

ARTICLE II. SEWERS

DIVISION 1. GENERALLY

Sec. 114-31. Purpose.

This article sets forth uniform requirements for governing the connection and the contribution of wastewater to Joint Sewer Agency (JSA) facilities through the issuance of permits to both domestic and non-domestic users. This authorizes monitoring and enforcement activities and allows the JSA latitude to administer adequate penalties to users who violate the provisions herein.

(Code 1997, 114-31; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-32. Definitions.

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

Act or "*the Act*" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Agency means the Paducah McCracken Joint Sewer Agency (JSA).

Agency facilities means any structure, appurtenance, wastewater collection system line, lift station, wastewater treatment equipment or any other part of the wastewater system owned by the Paducah McCracken Joint Sewer Agency.

Apportionment of construction costs means the amounts on various tracts of land liable for payment of the costs of construction of a sewage collection system and appurtenances to serve a particular described area (Assessment Zone) to be benefited by the collection system.

Assessment lien means a lien superior to all liens except liens for State, County, City, school, and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the costs of the sanitary sewers, appurtenances and property service connections plus interest thereon at the rate of six (6) percent per annum.

Authorized industrial user representative means a designated representative from an industrial user authorized to act on the industrial user's behalf, per 40 CFR 403.

Average residential flow. The average daily design residential flow is 400 gallons per day.

Baseline monitoring report (BMR) means a report submitted by categorical industrial users as per 40 CFR 403.

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

Building drain means that part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, water, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

Building sewer service line means a branch sewer that discharges into a main line sewer.

Capacity fee means a fee established as a one (1)-time charge for new wastewater customers as a way to recover part or all of the cost of additional system capacity constructed for their use. It is calculated based on the value of the utility's capacity and the amount or capacity needed by the new customer.

Carbonaceous biochemical oxygen demand (CBOD) means with chemical inhibition of nitrification, the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees Celsius expressed in terms of concentration in milligrams per liter (mg/l).

Categorical pretreatment standards means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317(b), (c)) which applies to a specific category of industrial users. The term "categorical pretreatment standards" includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

Categorical user means a user subject to categorical pretreatment standards.

Collector system means a network of sewer lines, pumping stations and other structures collecting wastewater from building service lines within a specified area and forming a sub-system within the JSA collection system.

Combined sewer means a sewer receiving both wastewater and stormwater.

Combined waste stream formula (CWF) means a procedure for calculating alternative discharge limits at industrial facilities where a regulated waste stream is combined with other non-regulated waste streams prior to treatment (40 CFR 403.7).

Compatible pollutant means biochemical oxygen demand, suspended solids and fecal coliform bacteria; plus any additional pollutants identified in the JSA's KPDES permit, where the POTW is designed to treat such pollutants and, in fact, does treat such pollutants so as to ensure compliance with the JSA's KPDES permit.

Concentration-based limit means a limit based on the relative strength of a pollutant in a waste stream, usually expressed in mg/l.

Consent judgment means a court order entered in Franklin Circuit Court, Civil Action No. 07-CI-1252 between the Paducah McCracken Joint Sewer Agency and the Commonwealth of Kentucky Environmental and Public Protection Cabinet.

Control authority means the approval authority or the JSA, when there exists an approved pretreatment program under the provisions of 40 CFR 403.11.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Core/trunk system means fundamental system components, which include interceptors, regional pumping stations, and treatment facilities.

Diluted waste stream means boiler blow down, sanitary wastewater, non-contact cooling water and certain process waste streams that have been excluded from regulation in categorical pretreatment standards because they contain none or only trace amounts of the regulated pollutant.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Kentucky.

Discharge permit means a permit issued to users that authorizes discharges to the public sewer.

Discharger means any person that discharges or causes a discharge to a public sewer.

Domestic wastewater means the water-carried wastes produced from non-commercial or non-industrial activities and which result from normal human living processes.

Easement means an acquired legal right for the specific use of land owned by others.

Effluent means the liquid overflow of any facility designed to treat, convey or retain wastewater.

Environmental Protection Agency or EPA means the United States Environmental Protection Agency, or where appropriate the term "EPA" may also be used as a designation for the Administrator or other duly authorized official of said Agency.

