enforce the provisions of this article.

(Ord. No. 2020-045, § 1, 11-24-20)

Sec. 3-8-82. - Additional measures.

Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and operate technology that inhibits or interrupts operation of the system during periods of sufficient moisture in accordance with F.S. § 373.62.

(Ord. No. 2020-045, § 1, 11-24-20)

Secs. 3-8-83—3-8-90. - Reserved.

ARTICLE IV. - RESERVED

Secs. 3-8-91—3-8-100. - Reserved.

ARTICLE V. - WASTEWATER COLLECTION AND TREATMENT SYSTEM^{[19](#)}

Footnotes:

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Editor's note— Ord. No. 2001-034, § 1, adopted June 26, 2001, repealed former Art. V, Wastewater collection and treatment system, in its entirety, being §§ 3-8-101, 3-8-102, 3-8-121—3-8-123, 3-8-130—3-8-138, 3-8-141—3-8-149, 3-8-151, 3-8-161, 3-8-162, 3-8-171, 3-8-181, as derived from Ord. No. 94-34, adopted Aug. 9, 1994; and Ord. No. 95-045, adopted Sept. 19, 1995. Sec. 2 of Ord. No. 2001-034 enacted new provisions which pertained to similar subject matter and are herein set out. Provisions designated as §§ 3-8-178—3-8-181 were redesignated by the editor as §§ 3-8-103—3-8-106 for purposes of classification.

DIVISION 1. - GENERALLY

Sec. 3-8-101. - Purpose and policy.

The purpose of this article is to provide for the public health and welfare and to maintain the efficient, economic, and safe operation of Charlotte County Utilities ("CCU") by regulating the quality and quantity of wastes discharged into CCU wastewater facilities; to establish uniform requirements for users of CCU's wastewater facilities; to provide for the county's compliance with all applicable state and federal laws and regulations; and to establish pretreatment program standards modeled after those of the Federal Water Pollution Control Act and the Clean Water Act (33 United States Code 1251, *et seq.*); and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403) and Florida Administrative Code ("F.A.C.") 62-625.

The objectives of this article are:

- (1) To prevent the introduction of pollutants into CCU's wastewater facilities which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of pollutants into the county wastewater system which will pass through the system, inadequately treated, into the environment or otherwise be incompatible with the system;
- (3) To protect both the general public and the county wastewater facilities' personnel who may be affected by wastewater and sludge in the course of their employment;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the county wastewater system;
- (5) To establish a pretreatment program, including permit, reporting and compliance procedures, enforcement, remedies and affirmative defenses;
- (6) To enable the county to comply with its permit conditions, sludge use and disposal requirements, as required by federal or state laws to which CCU is subject;
- (7) To ensure that wastewaters and sludges from the system meet all regulatory requirements applicable to either the recycling or reclamation of such wastewaters and sludges;
- (8) To provide regulation of direct and indirect contributors to the county wastewater facilities through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users; to authorize monitoring, compliance, and enforcement activities; and to provide for connecting of private wastewater disposal systems;
- (9) To provide for fees adequate to cover the entire cost of processing permits and program management; for reviewing and acting upon any permit application; and to cover the cost of surveillance, inspection, sampling, monitoring, any other field services and any other costs of establishing and implementing the program.

This article shall apply to all users of CCU's wastewater facilities. Compliance with this article does not eliminate the user's responsibility to comply with other applicable federal or state regulations. Except as otherwise provided herein, the director of utilities of the county shall administer, implement and establish policies and rules to enforce provisions and standards of this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-102. - Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated:

Act or the act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251, *et seq.*

Administrator. The chief administrative officer of the county or his designee.

Approval authority. Florida Department of Environmental Protection or its successor.

Ammonia. The concentration of NH_3 , expressed as nitrogen in milligrams per liter (mg/L).

Assessment. An annual special assessment imposed against property to fund the cost of wastewater collection facilities.

Authorized representative of industrial user.

(1) If the user is a corporation:

- a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the county.

Available. Sewer is available as defined by section 381.0065, Fla. Stat.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).

Board or BCC. The Board of County Commissioners of Charlotte County, Florida.

Building drain. That part of the piping of a building which collects wastewater inside the building and conveys it to outside the building wall.

Building sewer. The extension of the inside building drain to the public sewer or other place of disposal, also called house connection, sewer connection or service lateral.

Categorical standards. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Carbonaceous biochemical oxygen demand ("CBOD"). A measure of oxygen required to oxidize organic matter and oxidizable inorganic compounds in water.

Charlotte County's wastewater treatment facilities ("CCU"). A publicly owned treatment works ("POTW") or "treatment works," as defined by section 212 of the act (33 U.S.C. §1292) which is owned by the county. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The county's wastewater treatment system shall also include any sewers that convey wastewater to the county facilities from persons outside the county who are, by contract or agreement with the county, users of the county's system.

Chemical oxygen demand (COD). A measure of oxygen, equivalent to that portion of the organic matter in a sample, that is susceptible to oxidation by a strong chemical oxidant.

Connection fees. An equitable and proportionate charge made at the time sewer service is newly requested or required to cover the growth related capital cost of construction for master pumping stations, master force mains, treatment and effluent disposal facilities and collection system required to provide service to new connections to the sewer system by new users.

County. Charlotte County, Florida, a political subdivision of the State of Florida or its agent.

Direct discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Florida.

Director of utilities. The person designated by the board of county commissioners to administer the utility department, or his designee.

Domestic wastewater. The sewage produced from non-commercial or non-industrial activities, and which results from normal human living processes, and which are substantially similar in origin and strength to those typically produced in households.

Drainfield. A system of open-jointed or perforated piping, approved alternative distribution units, or other treatment facilities designed to distribute effluent for filtration, oxidation and absorption by the soil within the zone of aeration.

Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency.

Equivalent Residential Connection (ERC). The basis for one (1) wastewater ERC is the production of one hundred ninety (190) gpd of wastewater.

Excess strength. Wastewater discharges into CCU's facilities that are in excess of normal domestic wastewater.

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Florida Department of Environmental Protection or FDEP. The Florida governmental agency charged with protecting waters of the state.

FDOH. The Florida Department of Health including its division, the Charlotte County Health Department ("CCHD").

Grab sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Health officer. The county health department director or his designee.

Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect discharge. The discharge or the introduction of non-domestic pollutants from any source into CCU's wastewater facilities (including holding tank waste discharged into the system).

Industrial user. User producing wastewater not otherwise defined as domestic wastewater and a source of indirect discharge to wastewater facilities (including holding tank waste discharged into the system).

Industrial waste survey ("IWS"). A survey, form or questionnaire prepared by CCU to determine which users are subject to pretreatment standard; which users currently discharging into the facilities have a potential to have an adverse effect on the facilities; and to inform CCU of the characteristics of the wastes being discharged into the facilities.

Infiltration/inflow. Groundwater and surface water which enters into the sewers through cracked pipes, joints, and manholes or other openings.

Instantaneous maximum allowable discharge limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the county wastewater system, its treatment processes or operations or its sludge processes, use or disposal, and, therefore, is a cause of a violation of county's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: section 405 of the act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National categorical pretreatment standard or pretreatment standard. Any regulation containing pollutant discharge limits promulgated by the EPA which applies to industrial users.

National pollution discharge elimination system or NPDES permit. A permit issued pursuant to section 402 of the act (33 U.S.C. 1342).

Natural outlet. An outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface ground water.

New source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the promulgation of pretreatment standards under section 307(c) of the act provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous on-site construction program;
 - (i) Any placement, assembly or installation of facilities or equipment; or

- (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Normal domestic wastewater. Wastewater discharged into CCU's facilities which the average concentration of CBOD is not more than two hundred (200) mg/L, the average total suspended solids not more than two hundred fifty (250) mg/L, the average total COD concentration not more than four hundred (400) mg/L, and an average ammonia concentration of thirty-five (35) mg/L.

On-site sewage treatment and disposal system ("OSTDS"). Also referred to as a sewage treatment and disposal facility, which may contain a standard subsurface, filled, or mound drain field system, an aerobic treatment unit, a graywater system tank, a laundry wastewater system tank, a septic tank, a grease, oil and sand interceptor, a dosing tank, a solids or effluent pump, a waterless, incinerating, or organic waste-composting toilet or a sanitary pit privy that is installed or proposed to be installed beyond a building sewer on land of the owner or on other land to which the owner or owners have a legal right to install a system.

Package plant. Self-contained sewage treatment facilities built to serve developed areas to which sanitary sewers are not yet available.

Pass through. A discharge which exits CCU's wastewater facilities into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of county NPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, owner, lessee, tenant, partnership, co-partnership, firm, company, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant. Dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal, agricultural and industrial wastes; and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the county's wastewater facilities. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment other than a national categorical pretreatment standard imposed on a non-domestic wastewater discharge.

Process water. Any water which, during manufacturing or processing comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Properly shredded garbage. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions

normally prevailing in public sewers, with no particle greater than ½-inch (1.27 centimeters) in any dimension.

Publicly owned treatment works ("POTW"). Charlotte County's Wastewater Treatment Facilities.

Public notice. Notice published in a daily newspaper of general circulation within Charlotte County.

Public sewer. A common pipe controlled by a governmental agency or public utility.

Sanitary sewer. A pipe which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

Septic tank. A subsurface impervious tank designed to temporarily retain sewage or similar waterborne wastes.

Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present, even though unintentional. Equivalent term is wastewater.

Sewage works. All facilities for collecting, pumping, treating and disposing of sewage.

Sewer. A pipe or conduit for carrying sewage.

Significant industrial user ("SIU"). Any industrial user of the county's wastewater system who: (1) is an industrial user for which categorical standards have been defined by EPA (equals a categorical industrial user); or (2) discharges twenty-five thousand (25,000) gallons or more per day of processed wastewater; or (3) contributes a processed waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the county's treatment system plants on a per plant basis; or (4) has a reasonable potential, in the opinion of the utility director, to adversely affect the county's wastewater facilities. Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the county's wastewater system or for violating any pretreatment standard or requirement, the county may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance ("SNC"). An SIU shall be in significant noncompliance when any one (1) or more of the following criteria are satisfied:

- (1) Chronic violations of wastewater discharge limits when sixty-six (66) percent or more of the measurements taken during a six (6) month period exceed (by any magnitude) the maximum limit or average limit (if applicable) for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations when thirty-three (33) percent or more of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the maximum limit or average (if applicable) multiplied by the applicable TRC:
 - a. For conventional pollutants, TRC = 1.4 or forty (40) percent over the limit;
 - b. For all other pollutants, TRC = 1.2 or twenty (20) percent over the limit;
- (3) When the SIU fails to respond within ten (10) days of receipt of a notice of violation (NOV) issued by the director;
- (4) When the SIU fails to accurately report noncompliance;
- (5) When the SIU reports false "information";
- (6) When the SIU intentionally or negligently violates a permit condition or requirement;
- (7) When the SIU refuses to permit entry to the director or his designee for inspection, etc., as specified in this article;

- (8) When any violation occurs that the director reasonably believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass through; or endangered the health of CCU's employees or the general public;
- (9) When any discharge occurs which causes imminent endangerment to human health, welfare or to the environment or results in CCU's use of its emergency authority to halt or prevent such a discharge;
- (10) When violations of industrial wastewater discharge permit (IWDP) or other required compliance schedules occur such as, but not limited to, failure to start or complete construction, or failure to attain final compliance by the compliance schedule date;
- (11) When periodic compliance reports, base-line monitoring reports or other required reports are not received by the director within thirty (30) days after due date; or
- (12) When any violation or group of violations occurs which, in the judgement of the director, may reasonably be expected to have a significant adverse impact on the operation or implementation of the pretreatment program, the wastewater treatment system, the quality of sludge, the system's reclaimed water quality or air emissions generated by the systems or has the potential to endanger CCU's employees.

Sludge. The solid, or semisolid, residue removed during the treatment of municipal wastewater.

Slug. Any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater facilities.

Storm drain (building). A building drain used for conveying rainwater, surface water, groundwater, subsurface water, condensate, cooling water or other similar discharge to a building storm sewer or a combined building sewer extending to a point outside the building wall.

Stormwater sewer. A sewer used to convey rainwater, surface water, condensate, cooling water or other similar liquid wastes.

Superintendent. The person designated by CCU's director to supervise the operation of the county wastewater facilities and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

Suspended solids. Solids that are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non-filterable residue.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of the act (Clean Water Act) or other acts.

Trailer. A facility which provides for living, sleeping, eating, cooking, and/or sanitation, whether of a residential or commercial (office) nature.

Transported liquid waste. Certain domestic wastes, including primarily those liquid wastes removed from septic tanks, temporary domestic waste holding tanks, portable toilets, and marine vessels that are not able to discharge their domestic wastewater directly into the county's wastewater treatment facilities through approved discharged points designated by the county, are transported to the facilities by liquid waste transport or similar trucks. Transported liquid waste is subject to the restrictions provided in sections 3-8-122 and 3-8-124.

Transported waste discharge permit ("TWDP"). A transport waste discharge permit (TWDP) issued by the director is required for any person who proposes to discharge domestic sewage wastes from liquid waste transport trucks to the facilities.

Uniform extension policy. The rule and regulations of CCU contained in Resolution 94-236 as may be amended from time to time, designed to set forth the service and financial relationship between CCU

and property owners, builders or developers seeking to obtain water or sewer service for the benefit of other properties.

User. Any person who contributes, causes, or permits the contribution of the wastewater into the county's wastewater facilities, or any owner of property or tenant/lessee of property required to connect to the county's wastewater system.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and/or institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the county's wastewater treatment plants. Equivalent term is sewage.

Wastewater facilities ("WWF"). Shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent. Equivalent term is sewage works.

Waters of the state. Any surface or groundwater located within the boundaries of the State of Florida or over which the State of Florida exercises jurisdiction.

Abbreviations: The following abbreviations shall have the designated meanings.

- CBOD—Carbonaceous biochemical oxygen demand
- CFR—Code of Federal Regulations
- COD—Chemical Oxygen Demand
- EPA—U.S. Environmental Protection Agency
- gpd—Gallons per day
- L—Liter
- mg Milligrams
- mg/L—Milligrams per liter
- NPDES—National Pollutant Discharge Elimination System
- RCRA—Resource Conservation and Recovery Act
- SIC—Standard Industrial Classification
- TSS—Total Suspended Solids
- U.S.C.—United States Code

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-103. - Reserved.

Editor's note— Ord. No. 2015-050, § 5, adopted Nov. 10, 2015, repealed § 3-8-103, which pertained to mandatory connection and derived from Ord. No. 2001-034, § 2, adopted June 26, 2001.

Sec. 3-8-104. - On-site sewage treatment and disposal systems ("OSTDS").

No OSTDS shall be installed where CCU's wastewater facilities are available.

It shall be unlawful to empty, dump, throw or otherwise discharge into any manhole, catch basin or other opening, into the county sewer system, or any system connected with and discharging into the sewer system, the contents of any OSTDS, sludge, sewage or other similar matter or material, except as provided in section 3-8-180 hereof.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-105. - Transported liquid waste regulations and procedures.

Certain domestic wastes, including primarily those liquid wastes removed from septic tanks, temporary domestic waste holding tanks, portable toilets, and marine vessels that are not able to discharge their domestic wastewater directly into the county's wastewater treatment facilities through approved discharged points designated by the county, are transported to the facilities by liquid waste transport or similar trucks. Transported liquid waste is subject to the restrictions provided in sections 3-8-122 and 3-8-124. This section provides regulations and procedures for the control of the discharge of wastes from commercial liquid waste transport trucks/private septage haulers into the facilities.

(1) *Administration and permitting.*

- a. A transport waste discharge permit (TWDP) issued by the director is required for any person who proposes to discharge domestic sewage wastes from liquid waste transport trucks to the facilities. The director shall approve, deny, or approve with special conditions all applications for permits in accordance with the policies and regulations established in this section. It shall be unlawful for any person or company to discharge liquid waste transport trucks at the designated facilities without a current TWDP.
- b. All persons required under the terms of this section to obtain a TWDP shall submit to the county a completed application for a TWDP together with the required fee. Each application shall include the following information:
 1. Name, address and telephone number of applicant. If the applicant is a partnership, corporation or other business, the name of an authorized representative must be provided as defined in this division.
 2. The type, license tag number, and description of each vehicle from which waste will be discharged by the applicant. Any new or replacement equipment acquired subsequent to the application shall be reported to the director prior to any discharge from this new equipment into the facilities.
 3. A statement that the provided information is accurate must be signed by the authorized representative of the wastewater transporter.
- c. Each permit shall be effective for a one-year period and may include special conditions as deemed necessary by the director. An application for renewal of the permit shall be submitted at least thirty (30) days prior to the expiration date of the existing permit by each applicant wishing to continue to discharge into the facilities. Failure to submit applications in a timely manner will result in periods when discharge will not be permitted due to lack of authorization.
- d. The TWDP shall be in addition to any other permits, registrations, or occupational licenses which may be required by the federal, state or local law.

(2) *Revocation of permit.* Any TWDP issued under the provisions of this section is subject to be modified, suspended or revoked in whole or in part during its term for a period of at least one (1) year for cause shown including, but not limited to any one of the following:

- a. Falsification of any information submitted as part of the application for the TWDP.
- b. Falsification of any information contained on a required discharge manifest.
- c. Failure to comply with any requirements or regulations concerning discharges to the facilities as provided by this article (or any amendments thereto).
- d. Failure to pay required discharge fees, sampling and analytical fees or any assessed surcharges in a timely manner.
- e. When necessary to protect the public health, safety and welfare.

Withdrawal of permission to discharge shall be in addition to any other penalties for violations of any part of this division.

- (3) *Acceptable wastes.* Domestic sewage wastes generated within the county or outside the county as authorized by the director from septic tanks, temporary domestic waste holding tanks, and portable toilets and sewage wastes generated by marine vessels are the only acceptable wastes for discharge to the facilities by liquid waste transport trucks. Wastewaters produced by any type of industrial or manufacturing process and mixtures of industrial and domestic wastewaters from any area are strictly prohibited.
- (4) *Pollutant limitations of acceptable wastes.* Acceptable transported liquid wastes as defined in this section are subject to the following pollutant limitations:
 - a. All general discharge prohibitions as itemized in section 3-8-122 of this article; and
 - b. All specific limitations as itemized in section 3-8-124 of this article.
- (5) *Manifest and permit requirements.* Prior to discharge of each load of waste into the facilities from a liquid waste transport truck, a complete and signed manifest must be presented to the designated facilities' operator in charge. The completed manifest shall indicate the origin of all wastes contained in the truck to be discharged. The date, customer name, address served, type and amount of waste must be identified on the manifest for each source of waste contained in the truck. The name of the liquid transport company, vehicle license tag number, driver name, date, time and driver's signature must be provided for the manifest to be complete. By signing the manifest, the driver will certify the accuracy of the information provided on that manifest. Discharge will be permitted only when a completed manifest is submitted to the satisfaction of the operator in charge of the facility.
- (6) *Location and time.* Acceptable transported liquid wastes shall be discharged at the Eastport Water Reclamation Facility, 3100 Loveland Boulevard, Port Charlotte, between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, or any other facility authorized by the director. Discharges may be permitted during other hours and on weekends approved by the director in advance and at an approved time for the discharge. The exact location of the discharge point within the facilities shall be identified by the operator in charge as required.
- (7) *Fees and billing.* The fees provided for in this section are separate and distinct from all other fees chargeable by the county. The relevant fees applicable to this section are as follows:
 - a. A permit application fee of one hundred fifty dollars (\$150.00) shall be payable for initial applications for one-year permits, and renewal permit fee of one hundred dollars (\$100.00) shall be payable for renewal applications for one-year permits. Each additional truck added to the list during the duration of the permit shall be subject to a fee of twenty-five dollars (\$25.00). Temporary replacement trucks used for thirty (30) days or less shall not be subject to this fee throughout the duration of the permit.
 - b. Each time a waste load is discharged at CCU, a waste discharge fee based on total gallons discharged as indicated by the receiving station flow meter shall apply. In the event, the receiving station flow meter is inoperable, the fee will be based on the total gallons reported on the waste hauler manifest.
 - c. Waste discharge fee shall be eight cents (\$0.08) per gallon for in-county septage waste and ten cents (\$0.10) per gallon for out-of-county septage waste; twelve cents (\$0.12) per gallon for in-county grease waste and fourteen cents (\$0.14) per gallon for out-of-county grease waste per trip.
 - d. A fee shall apply for random sampling and analysis carried out by the county or its agent when any violation is detected as follows:
 1. The total cost of the sampling and analysis shall be chargeable to the permittee in full.

2. The total cost of the demand sampling and analysis for the specific pollutant(s) in violation from all subsequent discharges by the permittee until no further violations are detected in three (3) consecutive samples.

These fees may be amended by the BCC by resolution or ordinance.

- (8) *Sampling and analysis of wastes.* Random sampling of the contents of any liquid waste transport truck proposed for discharge into the facilities may be conducted by the operator in charge prior to discharge. Samples will be analyzed by the county laboratory or other authorized laboratory for the purpose of determining the presence of industrial or other prohibited wastes as specified by division 2 of this article. At the driver's request, samples will be split with the haulage company for comparative analysis at his own expense. At a minimum, random samples will be analyzed for the following pollutants: pH, COD, chloride, cadmium, chromium, copper, lead, nickel, silver, zinc, oil and grease, EPA Method 624. Additional analyses may be performed for other pollutants that the director has reason to believe may be present based on an inspection of the sample and the manifest.
- (9) *Enforcement.* A notice of violation will be issued to the appropriate permitted waste hauler if random sampling and analysis reveal a violation. Response to this notice must be received by the county within ten (10) working days of receipt by the waste hauler. The waste hauler will be required to identify the origin of the unacceptable waste and to implement appropriate procedures to prevent the reoccurrence of this violation. Increased demand sampling and analysis of discharges will be carried out by the county once a violation has been detected. Escalating enforcement procedures, administrative fines and other penalties will be applied when continuing violations are detected including, but not limited to, termination of service and pursuit of action in a court of competent jurisdiction in the county for violations of this article.

(Ord. No. 2001-034, § 2, 6-26-01; Ord. No. 2007-066, § 1, 9-25-07; Ord. No. 2010-029, § 1, 6-8-10)

Sec. 3-8-106. - Building sewers and connections.

A building sewer is a conduit or pipe which conveys wastewater from the plumbing drain system of a building to a public sewer or other place of disposal.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. Authorization may be obtained after approval from the utilities department and payment of all required fees and charges and obtaining written permit from the county community development department.

The owner or his agent shall make application for a permit on a special form furnished by the county community development department. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the county community development department and the director of utilities. A permit and inspection fee, as specified in this Code, chapter 3-2, shall be paid at the time the application is filed.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the county from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Where sewer service is not initially available, all costs of connection at a subsequent date, associated with permit, construction and extension shall be the responsibility of the permit applicant.

A separate and independent building sewer shall be provided for every building or buildable lot; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one (1) building sewer,

but the county does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the county community development department to meet all requirements of this article and are approved by the director of utilities.

If common laterals are permitted by the county, then separate sampling devices must be provided on each individual conduit.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in construction shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the county. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 as amended from time to time, shall apply.

Whenever possible, the building sewer shall be brought to the building at an elevation below the floor grade. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

No person shall make connection of roof downspouts, foundation drains, areaway drains, air conditioner drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

The applicant for the building sewer permit shall notify the county community development department when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the county community development department or his representative.

All excavations for building sewer installations shall be adequately guarded with barricades and lights in compliance with all Occupational Safety & Health Act (OSHA) requirements so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner and within a time frame satisfactory to the county.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code and other applicable rules and regulations of the county.

If any building sewer permits entrance of infiltration/or inflow, the county director of utilities shall require one of the following:

- (1) Require the owner to repair the building sewer within sixty (60) days from date of notification; or
- (2) Charge the owner a sewer usage charge that reflects the additional flow of sewage from the owner's property; or
- (3) Require the owner to disconnect his building sewer from the county's sewer system within sixty (60) days from date of notification; or
- (4) Reimburse the county for the actual cost of making the repair to the building sewer and allow access to property.

(Ord. No. 2001-034, § 2, 6-26-2001)

Secs. 3-8-107—3-8-120. - Reserved.