ERU (Equivalent Residential Unit) means, as determined by the JSA, the daily design flow of 400 gallons per day.

Executive Director means the person designated by the JSA to supervise the JSA's wastewater system.

Flow proportional composite sample means the combination of individual samples proportional to the flow of the waste stream at the time of sampling.

Flow weighted averaging formula (FWA) means a procedure used to calculate alternative limits for a categorical pretreatment standard where regulated and unregulated waste streams combine after treatment, but prior to the monitoring point as defined in 40 CFR 403.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods in home kitchens, stores, markets, restaurants, motels, hotels and other places where food is stored, prepared or served. Specifically excluded are food processing wastes from canneries, slaughterhouses, packing plants, and similar industries.

Grab sample means a sample which is taken from a waste stream on a one (1)-time basis with no regard to the flow in the waste stream and without consideration of time.

Indirect discharge means the discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 USC 1317(b) or (c)), into the POTW (including holding tank waste discharged into the system).

Industrial discharge permit means a permit issued to significant industrial users.

Industrial user means a user who is the owner of record, lessee, sub-lessee, licensee, permittee, or other persons in possession of real property used as a manufacturing or processing establishment or a commercial or industrial operation, which contributes wastewater to the JSA treatment facilities.

Industrial wastes means the wastewater from industrial or commercial processes as distinct from domestic or sanitary wastes.

Interceptor means a device designed and installed so as to separate and retain deleterious, hazardous or undesirable matter from normal waste, which permits normal sewage or liquid wastes to discharge into the sewer or drainage system by gravity. The term "interceptor" is commonly referred to as a grease, oil, or sand trap.

Interference means a discharge which alone or in conjunction with a discharge from other sources:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes for use or disposal; and/or
- (2) Is a cause of a violation of any requirement of the POTW's KPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery

Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Kentucky Pollutant Discharge Elimination System (KPDES) Permit means a permit issued by the Commonwealth of Kentucky under the authority of section 402 of the Act (33 USC 1342).

Main line sewer means a sewer main that connects manholes or structures and serves one (1) or more building sewers.

May. Is permissive (See *Shall*).

Natural outlet means any outlet, including storm sewers, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) 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.

Ninety (90) day compliance report means a report submitted by a categorical industrial user, within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards that documents and certifies the compliance status of the user (40 CFR 403.12(d)).

Nuisance means a use of property which results in annoyance or interference with the use and enjoyment of another's property, if the use would substantially annoy or interfere with the use and enjoyment of property by a person of ordinary health and normal sensitivities.

Ordinance means this article, unless otherwise specified.

Parameter means a component or property of wastewater which places an identifiable demand on the wastewater system.

Pass through means a discharge of pollutant, which cannot be treated adequately by the POTW and therefore exits into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of the JSA's KPDES permit (including an increase in the magnitude or duration of a violation) (40 CFR 403.3).

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agent or assigns.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water, including medical wastes, chemical wastes, biological materials, radioactive materials, heat, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, CBOD, COD, toxicity, or odor).

Pretreatment coordinator means a representative of the JSA who works with the industrial users to coordinate and implement the Industrial Pretreatment Program.

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

Prohibitive discharge standard means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403(5).

Properly shredded garbage means 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 one-half (½) inch in any dimension.

Publicly-owned treatment works (POTW) means used as a reference to any JSA treatment facility.

Public sewer means any sewer dedicated to public use and the use of which is controlled by the JSA.

Sanitary sewer means a sewer that carries domestic and/or industrial wastewater and to which stormwater, surface water and groundwater are not intentionally admitted.

Sanitary sewer permit means as set forth in Building Sewers and Connections (article IV of this chapter).

Sewer means a pipe or conduit that carries wastewater or drainage water.

Sewer lateral means the section of a pipe that connects a property owner's building sewer to the POTW's main sewer line.

Shall. Is mandatory (see *May*).

Significant industrial user (SIU).

- (1) Except as provided in 40 CFR 403.8(v)(2) and (3), the term "significant industrial user" means:
 - a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
 - b. Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of processed wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (2) The control authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

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- a. The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - b. The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
 - c. The industrial user never discharges any untreated concentrated wastewater.
- (3) Upon finding that an industrial user meeting the criteria in subsection (1)b of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug discharge or load means any pollutant (including biochemical oxygen demand, fats, oils, grease and suspended solids) released in a discharge at a flow rate or concentration which will cause interference or damage to the operation of JSA facilities.