DIVISION 2. GENERAL WASTEWATER USE REQUIREMENTS

Sec. 3-8-121. - Industrial waste survey ("IWS").

The director of utilities may require any user or potential user to complete and submit an IWS. Once required, the user must submit the completed IWS within twenty (20) days of its issuance. Falsification of information or failure to submit the IWS will result in the imposition of a fine, termination of service, denial of request for service, discharge permit revocation, imposition of any enforcement and remedies of division 7, or any combination thereof.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-122. - Prohibited discharges.

- (a) Generally: No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which causes pass through or interference of the county's wastewater facilities. These general discharge prohibitions and the specific prohibitions in (b) below apply to all users of the county's wastewater facilities whether or not the user is subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (b) Specifically: A user may not contribute the following substances to any county wastewater facilities:
 - (1) *Dangerous discharges.* Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the county's wastewater treatment system or to the operation of the county's wastewater treatment system. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. In addition, specific prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, fuel oil, solvents, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substance which the county, the FDEP or EPA has notified the user is a fire hazard or a hazard to the system.
 - (2) *Any solid, semi-solid or viscous substance.* Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the county's wastewater treatment system such as, but not limited to: grease, garbage, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes. Specifically prohibited is the heating or chemical dissolving of the contents of grease traps and its discharge to the county system.
 - (3) *pH exclusions.* Any wastewater having a pH less than six point zero (6.0) or greater than eight point five (8.5), unless the county's wastewater treatment facilities are specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the county's wastewater treatment system.
 - (4) *Toxic pollutants.* Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the county's wastewater treatment system, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the act, or other acts, be they national, state or local, with the more stringent limit subject to enforcement.
 - (5) *Noxious and malodorous materials.* Any noxious or malodorous liquids, gases or solids, which either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.

- (6) *Materials affecting effluent and sludge disposal.* Any substance which may cause the county's wastewater treatment system effluent or any other product of the county's wastewater treatment system such as residues or sludges, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the county's wastewater treatment system cause the county's wastewater treatment system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 503 of the act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (7) *Substance causing violation.* Any substance which will cause the county's wastewater treatment system to violate its NPDES and/or FDEP permit or the receiving water quality standards.
- (8) *Color.* Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (9) *High temperature wastewater.* Any wastewater having a temperature which will inhibit biological activity in the county's wastewater treatment system resulting in interference, but in no case wastewater with a temperature at the introduction into the county's wastewater treatment system which exceeds forty (40) degrees centigrade (104°F).
- (10) *Unacceptable flow rates.* Slugs—Any pollutants, including oxygen demanding pollutants (BOD, etc) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the county's wastewater treatment system. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration, quantities or flow during normal operation.
- (11) *Radioactive wastes.* Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations.
- (12) *Hazardous wastes.* Any wastewater which causes a hazard to human life, creates a public nuisance or is defined as a hazardous waste under 40 CFR Part 261.
- (13) *Non-treatable substances.* Waters or wastes containing substances, including non-biodegradable detergents, which are not amenable to treatment or reduction by the sewage treatment process employed or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirement of other agencies having jurisdiction over discharge or violates any contract, resolution, law, rule, regulation, permit or approval applicable to the industrial, commercial or agricultural use of reclaimed water.
- (14) *Stormwater,* surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director of utilities.
- (15) *Sludges,* screenings, or other residues from the pretreatment of industrial wastes.
- (16) *Medical wastes,* except as specifically authorized by the director of utilities or his designee in a wastewater discharge permit;
- (17) *Transported or hauled pollutants,* except at discharge points designated by the director of utilities.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-123. - National categorical pretreatment standards.

Pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which are discharged to the county's wastewater facilities by an existing or new industrial user, in specific

industrial subcategories, are established as separate federal regulations. These categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471, are hereby incorporated by reference.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director of utilities may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director of utilities shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

If the provisions of this article are more stringent than those imposed by federal pretreatment standards, the provisions of this article shall apply.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-124. - Specific pollutant limitations/surcharge and fine.

TABLE A: CONVENTIONAL PARAMETERS

Parameter	Maximum Concentration mg/L (24-hour flow proportional composite sample)
Carbonaceous biochemical oxygen demand (CBOD)	200
Chemical oxygen demand (COD)	400
Total suspended solids (TSS)	250
Oil and grease (petroleum and/or mineral)	100
Total nitrogen	50
Total phosphorus	10
Total dissolved solids (TDS)	2500
Fluoride	8

Chlorides	300
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The surcharge for all high strength wastes above the maximum concentration for normal domestic wastewater for TSS, CBOD and COD shall be established by resolution of the board. Concentrations in excess of the amounts specified in Table A, other than for TSS, CBOD and COD, will be subject to a fine of one thousand dollars (\$1,000.00) per violation, per day.

No discharge to the East Port Water Reclamation Facility shall be permitted in excess of one thousand three hundred forty-nine (1,349) mg/L for CBOD, two thousand six hundred eighty-two (2,682) mg/L for COD, and two thousand two hundred thirty-five (2,235) mg/L for TSS. Concentrations in excess of these limits will be subject to a fine of one thousand dollars (\$1,000.00) per violation, per day.

No discharge to the West Port Wastewater Facility shall be permitted in excess of two thousand four hundred sixty-three (2,463) mg/L for CBOD, one thousand three hundred eighty-four (1,384) mg/L for COD, and two thousand eight (2,008) mg/L for TSS. Concentrations in excess of these limits will be subject to a fine of one thousand dollars (\$1,000.00) per violation, per day.

TABLE B: TOXIC PARAMETERS

In order to demonstrate the ability to legally enforce the specific standards outlined in Tables A and B, a technical analysis of the impact of pollutants of concern was performed to determine whether they are sufficiently stringent to protect against pass-through, interference, and sludge contamination.

Parameter	Maximum Allowable Industrial Loading Lbs/Day
Arsenic (As)	0.01
Cadmium (Cd)	0.01
Chromium total (Cr)	0.98
Copper (Cu)	0.41
Cyanide (CN, T)	0.16
Lead (Pb)	0.10
Mercury (Hg)	0.01
Molybdenum (Mo)	0.02
Nickel (Ni)	0.06

Selenium (Se)	0.01
Silver (Ag)	0.44
Zinc (Zn)	0.29

Industrial waste discharge permit application will be used to develop user-specific local limits when necessary to ensure that the WWF's maximum allowable headwork's loading is not exceeded for particular pollutants of concern.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-125. - Fines for maximum concentration limits.

Fines for concentrations in excess of the amounts specified in Table B of section 3-8-124 of this article shall be established by resolution of the board.

These fines may be amended by the board by resolution or ordinance.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-126. - Fines for pH.

The allowable limits for pH is six point zero (6.00) to eight point five (8.50). Fines for pH in excess of the allowable limits shall be established by resolution of the board.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-127. - County's right of revision.

The county reserves the right to establish, by ordinance or resolution, more stringent standards or requirements on discharges to the county wastewater system than are provided in this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-128. - 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 director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 2001-034, § 2, 6-26-2001)

DIVISION 3. - PRETREATMENT OF WASTEWATER

Sec. 3-8-129. - Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in section 3-8-122 of this article within the time limitations specified by EPA, the state, or the director of utilities, 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 director or his designee for review and shall be acceptable to the director of utilities 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 a discharge acceptable to county under the provisions of this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-130. - Additional pretreatment measures.

- (a) Whenever deemed necessary, the director of utilities 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 waste streams from industrial waste streams, and such other conditions as may be necessary to protect the county wastewater system and determine the user's compliance with the requirements of this article.
- (b) The director of utilities may require any person discharging into the county wastewater system to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (c) Fat, oil and grease (F.O.G), oil, and sand interceptors shall be provided when, in the opinion of the director of utilities or his designee, 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 director of utilities 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 their expense. See section 3-8-150, Grease trap/oil separator requirements.
- (d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. No. 2001-034, § 2, 6-26-2001)

DIVISION 4. - PERMIT PROCEDURES

Sec. 3-8-131. - Wastewater discharges.

It shall be unlawful to discharge to the county's wastewater facilities any wastewater, except as authorized by the county by a duly issued permit therefor, or in accordance with the provisions of this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-132. - Wastewater discharge permits.

All significant industrial users proposing to connect to or to contribute to the county's wastewater treatment system shall obtain a county wastewater discharge permit before connecting to or contributing to the county's wastewater treatment system. All existing significant industrial users connected to or

contributing to the county's wastewater treatment system shall obtain a wastewater discharge permit within one hundred eighty (180) days after the effective date of this article. The director of utilities shall notify persons who have made incomplete submissions of the permit application and will provide thirty (30) days in which to remedy the deficiency.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-133. - Permit application.

Users required to obtain a county wastewater discharge permit shall complete and file with the county, an application in the form prescribed by the county and accompanied by the permit fee established by the rates, fees and charges. Existing users shall apply for a wastewater discharge permit within thirty (30) days after the effective date of this article, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the county's wastewater treatment system. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) All information required by section 3-8-144 of this article.
- (2) 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.
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation.
- (4) Each product produced by type, amount, process or processes, and rate of production.
- (5) Type and amount of raw materials processed (average and maximum per day).
- (6) 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.
- (7) Time and duration of discharges.
- (8) Authorization for director or other authorized county employees bearing proper credentials to enter at a reasonable time all properties and premises for purposes of inspection, observation, monitoring, samplings, measurements, testing and inspection and copying of records.
- (9) Any other information as may be deemed by the county to be necessary to evaluate the permit application.

The director will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the county may issue a wastewater discharge permit subject to terms and conditions provided herein. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-134. - 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."

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-135. - Wastewater discharge permit decisions/appeals.

The director will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny on reasonable grounds any application for a discharge permit.

Within thirty (30) days of the issuance of the determination, an applicant desiring to appeal the decision must file a written request for the director to reconsider. Where the director determines that a request has merit, the director may convene a hearing on the matter. If so, the hearing will be held within thirty (30) days of receipt of the request. The director of utilities or his designated representative shall preside over the administrative hearing and shall entertain testimony and evidence. The applicant shall have the opportunity to be represented by counsel and to examine and cross-examine witnesses. The county shall likewise have the opportunity to be represented by counsel and examine and cross-examine witnesses. The director of utilities shall issue written findings as soon after the hearing as is practicable. The decision of the director of utilities, if adverse to the applicant, may be appealed to the administrator or his or her designee. If an appeal is to be taken, written notice of the appeal shall be delivered to the county administrator no later than ten (10) days after the applicant's receipt of the director of utilities' written findings. The notice must state the justification for requesting the appeal. Within twenty (20) days of receipt of notice of appeal, the county administrator shall determine the appeal and notify the applicant of the decision in writing. If the applicant's appeal process is unsuccessful, the costs to the county, such as attorney's fees and costs, witness fees, and administrative fees, may be charged to the applicant.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-136. - Permit contents.

Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the county.

(a) Permits must contain the following:

- (1) A statement that indicates wastewater discharge permit duration as provided in section 3-8-137;
- (2) A statement that the wastewater discharge is non-transferable as provided in section 3-8-138;
- (3) Effluent limited based on applicable pretreatment standards;
- (4) Self-monitoring and sampling requirements as provided in section 3-8-144(2)a through e;
- (5) Notification requirements as provided in section 3-8-149.
- (6) Record keeping requirements as provided in section 3-8-154.
- (7) A statement referring to civil and criminal penalties as provided in sections 3-8-171 and 3-8-172.

(b) Permits may contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer;
- (2) Limits on the average and maximum wastewater constituents and characteristics;

- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the county, and affording county access thereto;
- (9) Requirements for notification to the county of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Requirements for notification of slug discharges; and
- (11) Other conditions as deemed appropriate by the county to ensure compliance with this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-137. - Permits duration.

Permits shall be issued for a one-year period. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the county director of utilities during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-138. - Permit transfer.

Wastewater discharge permits are issued to a specific user for a specific location and operation. Wastewater discharge permits shall not be reassigned, transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the county. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit or modified permit as determined by the county until a new permit is issued. New or changed operations shall require a new permit. New uses or different premises shall require a new permit.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-139. - Permit modification.

The terms and conditions of any permit may be changed by the county during the life of the permit to accommodate changes in local, state and federal regulations or in the event that data upon which the permit was issued has changed. Permit holders shall be notified of change sixty (60) days prior to the effective date of change.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-140. - Wastewater discharge permit public notice and appeals.

The director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the director in writing to reconsider the terms of a wastewater discharge permit within ten (10) days of the publication of the notice of its issuance.

- (1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of such reconsideration.
- (2) In its petition, the petitioner 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.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the petition for reconsideration.
- (4) If the director fails to act within thirty (30) days, a petition for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Circuit Court of Charlotte County for the 20th Judicial Circuit within thirty (30) days from the director's response to the petition or thirty (30) days from the expiration of the thirty (30) days the director had to respond.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-141. - Regulation of waste received from other jurisdictions.

- (a) If another local government or user located within another local government, contributes wastewater to the facility, the director shall enter into an inter-governmental agreement with the contributing local government.
- (b) Prior to entering into an agreement required by paragraph (a), above, the director shall request the following information from the contributing local government:
 - (1) A description of the quality and volume of wastewater discharged to the facilities by the contributing local government;
 - (2) An inventory of all users located within the contributing local government that are discharging to the facilities; and
 - (3) Such other information as the director may deem necessary.
- (c) An inter-governmental agreement, as required by paragraph (a), above, shall contain the following conditions:
 - (1) A requirement for the contributing local government to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in section 3-8-124 of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the county's ordinance or local limits;
 - (2) A requirement for the contributing local government to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing local government; which of these activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing local government and the director;

- (4) A requirement for the contributing local government to provide the director with access to all information that the contributing local government obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing local government's wastewater at the point where it discharges to the facilities;
- (6) Requirements for monitoring the contributing local government's discharge;
- (7) A provision ensuring the director's access to the facilities to users located within the contributing local government's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-142. - Wastewater discharge permit revocation.

The director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the director of changed conditions pursuant to section 3-8-169 of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the director timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Prior to revocation of the wastewater discharge permit, the user shall be notified of the proposed revocation and be offered an opportunity to show cause under section 3-8-163 of this article why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

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

(Ord. No. 2001-034, § 2, 6-26-2001)

DIVISION 5. - RATES, FEES, AND CHARGES

Sec. 3-8-143. - Rates, fees, and charges.

The county shall adopt rates, fees, and charges ("fees") applicable to significant industrial users which may include:

- (1) Fees for cost of administration of the county's pretreatment program;
- (2) Fees for sampling, monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit application and permit renewals;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal (by the county) of pollutants otherwise subject to national pretreatment standards;
- (7) Fees (surcharges) as provided in section 3-8-124 of this article;
- (8) Fees for discharge of transported liquid waste;
- (9) Fees for discharge of transported liquid waste into facilities; and
- (10) Other fees as the county may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the county. Fees may be adopted and/or amended by resolution of the board of county commissioners.

(Ord. No. 2001-034, § 2, 6-26-2001)

DIVISION 6. - REPORTING AND COMPLIANCE

Sec. 3-8-144. - Baseline monitoring reports.

- (a) Within either one hundred 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 facilities shall submit to the director 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 submit to the director a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical pretreatment standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be 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 facilities from the regulated processes.

- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the facilities 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.*
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, 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 3-8-150 of this article.
 - c. Sampling must be performed in accordance with procedures set out in section 3-8-152 of this article.
- (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 user will complete such additional pretreatment and/or O&M not 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 3-8-145 of this article.
- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 3-8-134 of this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-145. - Compliance schedule.

New and existing industrial users shall develop compliance schedules specifying time required to meet all applicable national categorical pretreatment standards. The proposed compliance schedule shall be submitted to the director of utilities for review and approval. This schedule shall indicate the maximum time limit for industrial users to provide additional pretreatment or operation and maintenance in order to meet these pretreatment standards. The completion date of this schedule shall not be later than the compliance date established for the applicable pretreatment facilities necessary for the industrial user to meet the applicable pretreatment standards. No increment of such schedule shall exceed nine (9) months. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the county, including: Whether or not it achieved compliance with the increments of progress to be met on such date and, if not, the date on which it expects to comply with the increments of progress, the reason for the delay and measures being taken to return to the schedule established.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-146. - Compliance data report.

- (a) An industrial user subject to the national categorical pretreatment standards and associated pretreatment requirements (including new connectors following commencement of wastewater discharge into the county's wastewater treatment system) shall submit to the director within ninety (90) days following the date for final compliance with the pretreatment standards and requirements, a report indicating the nature and concentration, as well as the average and peak daily flows, of all pollutants

limited by the pretreatment standards and associated pretreatment requirements being discharged to county's wastewater treatment system.

- (b) This report will indicate whether the applicable pretreatment standards and requirements are being met on a consistent basis, and, if not, what additional operation and maintenance procedures or pretreatment will be implemented to bring the user into compliance with the applicable national categorical pretreatment standards and associated pretreatment requirements. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified engineering professional.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-147. - Periodic compliance report.

- (a) Significant industrial users and industrial users subject to the national categorical pretreatment standards and associated pretreatment requirements shall submit to the director of utilities twice annually, during the months of June and December (unless required more frequently in the pretreatment standards or by the director of utilities), a report indicating the nature and concentration of pollutants in the effluent being discharged which are limited by referenced pretreatment standards. This report shall include a record of the average and peak daily flows being discharged during the reporting period. Additionally, this report must contain all self-monitoring results. In the event that any monitoring by the industrial user shows any violation, no matter how minor, the industrial user must resample and resubmit both results to the director within thirty (30) days. At the discretion of the county and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director of utilities may decide to alter the months during which the compliance reports are to be submitted by a particular user.
- (b) The county may impose mass (quantum) limitations on industrial users to meet the applicable national categorical pretreatment standards and/or local discharge limits in cases where the imposition of mass limitations are appropriate. In such cases, the compliance data report required by section 3-8-146 shall indicate the quantity of pollutants regulated by the pretreatment standards to be discharged by the industrial user as well as a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other unit of operation), the report must include the user's actual average production rate for the reporting period. These reports will contain the results of sampling and analysis of the discharge and will include a record of the flow, nature and concentration, or quantity in pounds where requested by the director of utilities, of pollutants contained therein which are limited by the applicable pretreatment standards and associated pretreatment requirements.

The frequency of monitoring shall be prescribed in the referenced pretreatment standards. All analyses will be performed in accordance with the procedures established in section 3-8-151.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-148. - Monitoring and sampling facilities.

The county shall have the right to construct, operate and maintain monitoring facilities at the industrial user's expense in order to allow inspection of the building, building sewer or internal drainage systems, and sampling and flow measurement of the waste being discharged to the county's wastewater treatment system in order to ensure compliance with the applicable national categorical pretreatment standards and related pretreatment requirements. Appropriate valving shall be included in design and construction of such facilities to halt discharges prohibited by section 3-8-122. Ample room shall be provided in the area of such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, including sampling and measurement equipment shall be maintained at all times in a safe and proper operating condition by the county at the expense of the industrial user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be constructed in accordance with all applicable local construction standards and specifications.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-149. - Dangerous discharge prevention and notification requirements.

- (a) Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's cost and expense. Detailed plans showing facilities and operating procedures to provide the protection shall be submitted to the county utilities department for review and shall be approved by the county director of utilities before issuance of a permit and shall include at a minimum the following:
- (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the director of utilities of any accidental or slug discharge, as required by section 3-8-149(b) of this article; and
 - (4) 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.

The director may re-evaluate these plans every two (2) years and may require the user to modify the existing plan or submit new plans.

All existing industrial users shall complete such a plan within one (1) year of the issuance of a permit. No user who commences contribution to the county's wastewater treatment system shall be permitted to introduce pollutants into the county's wastewater treatment system until accidental discharge procedures have been approved by the county and the planned facilities are in place. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this regulation.

- (b) In the case of an accidental or slug discharge, it is the responsibility of the user to telephone notification to the director of utilities of the incident immediately. The notification shall include location of discharge, type of waste, concentration, volume and correction actions.
- (c) Within five (5) calendar days following an accidental discharge, the user shall, unless waived by the director, submit to the director of utilities a detailed written report describing the cause of the discharge, the amount and type of pollutant released, and the measures to be taken by the user to prevent similar future occurrences. Neither the notification nor the report shall relieve the user of liability for any expenses, losses or damages which may be incurred as a result of damage to the county's wastewater treatment system, or any damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liabilities which may be imposed by this or other applicable laws.
- (d) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place, advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-150. - Fat, oil, and grease trap/oil and sand separator/interceptor requirements.

- (a) *Fat, oil and grease (F.O.G.) interceptors required.* Users who operate restaurants, cafes, lunch counters, take-outs, cafeterias, bars, clubs, or hotel, hospital, factory or school kitchens or other establishments that serve or prepare food where F.O.G. may be introduced to the sewer system shall have an F.O.G. interceptor.

Take-out food establishments or other establishments that prepare food but do not cook in oil or grease and who serve food only in disposable containers may utilize alternative interceptors as approved by the director, provided their discharges will not violate any discharge prohibitions of this article. F.O.G. interceptors may also be required in non-cooking or cold dairy and frozen foodstuff establishments when they are deemed necessary by the director.

- (b) *Oil and sand interceptors required.* Users who operate automatic and coin operated laundries, car washes, filling stations, commercial garages or similar businesses having any type of washing facilities or grease racks and any other users producing grit, sand, oils or other materials which may have the potential of causing partial or complete obstruction of the building sewer or other areas in the sewer system shall install interceptors approved by the director.
- (c) *Location of interceptors.* All interceptors shall be located outside the building in such a manner that personnel from CCU can inspect the interceptors at any time.
- (d) *Size of interceptors.* All interceptors shall be sized to ensure that the county's sewer system is protected from excessive F.O.G., sand and oil which may cause clogging or damage and that the user is capable of meeting all discharge requirements. F.O.G. interceptors shall be based on chapter 10 of the Florida Building Code, as amended.
- (e) *Sampling port.* A sampling port shall be installed in an approved location to allow sampling by the utility and the user. The sample port shall be located between the interceptor and the discharge point to the sewer system.
- (f) *Access manholes.* An access manhole must have a minimum diameter of twenty-four (24) inches and shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to the finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall have readily removable covers to facilitate inspection and cleaning.
- (g) *Plans required.* The following must be submitted to CCU for review and approval prior to installation of an interceptor.
- (1) Site plans showing the location of the interceptor, lines, clean out or manhole and sample port;
 - (2) Details of the interceptor, lines, clean out or manhole and sample port; and
 - (3) Formula and calculation used to determine the interceptor capacity.

Note: No non-grease-laden sources are allowed to be connected to sewer lines intended for grease, oil and sand separators.

- (h) *Existing interceptors.* All interceptors currently in use or in existence at the time of this article will be considered sized sufficiently provided they meet all discharge requirements as stated in this article. All new interceptors or interceptors to replace or upgrade existing interceptors will be required to meet all criteria stated in this division.
- (i) *Inspections.* When upon inspection the interceptor is found to have six (6) inches or more of solids in the bottom of the interceptor (using a sludge judge) or a grease cap of three (3) inches or more, or the establishment exceeds discharge compliance levels, the director can require a grease pump out. Upon completion of an on-site inspection or analytical results of sampling indicate a violation of this article, the director may issue a "notice of violation" to the user or representative to document any discrepancies, noncompliance, special instructions or other guidance identified during the on-site inspection.
- (j) *Maintenance.*
- (1) The user of the premises or business where such interceptor is located shall obtain from CCU a maintenance card which shall be posted in a conspicuous manner showing proof of regular

maintenance. Such card shall be obtained annually and shall be presented upon request. All records pertaining to the maintenance of an interceptor shall be retained by the user for a period of not less than three (3) years and available to CCU upon request.

- (2) Every F.O.G. interceptor shall be cleaned every ninety (90) days or sooner, if needed. An exemption may be granted to the ninety-day minimum requirement if the user can establish that such maintenance schedule is not necessary.
- (k) *Alternative treatments.* The use of any free-enzyme, chemical, or other products designed to emulsify, liquefy or further render grease soluble for the purpose of clearing drains or circumventing the design of the interceptor is prohibited. All products claiming biological activity must be approved by the director. Approval for this or any other treatment does not relieve the user of properly maintaining the interceptor as to prevent discharge violations to occur.