Split sample means portion of a collected sample given to the industry or to another agency to verify or compare laboratory results.

Standard industrial classification (SIC) means a classification scheme based on the type of industry or process at a facility.

Standard methods means the examination and analytical procedures set forth in the recent editions of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation as specified at 40 CFR 136.

State means the Commonwealth of Kentucky.

Storm drain (sometimes termed storm sewer) means a pipe conduit for conveying stormwater or surface water but excludes any domestic or industrial wastewater.

Stormwater means water that enters inlets or drains connected to storm or combined sewers following wet weather events.

Surcharge means a charge for services in addition to the basic sewer usage for those users whose contributions contain biochemical oxygen demand (BOD), chemical oxygen demand (COD), total suspended solids (TSS), oil and grease or ammonia-nitrogen (NH₃-N) in concentrations which exceed limits specified herein for such pollutants. Where authorized by the control authority, payment of a surcharge will authorize the discharge of the referenced pollutants so long as the discharge does not cause pass through or interference.

Total suspended solids (TSS) means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids and that is removable by laboratory filtering in accordance with procedures described in "Standard Methods."

Tap-on fee means a connection fee charged to recover the costs of providing core facilities and appurtenances.

Time proportional composite sample means a combination of individual samples with fixed volumes taken at specific time intervals.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of EPA under the provisions of the Clean Water Act 307(a) or any amendments thereto.

Unregulated waste stream means a wastewater that is not regulated by national categorical pretreatment standards.

User means an owner or occupant, whether private, governmental or otherwise of a unit, building, premises or lot in the JSA service area who is responsible for payment of metered water charges or who contributes to the waste stream from sources other than those of public water.

Usage fees. Charges for service will commence upon issuance of a sanitary connection permit.

Waste hauler permit means a permit issued to septic tank collectors authorizing the disposal of septic tank or similar non-industrial waste pursuant to the provisions set forth herein.

Wastewater means the spent water of a community. Sanitary or domestic wastes means the liquid and water-carried wastes from residences, commercial buildings and institutions as distinct from industrial wastes.

Wastewater facilities means the structures, equipment, and processes required to collect, carry away, treat domestic and industrial wastes, and dispose of the effluent.

Wastewater treatment plant means an arrangement of devices and structures for treating wastewater.

Watercourse means a channel for the passage of water, either continuously or intermittently.

(Code 1997, § 114-32; Ord. No. 2008-1-7389, 1-22-2008; Ord. No. 2012-12-7999, § 1, 12-18-2012)

Sec. 114-33. Abbreviations.

The following abbreviations shall have the designated meanings:

ADMI	American Dye Manufacturers Institute
ASTM	American Society for Testing and Materials
BMP	Best Management Practices
BOD	Biochemical Oxygen Demand
BPJ	Best Professional Judgement
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
CBOD	Carbonaceous Biochemical Oxygen Demand
COD	Chemical Oxygen Demand
CWA	Clean Water Act (33 USC 1251 et seq.) or any amendments thereto
CWF	Combined Waste Stream Formula
EPA	United States Environmental Protection Agency
FWA	Flow Weighted Average
FR	Federal Register
gpd	Gallons per day
IU	Industrial User
L	Liter
mg	milligrams
mg/l	milligrams per liter
KDOW	Kentucky Division of Water
KPDES	Kentucky Pollutant Discharge Elimination System
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SNC	Significant Noncompliance

SIU	Significant Industrial User
SWDA	Solid Waste Disposal Act, 42 USC 6901 et seq., or any amendments thereto
TSS	Total Suspended Solids
TTO	Total Toxic Organics
USC	United States Code

(Code 1997, § 114-33; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-34—114-50. Reserved.

DIVISION 2. USE OF PUBLIC SEWERS

Sec. 114-51. Mandatory sewer connection.