Failure to comply with this section shall subject the user to appropriate enforcement, fines, and procedures as set forth in this article. Additionally, if any person fails to comply with this section and said failure results in damage to the county's system, the county shall be entitled to recover the cost of repair of the system from said person and any fines or penalties assessed against the county as a result of such failure.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-151. - 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 EPA 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-152. - Sample collection.

- (a) Except as indicated in paragraph (b), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director 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 compounds must be obtained using grab collection techniques.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-153. - User to notify of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the director 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 director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the director monitors at the user's facility at least once a month, or the director samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-154. - Record keeping.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, sample custody number 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 or any administrative action concerning the user or the county, or where the user has been specifically notified of a longer retention period by the director.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-155. - Falsifying information.

Any person who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or by imprisonment for a term not to exceed sixty (60) days or by both such fine and imprisonment.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-156. - Right of entry: inspection and sampling.

The director shall have the right to enter the premises of any user at reasonable times without prior notification to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the director, upon showing of proper credentials, ready access to all parts of the premises for the purposes of inspection, observation, sampling, testing, records examination and copying, and the performance of any additional duties.

- (1) 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 director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The director 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.
- (3) The director 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 his own expense. All devices used to measure wastewater flow and quality shall be calibrated to the manufacturer's recommendation to ensure their accuracy.
- (4) 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 oral request of the director and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the director access to the user's premises shall be a violation of this article.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-157. - Search warrants.

If the director 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 article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the county designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director may seek issuance of a search warrant from the court of competent jurisdiction in the county.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-158. - Publication of users in significant noncompliance.

The superintendent shall publish annually, in a newspaper of general circulation published in the municipality where the county wastewater system is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent 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;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent 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 (1.4 for BOD, TSS, fats, oils and grease, 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of county wastewater system personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of his emergency authority to halt or prevent such a discharge;
- (5) 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;
- (6) 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;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-159. - Confidential information.

- (a) In accordance with F.S. chapter 119, all information and documents submitted to CCU are considered to be public information and, as such, are available to the public for reading or copying. However, in accordance with F.S. section 403.111, any information submitted to CCU in accordance with this article may be claimed as confidential by the submitter. Any such claim must be claimed as confidential by the submitter and must be asserted at the time of submission in the manner prescribed on the application form or instruction, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, CCU may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in F.S. section 403.111.
- (b) Effluent information and data provided to the county pursuant to this article shall be available to the public without restrictions.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-160. - Compliance with more stringent standards.

- (a) The county reserves the right to establish by amendment to this article by subsequent ordinance or resolution, locally developed limitations or more stringent requirements on discharge to the wastewater disposal system, if deemed necessary to comply with the objectives of this article.
- (b) Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The county shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.
- (c) No industrial user shall 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 the limitations contained in the national categorical pretreatment standards or in any other pollutant specific limitation developed by the county or the state.

(Ord. No. 2001-034, § 2, 6-26-2001)

DIVISION 7. - ENFORCEMENT AND REMEDIES

Subdivision A. - Administrative

Sec. 3-8-161. - Notification of violation.

When the director finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation in person, by facsimile machine or certified mail. Within ten (10) 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 director. 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 director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-162. - Consent orders.

The director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance 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 3-8-164 and 3-8-166 of this article and shall be judicially enforceable.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-163. - Show cause hearing.

The director may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served 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 or certified mail (return receipt requested) at least thirty (30) 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-164. - Compliance orders.

When the director finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, 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 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-165. - Compliance enforcement and fines.

(a) *Enforcement procedure.* Whenever the director determines or has reasonable cause to believe that a discharge of wastewater has occurred in violation of the provisions of this article, a wastewater discharge permit or order issued hereunder, any other pretreatment standard or requirement, the director shall evaluate the violation as prescribed below:

- (1) If the director determines the violation does not cause the SIU to be in SNC as defined in section 3-8-102 of this article, he shall issue the SIU a notice of violation stating the nature of the violation and requesting information or requiring corrective action within ten (10) days. In response to this notice:
 - a. Failure of the SIU to respond within ten (10) working days of the date of the notice shall cause the SIU to be in SNC, and the director may issue a notice of SNC as prescribed in subsection (3) below and an administrative fine of five hundred dollars (\$500.00).

- b. If the SIU responds with an acceptable written explanation for the violation or corrects the violation within the prescribed time, the director may cease all further enforcement action.
 - c. If the SIU requests additional time to correct the violation, it shall submit a compliance schedule outlining what steps will be taken to gain compliance and prevent reoccurrence of the violation. The director shall evaluate this request, modify it as deemed necessary and may issue a short term compliance schedule requiring the corrective actions to be made within a specified period of time not to exceed sixty (60) days as prescribed in subsection (2) below.
 - d. If the SIU responds that pretreatment is required to correct the discharge problem, the director may issue a notice of SNC as prescribed in subsection (3) below.
- (2) Once an SIU has received a short term compliance schedule:
- a. Failure of the SIU to implement the short term compliance schedule within ten (10) working days of date of the issuance of the schedule may cause the director to declare the SIU to be in SNC, issue an administrative fine to the SIU in the amount of five hundred dollars (\$500.00) and issue a final compliance schedule as prescribed in subsection (5) below.
 - b. If the SIU complies with the short term compliance schedule within the specified time period, the director may cease further enforcement action.
 - c. If the director determines that compliance has not been achieved after the time specified in the short term compliance schedule, or no response has been received from the SIU, the director may declare the SIU to be in SNC, issue an administrative fine to the SIU in the amount of five hundred dollars (\$500.00) and issue a final compliance schedule as prescribed in subsection (5) below.
- (3) If the director determines the violation causes the SIU to be in SNC as defined in section 3-8-102 of this article, he may issue the SIU a notice of SNC stating the nature of the violation and requiring corrective action within a specified time period. The director shall also publish the significant noncompliance with pretreatment standards in a newspaper of general circulation as set out in section 3-8-158 of this article in response to the notice of SNC:
- a. Failure of the SIU to respond within ten (10) working days of the date of the notice may cause the director to issue an administrative fine to the SIU in the amount of five hundred dollars (\$500.00) per violation per day and issue a final compliance schedule as prescribed in subsection (5) below.
 - b. If the SIU requests additional time to correct the violation, it shall submit a compliance schedule outlining what steps will be taken to gain compliance and prevent reoccurrence of the violation. The director shall evaluate this request, modify it as deemed necessary and may issue a first compliance schedule requiring the corrective actions to be made within a specified period of time as prescribed in subsection (4) below.
- (4) Once an SIU has received a first compliance schedule:
- a. Failure of the SIU to implement the first compliance schedule within ten (10) working days of receiving the schedule may cause the director to issue an administrative fine to the SIU in the amount of five hundred dollars (\$500.00) per violation per day and issue a final compliance schedule as prescribed in subsection (5) below.
 - b. If the SIU complies with the first compliance schedule within the specified time period, the director may cease further enforcement action.
 - c. If the director determines that compliance has not been achieved after the time specified in the first compliance schedule, or no response has been received from the SIU, the director may issue an administrative fine to the SIU in the amount of five hundred dollars (\$500.00) per violation per day and issue a final compliance schedule as prescribed in subsection (5) below.
- (5) Once an SIU has received the administrative fine above and a final compliance schedule:

- a. Failure of the SIU to implement the final compliance schedule within ten (10) working days of the date of issuance of the schedule may cause the director to revoke the discharge permit, terminate the SIU's sewer service and seek to fine the SIU in an amount not to exceed one thousand dollars (\$1,000.00) per violation per day.
- b. If the SIU complies with the final compliance schedule within the specified time period, the director may cease further enforcement action.
- c. If the director determines that compliance has not been achieved after the time specified in the final compliance schedule, or no response has been received from the SIU, the director may revoke the discharge permit, terminate the SIU's sewer service and seek to fine the SIU in an amount not to exceed one thousand dollars (\$1,000.00) per violation per day.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-166. - Cease and desist orders.

When the director finds that a user has violated, or continues to violate, any provision of this article, 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 director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-167. - Administrative fines.

- (a) When the director finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed one thousand dollars (\$1,000.00) per violation per day. 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) Additionally, if a user violation causes the facility to not meet its required permit limits and/or a penalty is imposed on the county, the user who has committed the violation may also be required to pay the cost of repairing all damages to the facility, restoring the facility to its original working order, and pay the penalty, if any, imposed on the county.
- (c) Such fines may be added to the user's next scheduled service charge, and the director shall have such other collection remedies as provided by the credit and collection policy as amended to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the owner's/user's property.
- (d) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where the director determines that a request has merit, the director may convene a hearing on the matter. If so, the hearing will be held within thirty (30) days of receipt of the request. The director of utilities or his designated representative shall preside over the administrative hearing and shall entertain testimony and evidence. The alleged violating user shall have the opportunity to be represented by counsel and to examine and cross-examine witnesses. The county shall likewise have the opportunity to be represented by counsel and examine and cross-examine witnesses. The director of utilities shall

issue written findings as soon after the hearing as is practicable. The decision of the director of utilities, if adverse to the alleged violating user, may be appealed to the administrator or his or her designee. If an appeal is to be taken, written notice of the appeal shall be delivered to the county administrator no later than ten (10) days after the violator's receipt of the director of utilities' written findings. The notice must state the justification for requesting the appeal. Within twenty (20) days of receipt of notice of appeal, the county administrator shall determine the appeal and notify the alleged violating user of the decision in writing. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. If the appeal is unsuccessful, the director may add the costs of preparing administrative enforcement actions, such as notices and orders, and the cost of the hearing, such as attorney's fees and costs, and witness fees, to the fine.

- (e) Issuance of an administrative fine or the holding of a hearing shall not be a bar against, or a prerequisite for, taking any other action against the user.

These fines may be amended by the board by ordinance.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-168. - Emergency suspensions.

The director 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 director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the facility, or which presents, or may present, an endangerment to the environment.

- (1) 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 director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the facility, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in section 3-8-169 of this article are initiated against the user.
- (2) 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 director prior to the date of any show cause or termination hearing under section 3-8-164 or 3-8-166 of this article.

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

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-169. - Termination of wastewater discharge.

In addition to the provisions in section 3-8-142 of this article, any user who violates the following conditions is subject to wastewater discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in sections 3-8-129 and 3-8-130 of this article.

Such user will be notified of the proposed termination of its discharge permit and be offered an opportunity to show cause under section 3-8-163 of this article why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 2001-034, § 2, 6-26-2001)

Subdivision B. - Judicial

Sec. 3-8-170. - Injunctive relief.

When the director finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the court of appropriate jurisdiction 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 requirement imposed by this article on activities of the user. The director 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-171. - Civil penalties.

- (a) A user who has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the county for a maximum civil penalty or one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the county.
- (c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against or a prerequisite for taking any other action against a user.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-172. - Criminal prosecution.

- (a) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be prosecuted in the same manner as misdemeanors and, upon conviction, be guilty of a misdemeanor, punishable by

a fine of one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than sixty (60) days, or both.

- (b) A user who willfully or negligently introduces any substance into the facilities which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000.00) per violation, per day, or be subject to imprisonment for not more than sixty (60) days, or both. This penalty 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 makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than sixty (60) days, or both.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-173. - Water supply severance.

Whenever an industrial user has violated or continues to violate the provisions of this article or an order or permit issued hereunder, water service to the industrial user may be severed; and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-174. - Remedies non-exclusive.

The remedies provided for in this article are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user or any other action against any user when the circumstances warrant. Further, the director is empowered to take more than one (1) enforcement action against any noncompliant user.

(Ord. No. 2001-034, § 2, 6-26-2001)

DIVISION 8. - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 3-8-175. - Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 3-8-123 or the specific prohibitions of this article in section 3-8-122(b), except for (b)(1), (3) and (18), 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:

- (1) 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
- (2) A local limit does not exist for the pollutants that caused the pass through or interference, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the facilities were regularly in compliance with its permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-176. - Upset.

- (a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance 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 noncompliance with categorical pretreatment standards if the requirements of paragraph (c) below 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 workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the director 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):
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (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 noncompliance 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Sec. 3-8-177. - 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 become 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) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the director 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 director 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 director 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.

(Ord. No. 2001-034, § 2, 6-26-2001)

Secs. 3-8-178—3-8-190. - Reserved.

ARTICLE VI. - RECLAIMED WATER SYSTEM^[10]

Footnotes:

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Editor's note— Ord. No. 2007-041, § 1, adopted May 22, 2007, amended Art. VI in its entirety to read as herein set out. Former Art. VI, §§ 3-8-191—3-8-226, pertained to similar subject matter and derived from Ord. No. 94-61, §§ 1.01—1.21 and §§ 2.01—2.06, adopted Nov. 8, 1994.

DIVISION 1. - GENERALLY

Sec. 3-8-191. - Intent.

It is the intent of the county to make reclaimed water available for irrigation purposes and other authorized non-potable uses in certain areas of the county where the board of county commissioners determines that the construction of a reclaimed water distribution system is desired or requested by customers, and is practical and economical. The reclaimed water distribution system shall be constructed in phases to provide service to designated areas as determined by the board of county commissioners, pursuant to the terms and conditions set forth herein.

(Ord. No. 2007-041, § 1, 5-22-2007)

Sec. 3-8-192. - Definitions.

For the purpose of this article, the definitions contained in this section shall apply unless otherwise specifically stated.

Approved backflow prevention assembly shall mean any effective assembly used to prevent backflow into a potable water system that has been investigated and approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, or the American Water Works Association, using whichever standard is more stringent.

CCU shall mean Charlotte County Utilities.

Cross-connection shall mean any physical connection or arrangement which would allow the movement of fluids between the potable water system and any non-potable piping system, such as the reclaimed water system.

Customer shall mean owner or agent with the legal authority, relative to real property, to make binding determinations.

Department shall mean Charlotte County Utilities.

Director of utilities (also referred to as the director) shall mean the individual responsible for the technical and operational activities of Charlotte County Utilities or his/her designee.

Distribution mains shall mean those conduits used to supply reclaimed water to service lines from trunk mains.

Facilities shall be defined as the components that form the reclaimed water delivery system, including, but not limited to, piping, valves, pumps, controls, meters, sensors and remote telemetry.

FDEP shall mean the Florida Department of Environmental Protection.

Neighborhood shall be defined (as a minimum size) as the residential, multi-family, commercial and industrial customers within a Pump Station Service Area (PSSA).

Reclaimed water shall mean wastewater that has received advanced secondary treatment in accordance with FDEP regulations, as amended, and is reused after flowing out of a water reclamation facility.

Reuse shall mean the deliberate application of reclaimed water, in compliance with FDEP regulations, as amended, for a beneficial purpose.

Service line shall mean that conduit for reclaimed water from the distribution main to the property line.

Transmission mains shall mean those conduits used to supply reclaimed water from the pumping station or water reclamation facility to the distribution mains.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-193. - Availability of service.

The term "available" means that a functioning reclaimed water distribution main is located within five hundred (500) feet of the property to be serviced or, in the alternative, that it is cost effective for the county to extend a reclaimed water distribution main to within five hundred (500) feet of the subject property. However, regardless of proximity to a distribution main, the county reserves the right to make a final determination of the availability of service to a property based on the practicality, economics and clear and measurable benefits of providing said service, as determined by the director.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-194. - Procedure for voluntary distribution main extension.

As reclaimed water transmission mains become available, the county shall conduct neighborhood surveys to determine customer interest in receiving reclaimed water. Based on the results of these

surveys, and where extending reclaimed water service is determined to be practical and economical, the county shall:

- (1) Prioritize areas for extension of distribution mains.
- (2) Prepare and adopt a resolution designating the new service area for reclaimed water.
- (3) Authorize the preparation of construction contract documents for extending distribution mains in accordance with county procurement procedures.
- (4) Award the construction contract in accordance with county procurement procedures.
- (5) Upon construction completion and engineer's certification of the operation of the system, provide written notification to all customers that service is available. Refer to section 3-8-195 for system connection requirements.

The county reserves the right to redefine the geographic boundaries of proposed project areas, as necessary to meet the engineering and economic objectives associated with the reclaimed water system.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-195. - Connection to system.

Customers in designated service areas may connect to the reclaimed water system when service is available and upon submission of a proper application, including projection of use, and land application calculation plans showing proposed tie-in points, signed and sealed by a Florida licensed engineer and in compliance with all county requirements. When service is available, all customers that connect to the reclaimed water system will be charged a monthly usage charge. These charges shall be established by resolution, which may be amended from time to time.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-196. - Authority to adopt rates, fees and charges.

The board of county commissioners shall have the authority by resolution, duly adopted after a public hearing, to establish rates, fees and charges for the reclaimed water system and to provide terms and conditions for the payment and collection of same. Pursuant to the authority of Florida Statutes section 403.064, the county shall have the power to allocate the costs of the reclaimed water system in a reasonable manner and to recover all or a portion of such costs in the rates established for such a system.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-197. - Discontinuing service by county.

The county may discontinue reclaimed water service to any customer due to a violation of the terms of this article or county regulations; local, state or federal regulations; nonpayment of bills; tampering with any service; cross-connections with any potable water source; or for any reason that may be detrimental to the system or a risk to public health. The county has the right to cease service until the condition is corrected and all costs due the county are paid. Costs due to the county may include past due bills and penalties, connection charges, and payment for any damage caused to the system, together with any charges established on the basis of the expenses incurred in the disconnection and restoration of service, which shall be non-discriminatory in its application. Should discontinued service be turned on without authorization, the department shall remove the service and make such additional charges as are established by resolution or ordinance, or as are incurred.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-198. - Service interruption.

The county reserves the right to temporarily discontinue service to any portion of, or the entire reclaimed water system as deemed necessary by the director or as required by FDEP regulations, as amended, or for predictable as well as unforeseen shortages and reclaimed water supply issues, or maintenance to the system.

In addition, the director shall have the authority to establish schedules which restrict the use of the reclaimed water system at certain times in order to control pressure and flow demands within the system and to regulate usage during periods of limited reclaimed water availability.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-199. - Right to refuse service.

No payment of any costs, submittal of any petition, or any other act to receive reclaimed water service shall guarantee such service. The county shall have the right, at all times, to refuse to extend service on the basis of a use detrimental to the system, a potential risk to public health, inadequate supply of reclaimed water, lack of payment of required fees, or for any other reason which, in the judgment of the director, will cause the extension to be nonbeneficial to the county.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-200. - Service application requirements.

- (a) No connection to the county reclaimed water system shall be permitted without a written agreement for reclaimed water service with the county, a completed application for service, and FDEP approval.
- (b) The application for service shall be on a form provided by the county and shall be filed with the department.
- (c) The agreement for reclaimed water service shall provide that the customer consents to the entry by the county upon the property described in said application for the purpose of conducting all inspections permitted or required by this article and waives the right to receive further notice from the county of inspections conducted pursuant to this article and indemnifies the county, its agents and employees, from all claims, damages, judgments and expenses (including attorney fees) incurred by the county as a direct result of the use or discharge of reclaimed water by the customer in violation of the terms of this article or other applicable laws or regulations.
- (d) The county shall inspect each property prior to connection to the reclaimed water system, as described in detail in section 3-8-210 of this article.
- (e) No connection shall be permitted until the customer has a CCU-approved backflow prevention assembly installed on their potable water system to protect the potable water supply.
- (f) All connections to the reclaimed water system shall be inspected by the department prior to the use of reclaimed water.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-201. - Meter requirements.

Reclaimed water shall only be supplied through CCU-approved metered connections. The director shall determine the size and type of meter required for each service. All approved meters for the

reclaimed water system shall be installed by the user, unless provided otherwise in a written agreement with the county. Nonresidential bulk users, condos, apartments, and other multi-family customers may require master meters if beneficial to the system, as decided by the director.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-202. - Cross-connection control.

- (a) On all properties where reclaimed water service is provided, the public or private potable water supply shall be protected by a CCU-approved backflow prevention assembly, as specified in the county's most current "Manual for Cross-Connection Control and Backflow Protection." No cross-connection shall be permitted. All assemblies and material installed for cross-connection control must be approved by the director.
- (b) To determine the presence of any potential hazards to the public potable water system, representatives of the Charlotte County Health Department and/or CCU shall have the right to enter upon the premises of any customer receiving reclaimed and/or potable water service. Upon the execution of an agreement for reclaimed and/or potable water service, the customer shall be deemed to have consented to the entry by the county upon the property described in said agreement for the purpose of conducting all inspections permitted or required by this article and waives the right to receive further notice from the county of inspections conducted pursuant to this article.
- (c) In the event a cross-connection is found on a property receiving reclaimed water service, the director shall have the authority to immediately discontinue reclaimed water service to said property and/or sever the cross-connection. In addition, the director shall have the authority to clear the potable water lines of any potential contamination and to test for additional cross-connections on said property. Before resuming service, the customer shall make such corrections as may be required by the director and have the service reinspected in accordance with section 3-8-200. Costs associated with the violation will be applied in accordance with section 3-8-197.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-203. - Construction specifications.

The following specifications shall apply to irrigation systems, piping and appurtenances to be connected to the reclaimed water system:

- (1) All connections shall meet the specifications and be in accordance with all local, state and federal regulations:
 - a. No reclaimed water is permitted inside any single-family or duplex dwelling unit, or any dwelling unit where the residents have access to the plumbing system for repairs or modifications.
 - b. As approved by CCU, reclaimed water may be used for air-conditioning cooling systems in commercial or industrial facilities or buildings, in accordance with FDEP regulations as amended.
 - c. No above ground reclaimed water hose bibbs (spigots or hand-operated connections) shall be permitted for residential customers.
 - d. For nonresidential reclaimed water users, below-ground reclaimed water hose bibbs are permitted when they are clearly labeled as non-potable and can only be operated by use of a special tool to be approved by the director and in accordance with FDEP regulations as amended. Reclaimed water valves will be located in an approved, reclaimed water box.

- (2) Existing residential irrigation systems may connect to reclaimed water systems, provided there are no hose bibbs, no cross-connections and the potable water supply is protected by a CCU-approved backflow prevention assembly.
- (3) New residential irrigation systems shall comply with all local, state and federal regulations and applicable codes and ordinances. In addition, there shall be no reclaimed water hose bibbs and no cross-connections. Additionally, the potable water supply shall be protected by a CCU-approved backflow prevention assembly.
- (4) Existing nonresidential irrigation systems that may connect to the reclaimed water system shall have no above ground reclaimed water hose bibbs and no cross-connections. The potable water supply shall be protected by a CCU-approved backflow prevention assembly.
- (5) All connections, residential and nonresidential, require the use of a licensed utility contractor or plumber.
- (6) New reclaimed water distribution improvements dedicated to the county for maintenance shall meet the following specifications:
 - a. All pipes shall be at least C-900, DR18, Class 150 PVC and shall be purple in color (similar to Pantone 522C) and marked with metallic tape reading "RECLAIMED WATER."
 - b. All improvements shall require a construction permit and shall be constructed by a licensed utility contractor or plumber.
 - c. Three (3) sets of plans and specifications shall be submitted with the permit application, signed and sealed by a licensed Florida professional engineer.
 - d. Mains shall be a minimum of three (3) inches in diameter or as required by CCU.
 - e. Service lines shall be sized as required by the property served, but shall in no case be less than one (1) inch in diameter. Sizes of service lines required by the applicant are subject to approval by CCU.
 - f. Mains in the public right-of-way shall be located at uniform distance from the curb with locations and separation distances from other utilities per department construction specifications or state requirements.
 - g. Where water mains are to be turned over to the county, the customer shall submit such documents as are normally required for the dedication of public facilities.
 - h. An appropriate number of automatic blow-offs shall be provided, per department specifications.
- (7) As required by state regulations, advisory signs shall be posted where reclaimed water is utilized in public areas. Advisory signs shall include the following text in both English and Spanish: "Do Not Drink," together with the equivalent standard international symbol.
- (8) Advisory signs shall be posted adjacent to lakes and ponds used to store reclaimed water that are not located at the wastewater treatment facility, as well as decorative water features that use reclaimed water. In such cases, the advisory signs shall include the following text in both English and Spanish: "Do Not Drink" and "Do Not Swim," together with the equivalent standard international symbols.
- (9) CCU does not guarantee the supply of reclaimed water; therefore the user is responsible for the establishment of a backup system, if needed. On-site storage ponds or tanks are a recommended means of ensuring an uninterrupted supply. All alternate water sources, such as canals, wells and ponds used as backup sources or to supplement the reclaimed water supply, must comply with local, state and federal regulations, including regulations from FDEP, the South Florida Water Management District, and the Southwest Florida Water Management District.