- (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the boundaries of the JSA and abutting on any street, alley, or right-of-way in which there is located a public sewer of the JSA, is hereby required, at the owner's expense, to install suitable sanitary facilities therein, and to connect such facilities directly with the proper sewer in accordance with the provisions of this division.
- (b) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater where public sewer service is available, as defined in subsection (a) of this section, except as provided for in subsection (c) of this section.
- (c) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public system within twelve (12) months in compliance with this division. The JSA shall provide notice of the availability of public sewers by advertisement in the Paducah Sun. Said notice shall be published one (1) time only and within thirty (30) days after completion of the sewer project making public sewers available. The City and County building offices shall not issue a permit for new construction unless the landowner has complied with this provision.

(Code 1997, § 114-51; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-52. Mandatory sewer disconnection.

Wastewater service lines serving structures that have been demolished or otherwise destroyed shall be disconnected at or near the right-of-way or easement line and sealed as approved by a representative of the JSA to prevent water, debris, etc., from entering the system.

(Code 1997, § 114-52; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-53. Unlawful discharge to storm sewers or natural outlets.

- (a) It shall be unlawful for any person to place, deposit, or permit to be deposited, any sanitary wastewater in any unsanitary manner on public or private property within the boundaries of the JSA.
- (b) It shall be unlawful to discharge to any natural outlet or storm sewer within the boundaries of the JSA, any sanitary wastewater or other polluted waters, except where suitable treatment or management has been provided in accordance with subsequent provisions of this division. No provision of this division shall be

construed to relieve the owner of a discharge to any natural outlet of the responsibility for complying with applicable State and Federal regulations governing such discharge.

(Code 1997, § 114-53; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-54. Compliance with local, State, and Federal laws.

The discharge of any wastewater into the public sewer system by any person is unlawful, except in compliance with the provisions of this division, and any more stringent State or Federal standards promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, and subsequent amendments, and 40 CFR 403.

(Code 1997, § 114-54; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-55. Discharge of unpolluted waters into sewer.

- (a) No person shall discharge or cause to be discharged, through any leak, defect, or connection any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer, building sewer, building drain or building plumbing. The JSA shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections, leaks, or defects to building sewers and require disconnection or repair of any pipes carrying such water to the building sewer. No sanitary drain sum or sump pump discharge by manual switchover of discharge connection shall have a dual use for removal of such water.
- (b) The owners of any building sewers having such connections, leaks, or defects shall bear all costs to remove such sources.

(Code 1997, § 114-55; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-56. Prohibited discharges.

- (a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to Categorical Pretreatment Standards or any other Federal, State, or local pretreatment standards or requirements.
- (b) The user shall not contribute the following substances to the POTW:
 - (1) Any effluent having a temperature higher than one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius).
 - (2) Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
 - (3) 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 POTW or to the operation of the POTW. At no time shall the wastewater exhibit a closed cup flashpoint of less than sixty (60) degrees Celsius (one hundred forty (140) degrees Fahrenheit), or pollutants that cause in excess of ten (10) percent of the lower explosive limit (LEL), at any point within the POTW using test methods specified in 40 CFR 261.21.
 - (4) Any garbage which has not been properly shredded.

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- (5) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities (i.e., wood, glass, ashes, sand, cinders, unshredded garbage, paper products such as cups, dishes, napkins, milk containers, etc.).
 - (6) Any waters or wastes having a pH lower than six (6) units or higher than nine (9) units or having any corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the POTW.
 - (7) Any wastes or waters having an objectionable color that is not removable in the existing sewage treatment plant process.
 - (8) Any waters or wastes containing a toxic or poisonous substance or any other material in sufficient quantity to injure or interfere with any sewage treatment process or constitute a hazard to humans or animals or create any hazard in the receiving stream at the POTW treatment plant.
 - (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.
 - (10) Any substance which would cause the treatment plant to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under section 405 of the Federal Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the state.
 - (11) Any waters or wastes containing acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not.
 - (12) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations as to exceed limits which may be established by the POTW as necessary, after treatment of the composite sewage, to meet the requirements of the State or Federal government or their agencies or any entity with jurisdiction for such discharge to the receiving waters.
 - (13) Any slug load, including oxygen demanding pollutants (BOD, COD, etc.), released at a flow rate and/or concentration that will cause interference with the normal operation of the POTW.
 - (14) Any radioactive wastes.
 - (15) Any trucked or hauled pollutants except at discharge points designated by the JSA.
 - (16) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (17) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 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.
 - (18) Any waste or wastewater classified as a hazardous waste by the Resource Conservation and Recovery Act (RCRA) without, at least, a sixty (60)-day prior notification of such to the Executive Director or designee. This notification must include the name of the waste, EPA hazardous waste number, type of discharge, volume/mass of discharge and time of occurrence. The Executive Director or designee may deny or condition this discharge at any time.
 - (19) Any waste or wastewater containing floating fat, oils, or grease of animal or vegetable origin in amounts that will cause interference or pass through.