Sec. 3-8-204. - Maintenance by customer.

The property owner and/or customer shall be responsible for the maintenance of all reclaimed water lines and appurtenances on their property not conveyed to the county. The county reserves the right to disconnect the service to any property when the irrigation system or appurtenances are not properly maintained. In addition, should the customer require reclaimed water at different pressures, or different quality, or in any way different from that normally supplied by the county, the customer shall be responsible for the necessary devices for making these adjustments and obtaining approval by the director prior to constructing and/or operating such devices. All signs, markings, etc., which identify an area, pond or piping as reclaimed water shall not be tampered with by the customer. Tampering will result in discontinuance of reclaimed water service.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-205. - County maintenance.

- (a) All facilities that have been accepted by the county shall become the property of the county and will be operated and maintained by the county. No person shall perform any work or be reimbursed for any work on the system unless written authorization from the county is received prior to the work being accomplished.
- (b) The county shall make every effort to inspect and keep its facilities in good repair but assumes no liability for any damage caused by the system that is beyond the control of normal maintenance or due to situations not previously reported to the department. These situations shall include, but are not limited to, damage due to breaking the pipes, poor quality of water caused by unauthorized or illegal entry of foreign material into the system, faulty operation of fire protection facilities, or other reasons.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-206. - Chemical injections.

All users of direct service connections are prohibited from adding chemicals to the irrigation systems when connected to the county reclaimed water system.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-207. - Common service lines.

The director has the authority to approve one (1) service line to connect two (2) or more customers when sufficient capacity is available. In such cases, property owners shall each pay the full amount of any applicable fees or charges required for service. Common service lines will be sized to provide adequate service to each customer served.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-208. - Public easement.

No facilities will be installed and/or accepted by the county for maintenance unless the facilities are in a public right-of-way or dedicated easement. Any new easement shall be adequately sized and approved by CCU to accommodate construction and maintenance of any reclaimed water system component. No obstruction whatsoever shall be planted, built, or otherwise created within the limits of the easement or right-of-way.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-209. - Ownership by county.

All reclaimed water facilities and appurtenances as determined by CCU within dedicated public easements when constructed or accepted by the county, shall become and remain the property of the county. No person shall by payment of any charges provided herein, or by causing any construction of facilities accepted by the county, acquire any interest or right in any of these facilities or any portion thereof, other than the privilege of having their property connected thereto for reclaimed water service in accordance with this article and any amendments thereof.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-210. - Inspections.

- (a) In order to ascertain and ensure compliance with the provisions of this article and all regulations relating to reclaimed water, the county shall have the right to inspect, secure and disconnect all facilities and devices wherever located which connect to or control any discharge from the reclaimed water distribution system. The inspection shall include the following:
 - (1) A review of the information in the application for service or written agreement.
 - (2) A review of all applicable construction specifications.
 - (3) A cross-connection control review.
 - (4) Such other matters as the director shall determine to be applicable.
- (b) Upon the execution of an agreement for reclaimed water service, the customer shall be deemed to have consented to the entry by the county upon the property described in said agreement for the purpose of conducting all inspections permitted or required by this article and waives the right to receive further notice from the county of inspections conducted pursuant to this article.
- (c) The denial of access to an authorized agent or employee of the county to any property receiving reclaimed water service for the purpose of conducting any inspection permitted under this article shall constitute a violation of this article and shall be grounds for the immediate discontinuance of reclaimed water service by the county to the subject property.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-211. - Liability and indemnity.

- (a) The county shall not be liable for any damages caused by the use of reclaimed water, provided the reclaimed water has been treated by the department to levels required by applicable federal, state and local laws and regulations for irrigation of lands with public access, or as set forth in subsection 3-8-205(b) of this article.
- (b) The county shall not be liable for any damages caused by a failure to deliver or supply reclaimed water.
- (c) The customer shall indemnify the county, its agents and employees, from all claims, damages, judgments and expenses (including attorney fees) incurred by the county as a direct result of the use or discharge of reclaimed water by the customer in violation of the terms of this article or other applicable laws or regulations, including, but not limited to, a cross-connection.
- (d) The customer shall be liable for any fine or actions imposed on CCU by any local, state, or federal agency as a result of improper or illegal connection made to the reclaimed water system by the customer or agent of the customer.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-212. - Fines and penalties for violation of article.

CCU shall have the authority to impose fines and penalties, as established through resolution, for any violations of local, state and federal rules relative to the provision of reclaimed water service.

Fines and penalties may include the costs to the county associated with the labor and materials required to correct cross-connections to the reclaimed water system. Applicable fines and penalties may be applied to property owners who are customers of the reclaimed water service, as well as property owners who are not customers of the reclaimed water service.

(Ord. No. 2007-041, § 1, 5-22-07)

Secs. 3-8-213—3-8-220. - Reserved.

DIVISION 2. - NEW DEVELOPMENT PROJECT REUSE REQUIREMENTS

Sec. 3-8-221. - Intent.

It is the intent of the county to maximize the reuse of treated wastewater and minimize new project impacts on potable water resources. It is the responsibility of the project developer to provide for effluent reuse as a condition precedent to wastewater treatment capacity availability. The county makes no guarantee that service will be available at all times.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-222. - New development projects.

- (a) *Evaluation.* For all new development projects, there shall be a requirement for evaluation of the incorporation of use of reclaimed water. This evaluation shall be in the form of an application to the department as part of the utility agreement. The director shall review the water reuse capacity of the project and determine if its incorporation into the reclaimed water system represents a beneficial use of the reclaimed water resource. The water reuse capacity of the project shall be based on the projected irrigated area of the proposed development receiving reclaimed water at an annual average rate of one (1) inch per week and established by an engineering report from a licensed Florida professional engineer and approved by CCU.
- (b) *Mandatory connection.* After consideration of the above evaluation, the director shall have the authority to require the development project to connect to the reclaimed water system and comply with this article. If so required, connection to the reclaimed water system shall be a condition precedent to receipt of potable water and wastewater service for the subject property.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-223. - Easement dedications.

The applicant shall dedicate perpetual easements on land designated for reuse transmission and distribution facilities as required to provide reclaimed water service.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-224. - Permits.

The applicant shall obtain and fulfill, at its expense, all necessary permits, licenses, conditions, and approvals for the initial construction and operation of the on-site reclaimed water irrigation facilities and additional costs of any associated CCU treatment facility operating permit modification or as amended by the agreement for reclaimed water.

(Ord. No. 2007-041, § 1, 5-22-07)

Sec. 3-8-225. - Reuse system.

- (a) The applicant shall construct, at its expense, all necessary on-site reuse facilities in the nature of pipes, pumps, valves, meters, controls, sensors, telemetry, storage lakes and/or tanks, retaining ponds, and spray or sprinkler facilities for irrigation with reclaimed water, and other equipment deemed necessary by the director for the proper and safe operation of the system.
- (b) The applicant shall construct, at its expense, all necessary transmission lines, pumping stations, and appurtenant improvements for transmitting reclaimed water from the county's transmission system to the applicant's site.
- (c) Regardless of reclaimed water service availability in proximity to the property at the time of the service application, if the county has published plans to provide reclaimed water service in the region within five (5) years of the service application date, the applicant shall be required to install "dry lines" and associated appurtenant improvements for reclaimed water distribution and service to the project area. All design and construction standards for such work shall meet or exceed the department's specifications.

(Ord. No. 2007-041, § 1, 5-22-07)

DIVISION 3. - SUPERSEDEANCE OVER ALL PRIOR AGREEMENTS FOR THE SUPPLY OF RECLAIMED WATER

Sec. 3-8-226. - Supersedence.

This article is the master governing law over all agreements between Charlotte County and third-party customers for the supply of reclaimed water. To the extent any provision within a prior agreement shall conflict with the language herein, this article shall supersede and be the controlling document. All prior agreements between Charlotte County and third-party customers for the supply of reclaimed water will be reviewed for compliance with this article, and replaced if deemed by the director to be in conflict with this article.

(Ord. No. 2007-041, § 1, 5-22-07)

Secs. 3-8-227—3-8-230. - Reserved.

ARTICLE VII. - COUNTY-OWNED POTABLE WATER SYSTEM^{[111](#)}

Footnotes:

Editor's note— Ord. No. 2018-038, §§ 5, 6, adopted Sep. 25, 2018, amended Art. VII in its entirety to read as herein set out. Former Art. VII, §§ 3-8-231—3-8-235, pertained to central water system and derived from Ord. No. 95-044, §§ 1.01, 2.01, 3.02, 4.01, adopted Sep. 19, 1995; Ord. No. 97-002, §§ 1, 2, adopted Jan. 21, 1997; and Ord. No. 2015-050, § 6, adopted Nov. 10, 2005.

Sec. 3-8-231. - Applicability.

The provisions of this article are applicable to real property located in the Charlotte County Utility Service Area.

(Ord. No. 2018-038, § 5, 9-25-18)

Sec. 3-8-232. - County-owned potable water system availability.

- (a) *Availability*, for purposes of this section 3-8-232, means the county-owned potable water system has adequate permitted water capacity to provide potable water, and a potable water line exists in a public easement or right-of-way that abuts the property, or is within one hundred (100) feet of the property, as accessed via existing rights-of-way or easements.
- (b) Where a county-owned potable water line is located within one hundred (100) feet of the property, the property owner is responsible for all costs necessary to connect the property to the county-owned potable water system.

(Ord. No. 2018-038, § 5, 9-25-18)

Sec. 3-8-233. - Mandatory connection to public potable water system required.

- (a) All developed property must connect the plumbing system for any structure on the property to an available public potable water line. Said connection must be made within one hundred eighty (180) days after written notification by the public utility that the system is available for connection.
- (b) *Available*, for purposes of this section 3-8-233, means that the potable water system is capable of being connected to the plumbing of a structure and has adequate permitted capacity to supply potable water to the structure, and:
 - (1) For a residential lot or any structure that has an estimated water usage of one thousand (1,000) gallons per day or less, a water line exists in an easement or right-of-way that abuts the property line of the lot or structure; or
 - (2) For a non-residential structure with an estimated water usage of more than one thousand (1,000) gallons per day, a water line exists in an easement or right-of-way that abuts the property or is within two hundred (200) feet of the property line of the structure as accessed via existing rights-of-way or easements; or
 - (3) For proposed residential subdivisions with more than fifty (50) lots, for proposed commercial subdivisions with more than five (5) lots or for areas zoned or used for an industrial or manufacturing purpose, a county-owned water distribution line exists within one-fourth ($\frac{1}{4}$) mile of the development as measured and accessed via existing easements or rights-of-way.
- (c) For property located in Charlotte County Utility's service area, potable water charges shall be in effect upon connection or beginning one hundred eighty (180) days from notification of the availability of water service, whichever is less. Failure to pay such charges will result in initiation of Charlotte County Utility's delinquency process, including, but not limited to, initiation of the code enforcement process.
- (d) For property located in Charlotte County Utility's service area, all charges, including late charges and interest, for potable water services rendered to any real property by the county and which remain unpaid when due, shall become a lien against and upon the real property and such lien shall be superior and paramount to the interest on such parcel or property of any owner, lessee, tenant,

mortgagee or other person except the lien of county taxes and shall be on parity with the lien of any such county taxes. Nothing provided herein with respect to the county's lien authority shall affect or preclude any other remedy authorized by law or ordinance that the county may have to collect delinquent charges or fees.

- (e) Non-use of well for drinking purposes. Property owners who are required to connect to a public potable water system are required to convert any existing potable water wells on the property to irrigation wells or plug and abandon such wells in accordance with all applicable laws and regulations and the well shall no longer be used for human consumption.
- (f) Any person failing to connect their property to an available public potable water line within one hundred eighty (180) days of written notification of availability, or failing to convert, plug or abandon an existing well, shall be guilty of an ordinance violation for each day in excess of one hundred eighty (180) days that the property is not connected to the potable water system or that the well has not been converted, plugged or abandoned.

(Ord. No. 2018-038, § 5, 9-25-18)

Secs. 3-8-234—3-8-249. - Reserved.