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- (20) Any wastewater or waste containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit (zero (0) degrees Celsius) and one hundred forty (140) degrees Fahrenheit (forty (40) degrees Celsius).

(Code 1997, § 114-56; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-57—114-70. Reserved.

DIVISION 3. PRIVATE WASTEWATER DISPOSAL

Sec. 114-71. Hauled waste permit.

Any person who transports septic tank, seepage pit or cesspool contents, or other batch liquid waste and wishes to discharge such waste to the public sewer system shall first have a valid Waste Hauler Permit. All applicants for a Waste Hauler Permit shall complete the application form, pay the appropriate fee, and receive a copy of the JSA's regulations governing discharge to sewers of liquid wastes from trucks. All persons receiving a Waste Hauler Permit shall agree, in writing, to abide by all applicable provisions of this division, and any other special provisions that may be established by the JSA as necessary for the proper operation and maintenance of the sewer system. All hauled waste must be discharged at the Paducah Treatment Plant unless prior, written approval is granted by the Executive Director.

(Code 1997, § 114-71; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-72. Manifest.

Any person holding a valid Waste Hauler Permit and wishing to discharge to the POTW treatment plant must submit a waste hauler manifest that identifies the type of waste and location where generated along with a signature of the generator. In addition, upon the request of the JSA, any person holding a valid Waste Hauler Permit and wishing to discharge to the POTW treatment plant must submit to the JSA a sample of each load prior to discharge.

(Code 1997, § 114-72; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-73. Restricted discharges.

- (a) It shall be illegal to discharge any batch liquid waste into any manhole or other part of the sewer system, or any building sewer or other facility that discharges to the sewer system.
- (b) Any waste hauler illegally discharging to the sewer system or discharging wastewater not authorized in the Waste Hauler Permit shall be subject to immediate revocation of discharge privileges.

(Code 1997, § 114-73; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-74. Fees for hauled waste.

Waste haulers shall pay fees for such discharge in accordance with a fee schedule established by the JSA, which may be amended from time to time by the JSA.

(Code 1997, § 114-74; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-75. Compliance with all other laws.

Nothing in this division shall relieve waste haulers of the responsibility for compliance with McCracken County Health Department, State, or Federal regulations.

(Code 1997, § 114-75; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-76. Approval of non-commercial domestic waste.

Non-commercial domestic waste (i.e., RVs, motor homes, etc.) shall be approved by the JSA on a case-by-case basis.

(Code 1997, § 114-76; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-77—114-100. Reserved.

DIVISION 4. BUILDING SEWERS AND CONNECTIONS

Sec. 114-101. Class of permits; requests.

There shall be two (2) classes of Sanitary Sewer Permits:

- (a) For service to residential establishments; and
- (b) For service to commercial and industrial establishments.

The person requesting permits shall be required to furnish information about all waste-producing activities and wastewater characteristics. The permit request shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Executive Director or designee. Sanitary Sewer Collection Fees shall be paid to the JSA at the time the permit is issued.

(Code 1997, § 114-101; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-102. Changes in volume or character of wastewater.

Users shall promptly notify the JSA in advance of any introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW. The Executive Director or designee may deny or condition the new introduction or change in discharge based on the information submitted in the notification or additional information as may be requested.

(Code 1997, § 114-102; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-103. Use of sewer or appurtenance without permit prohibited.

No person shall uncover, plug or make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without a Sanitary Sewer Permit.

(Code 1997, § 114-103; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-104. Capping and sealing of property service connections.

The JSA shall issue a disconnect permit for the demolition of a building only after the applicant signs a statement certifying that each sewer service connection to the property has been or shall be capped or plugged with a water seal at the easement or street right-of-way line prior to the completion of the demolition project.