ARTICLE VIII. - ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS^{[121](#)}

Footnotes:

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Editor's note— Ord. No. 2010-053, § 1, adopted Aug. 24, 2010, amended Art. VIII in its entirety to read as herein set out. Former Art. VIII, §§ 3-8-250—3-8-263, pertained to similar subject matter and derived from Ord. No. 98-065, § 1, adopted Oct. 6, 1998; and Ord. No. 2007-061, § 1, adopted Aug. 28, 2007.

Sec. 3-8-250. - Title.

This article shall be known as the Charlotte County On-site Sewage Treatment and Disposal System Inspection Ordinance.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2020-025, § 1, 6-23-20)

Sec. 3-8-251. - Scope.

This article supplements the minimum standards and permitting requirements contained in Chapter 64E-6, F.A.C., and F.S. section 381.0065, and any subsequent amendments thereto. Where the provisions of this article are more restrictive than those contained in Chapter 64E-6, F.A.C., or F.S. section 381.0065, the provisions of this article shall apply.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2020-025, § 1, 6-23-20)

Sec. 3-8-252. - Purpose.

The purpose and intent of this article are to require pump-out and inspection of certain septic systems every five (5) years in order to protect the health, safety and welfare of the citizens, residents and visitors of the county and improve water quality by decreasing nutrient loading from improperly functioning septic systems located in areas near canals and surface waters.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2020-025, § 1, 6-23-20)

Sec. 3-8-253. - Jurisdiction.

This article shall apply to the unincorporated area of Charlotte County.

(Ord. No. 2010-053, § 1, 8-24-10)

Sec. 3-8-254. - Applicability of article.

This article applies to all Aerobic Treatment Units (ATUs) regardless of location, and to all non-ATU on-site sewage systems that are located within three hundred (300) feet, as measured from the closest point of the drainfield, to a canal, or other surface waters. This article and the requirements herein, except where noted, shall be the responsibility of the Charlotte County Health Department (CCHD), a division of the Florida Department of Health (FDOH).

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2020-025, § 1, 6-23-20)

Sec. 3-8-255. - Definitions.

Where a word or phrase is not defined in this article, the definition provided in Chapter 64E-6, F.A.C., or F.S. section 381.0065, shall be used.

Aerobic treatment unit (ATU) means a sewage treatment unit which introduces air into sewage to provide aerobic biochemical stabilization within a treatment receptacle.

Approved maintenance entity means any person or business entity which has been licensed to conduct business in Charlotte County and has been issued a written permit by CCHD to provide maintenance services associated with approved on site aerobic treatment units.

CCHD means Charlotte County Health Department, a division of FDOH.

FDOH means the Florida Department of Health.

On-site sewage treatment and disposal system (OSTDS) means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. This term does not include package sewage treatment facilities and other treatment works regulated under F.S. Ch. 403.

Permit means an on-site sewage treatment and disposal system construction permit issued by FDOH before an OSTDS may be installed, repaired, altered, modified, abandoned or replaced.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2014-013, § 1, 5-13-14; Ord. No. 2016-024, § 16, 6-14-16; Ord. No. 2020-025, § 1, 6-23-20)

Sec. 3-8-256. - Regulations.

(a) Permits and construction:

- (1) No portion of an OSTDS shall be installed in Charlotte County until an application for a permit, on Form DH-4015, has been submitted to the CCHD. Any newly constructed OSTDS, regardless of drainfield size or sewage flow rate, shall be designed by a professional engineer who is registered in the State of Florida. The CCHD shall require the submission of detailed system

construction plans for review and approval, including the site evaluation, as prepared by the engineer. All plans and forms shall be dated, signed and sealed by the engineer.

- (2) The OSTDS design engineer shall provide one (1) copy of the system operating and maintenance instructions in the form of a manual to the ultimate owner of the system.
 - (3) All septic contractors, plumbers, and class D wastewater treatment plant operators who wish to inspect, modify, repair, service, or install septic systems in Charlotte County shall first apply for and receive approval for a Charlotte County Septic Contractors Permit from the CCHD.
- (b) ATU maintenance contracts:
- (1) Approved maintenance entities shall, whenever possible, make the ATU maintenance contract renewal date and the ATU operating permit renewal dates the same;
 - (2) Each ATU must be inspected by an approved maintenance entity at least every six (6) months. ATUs serving commercial establishments shall be inspected by an approved maintenance entity every three (3) months. The maintenance entity shall furnish to the property owner/lessee and the CCHD a copy of any inspection performed, within seven (7) days after the inspection, indicating that all steps and procedures recommended by the manufacturer were performed. Inspection reports shall indicate the system owner or building lessee, the street address of the system, the CCHD permit number, the date of system inspection or service and a statement as to the maintenance or service performed.
- (c) Inspection and pumpout of non-ATU on-site sewage systems:
- (1) All non-ATU on-site sewage systems located within three hundred (300) feet, as measured from the closest point of the drainfield to a canal or other surface waters, shall be inspected by a representative of the CCHD at least once every five (5) years.
 - (2) All non-ATU on-site sewage systems located within three hundred (300) feet, as measured from the closest point of the drainfield to a canal or other surface waters, shall be pumped empty at least once every five (5) years by a licensed septic tank contractor or plumber equipped and certified to pump on-site sewage systems. Such contractor/plumber shall be licensed by the CCHD. Such contractor/plumber shall furnish a copy of the pumpout certification to the CCHD. The contractor/plumber shall submit a written report that includes a completed certification form (as prescribed by the FDOH) as well as a description of the septic tank's integrity, areas of concern the tank's location and any repairs or adjustments made on site. The report shall include copies of photographs taken of the tank pumped empty. The contractor/plumber will provide a copy of the report including the items listed above to both the homeowner and the CCHD within five (5) days of completion date.
 - (3) Failure of a property owner to comply with the pump-out and inspection requirements of this article or to timely complete any required replacement or repair of a failing septic system shall be a violation of this Code.
 - (4) Existing non-ATU septic systems subject to the pump-out and inspection requirements of this article may be released from further pump-out and inspection requirements provided the following conditions are met:
 - a. The non-ATU septic system is located in an area where a municipal service benefit unit (MSBU) has been created to fund the installation of a central sewer collection system; and
 - b. The non-ATU septic system is functioning properly; and
 1. The property where the non-ATU septic system is located will be able to physically connect the plumbing system on the property to the new sewer collection system and abandon the non-ATU septic system within one (1) year of the date the release is effective; Annual extensions beyond one (1) year may be obtained, at owner's cost, from FDOH, upon application, satisfactory inspection, and approval by FDOH; or
 2. The property where the non-ATU septic system is located is part of a county plumbing contract where the anticipated date of connection is within two (2) years.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2014-013, § 2, 5-13-14; Ord. No. 2020-025, § 1, 6-23-20)

Sec. 3-8-257. - Reserved.

Editor's note— Ord. No. 2014-013, § 3, adopted May 13, 2014, repealed § 3-8-257, which pertained to testing and laboratories and derived from Ord. No. 2010-053, § 1, adopted Aug. 24, 2010.

Sec. 3-8-258 - Septage and portable toilet pumpout companies.

- (a) Septage pumpout companies that clean and remove septage or grease from residential or commercial OSTDS and grease interceptors that are located in Charlotte County shall file a written report of their activities with the CCHD monthly within ten (10) days of the end of the activity month. The report shall include: the date collected, street address location of the OSTDS serviced, whether OSTDS serves a residence or business, whether grease or septage was collected, the liquid volume of septage or grease removed, the treatment facility designation of the waste, and the signature and printed name of the responsible licensed contractor.
- (b) For tanks that are dual compartment, both compartments shall be emptied. For tanks with outlet filters, the filters shall be cleaned of septage. For all septic tanks emptied, the contractor shall note on the customer's receipt: the tank volume, the presence of a solids deflection or outlet filter device and whether the tank is water tight.
- (c) Portable toilet septage companies operating in Charlotte County shall file a written report of their activities with the CCHD monthly within ten (10) days of the end of the activity month. The report shall include: the date of service, the volume of portable toilet septage collected daily, the treatment facility destination of the waste, and the signature and printed name of the responsible licensed owner or manager.
- (d) Any venue or activity using more than one (1) portable toilet or holding tank shall obtain a permit from the CCHD. The permit shall include inspection of the facility and assurance of proper hand sanitation, to include hand washing facilities. Existing CCHD inspection and re-inspection fees apply to this section. The fee will not apply to portable facilities used for disaster response; however, the sanitation requirements will be enforced.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2014-013, § 4, 5-13-14)

Sec. 3-8-259. - Septage treatment and landspreading.

- (a) FDOH permitted septage treatment and landspread facilities shall file a written report of their activities with the CCHD monthly within ten (10) days of the end of the activity month. The report shall contain all information required by FDOH to be retained by the permitted operator.
- (b) During wet weather conditions, when the ground water table rises to within twenty-four (24) inches or less of ground surface, landspreading of septage shall be suspended, and shall not be recommenced until at least two (2) calendar days after the water table subsides to twenty-four (24) inches or more below ground surface. Water table elevation shall be observed in monitoring wells daily and recorded on monthly reports.
- (c) During suspended landspreading periods, all septage shall be treated in accordance with FDOH rule, and then held in storage at a minimum pH of eleven (11.0). When storage capacity is ninety (90) percent filled, receipt of septage at the facility must cease, and any additional septage must be treated and disposed of at another FDOH or DEP permitted facility.

(Ord. No. 2010-053, § 1, 8-24-10)

Sec. 3-8-260. - Variances.

Requests for variances from this article shall be made to the CCHD on forms provided. The CCHD will review the request and make recommendations to the board of zoning appeals ("BZA") concerning the merits of each request. The BZA may grant variances in hardship cases which may be less restrictive than the provisions specified in this article, however, a variance may not be granted under this section until the BZA is satisfied that:

- (1) The hardship was not caused intentionally by the action of the applicant;
- (2) There is no reasonable alternative, taking into consideration factors such as cost, for the treatment of the sewage; and
- (3) The discharge from the on-site sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2016-024, § 17, 6-14-16)

Sec. 3-8-261. - Fees.

Upon recommendation of the director of CCHD, the Board of County Commissioners of Charlotte County ("BCC") shall establish by resolution fees charged for services provided by the CCHD. Such services may include, but not be limited to the following:

- (1) Permit for OSTDS (includes CCHD review, permit issuance, two (2) construction inspections, and DOH state research fee;
- (2) Permit for operation of ATUs;
- (3) Variance applications;
- (4) County permit for repair OSTDS (includes county surcharge);
- (5) "After the fact" permit fee (in addition to regular OSTDS fee);
- (6) Subdivision plan review where OSTDS are to be used up to fifty (50) lots over fifty (50) lots.

Fees shall be deposited in the CCHD trust fund for use exclusively in this program. Fees may be amended by the BCC by resolution.

(Ord. No. 2010-053, § 1, 8-24-10; Ord. No. 2014-013, § 5, 5-13-14)

Sec. 3-8-262. - Compliance and enforcement.

- (a) Failure of any person or entity to comply with any applicable requirement of this article shall be a violation of the Charlotte County Code and all remedies available to the CCHD, the FDOH and Charlotte County may be used to enforce this law. While any such violation continues, no certificate of occupancy, development permit or any other permit or approval shall be issued for any use or development of the property and any existing permits may be revoked or suspended.
- (b) In addition to any penalty provided by law for the violation of any provisions of this article, the BCC, CCHD or FDOH may bring suit to enjoin, restrain or otherwise prevent the violation of this article.
- (c) The BCC, CCHD or FDOH has the authority at all times to take any action necessary to prevent imminent danger to the public health, welfare and safety.
- (d) The foregoing remedies shall not be exclusive and the BCC, CCHD and FDOH may invoke other remedies available.

- (e) Routine compliance activities, initial notification of violation and preparation of legal referral case reports shall be the responsibility of the CCHD.

(Ord. No. 2010-053, § 1, 8-24-10)

Sec. 3-8-263. - Inspection.

Employees or agents of the CCHD, FDOH and BCC shall have the right to enter private property for the purpose of monitoring or inspecting on-site sewage treatment and disposal systems, investigating complaints or alleged violations of this article or Chapter 64E-6, F.A.C., or Chapter 381, F.S., or other similar purpose.

(Ord. No. 2010-053, § 1, 8-24-10)