(Code 1997, § 114-104; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-105. Prohibited connections.

- (a) No person shall make connections of roof downspouts, basement wall seepage or floor seepage, exterior foundation drains, areaway drains, yard 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 sanitary sewer. Any such connections which already exist on the effective date of the ordinance from which this division is derived shall be completely and permanently disconnected within sixty (60) days of the effective date of the ordinance from which this division is derived. The owner of any building sewers having such connections, leaks or defects shall bear all costs incidental to removal of such sources. Pipes, sumps, and pumps for such sources of groundwater and surface water shall be separate from wastewater facilities. Removal of such sources of water without presence of separate facilities shall be evidence of drainage to the public sanitary sewer system.
- (b) No person shall install or cause to be installed, any sewer service connection, building sewer or make any service connection to any public sewer without a plumbing permit secured from the State Plumbing Program Director, Kentucky Department for Natural Resources and Environmental Protection and the construction shall conform to the requirements of the Kentucky State Plumbing Law and Code, Rules and Regulations. The construction shall also conform to this division.

(Code 1997, § 114-105; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-106. Easement restrictions.

No party shall place permanent building structures on JSA easements. Any non-permanent building structure (i.e., fences, portable storage buildings, etc.) or vegetation (i.e., trees, shrubs, flower beds, etc.) placed on JSA easements are placed on said easement at the risk of the property owner. Any damage to such structures or vegetation due to sewer failure, sewer repair work, or other sewer-related problems are not the responsibility of the JSA. Replacement costs are the responsibility of the property owner.

(Code 1997, § 114-106; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-107. Design and installation.

- (a) A separate and independent building sewer shall be provided for every building, except where one (1) 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, courtyard, or driveway. In such case, the sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer, but the JSA does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- (b) Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the JSA, to meet all requirements of this division. If additional sewer customers are added to the old building sewers, additional sewer tap fees and capacity fees shall be charged accordingly

even though no new sewer tap is actually made into the JSA system. At no time shall a refund be payable as a result of a decrease in ERUs.

- (c) The building sewer shall be cast iron soil pipe, ASTM A-74, latest revision, PVC (polyvinyl-chloride) sewer pipe, ASTM D-3034, latest revision, or ductile iron pipe, AWWA specification C-151 cement lined, and shall meet requirements of State plumbing code. Joints shall be as set out hereinafter. Any part of the building sewer that is located within five (5) feet of a water service pipe shall be constructed with cast iron soil pipe or ductile iron pipe, unless the building sewer is at least one (1) foot deeper in the ground than the water service line. Cast iron soil pipe or ductile iron pipe may be required by the JSA where the building sewer is exposed to damage or stoppage by tree roots. Cast iron soil pipe or ductile iron pipe shall be used in filled or unstable ground, in areas where the cover over the building sewer is less than three (3) feet, or in areas where the sewer is subject to vehicular or other external loads.
- (d) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the local and State building and plumbing codes, the JSA's standard specifications and other applicable rules and regulations of the JSA.
- (e) All costs and expenses incidental to the installation and connection to the building sewer shall be borne by the owner. The owner shall indemnify the JSA for any loss or damage to JSA facilities that may directly or indirectly be occasioned by the installation of the building sewer. Repair costs shall be as established by the JSA.
- (f) The owner shall ensure that all excavations for building sewer installation are adequately guarded with barricades and lights 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 satisfactory to the JSA and all owners of such public property.
- (g) In a building where the sewer main crown is less than three and five-tenths (3.5) feet below the basement floor, wastewater shall be lifted by means of a sewage pump.
- (h) A neat, workmanlike connection, not extending past the inner surface of the public sewer, shall be made. A wye and six (6) inch clean-out fitting shall be installed at the property line between the public sewer and the building sewer.
- (i) All building sewer lines will be installed so as to meet or exceed the most current revision of the State Plumbing Code.
- (j) The owner of the premises served by a sewer shall be responsible for all maintenance, operation, cleaning of the building sewer from the building to the point of connection with the public main line sewer. Repairs and reconstruction of the building sewer from the building to a public roadway shall be the responsibility of the owner. If the building sewer is damaged under publicly-owned improved surfaces, the JSA will be responsible for repair.

(Code 1997, § 114-107; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-108. Inspection.

- (a) All holders of a Sanitary Sewer Permit shall notify the JSA when the activity described is completed. The construction shall be inspected by JSA personnel prior to placing backfill material. The connection shall be made gastight and watertight and verified by proper testing.
- (b) All building sewers shall be smoke tested, at JSA discretion, through the wye branch at the public sewer connection, with the public sewer tightly plugged off, after connections at both ends are made and after all pipe is properly bedded and backfilled at least to the top of the pipe and if backfill is completed, within two

(2) weeks after completion of backfill. At the time of testing, any openings into the building drain inside the building shall be water trapped or plugged. Any leakage of a smoke from building sewer or building drain and plumbing shall be located at the test and repaired to stand repetition of smoke test without leakage. When smoke testing is completed, the temporary flow line plug shall be removed and a permanent, watertight plug shall be placed in the branch of a test wye-branch and carefully backfilled by hand and tamped to at least six (6) inches above the top of the branch. This test would be in addition to any testing performed by the applicable plumbing inspector.

(Code 1997, § 114-108; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-109. Grease, oil, and sand interceptors, restaurants and other commercial users.

- (a) All restaurants, food service establishments and other commercial oil and grease generators shall provide grease and/or oil interceptor when, in the opinion of the Executive Director or designee, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptor shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the JSA and shall be located as to be readily and easily accessible for cleaning and inspection. Interceptors shall be cleaned and maintained at regular intervals to ensure proper operation. In the maintaining of these interceptors the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records signed by the owner and the wastehauler with the dates and means of disposal in accordance with pumping schedules established by the JSA Pretreatment Coordinator.
- (b) New restaurant construction and major renovations containing plumbing revisions shall submit a detailed drawing of the grease interceptor and complete a grease interceptor application/questionnaire. Said application shall be available from the JSA upon request.
- (c) The City and County building inspection offices shall not issue a permit unless the restaurant/land owner has complied with this provision.

(Code 1997, § 114-109; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-110. Destruction of Publicly Owned Treatment Works (POTW).

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the POTW.

(Code 1997, § 114-110; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-111. Plumbing permit required and connection of drains.

- (a) No person shall install or cause to be installed any sewer service connection, building sewer or make any service connection to any public sewer within the JSA district without a JSA permit and a plumbing permit secured from the State Plumbing Program Director, Kentucky Department for Natural Resources and Environmental Protection. The construction shall conform to the requirements of the Kentucky State Plumbing Law and Code, Rules and Regulations as well as the requirements specified herein.
- (b) No person or public corporation shall make direct connection of roof downspouts, exterior or interior foundation drains, area drains, yard drains, or other sources of surface runoff or groundwater directly to a sanitary sewer.

(Code 1997, § 114-111; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-112—114-130. Reserved.

DIVISION 5. DISCHARGE LIMITS

Sec. 114-131. General conditions.

- (a) *Generally.* The following described substances, materials, waters or wastes shall be limited in discharges to the JSA sewer system to concentration or quantities which: will not harm either the sewers, wastewater treatment process or equipment; will maintain and protect water quality in the receiving stream; and will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Executive Director or designee may set additional limitations or limitations more stringent than those established in the provisions below if in the Executive Director's or designee's opinion more severe limitations are necessary to meet the above objectives. In forming an opinion as to the acceptability of a discharge, the Executive Director or designee shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors.
- (b) *Restricted discharges.*
- (1) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, motels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
 - (2) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants which: injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, cause the JSA to violate the terms of its KPDES permit, prevent the use of acceptable sludge disposal methods, or exceed a limitation set forth in a categorical pretreatment standard.
 - (3) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the JSA in compliance with applicable State or Federal regulations.
 - (4) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release noxious gases, form suspended solids that interfere with the collection system, or create a condition deleterious to structures and treatment processes.
 - (5) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed to the extent required by the JSA's KPDES permit.
 - (6) Wastes or waters classified as a hazardous waste by the Resource Conservation and Recovery Act (RCRA) without a minimum sixty (60) day prior written notification of such discharge to the Executive Director. Such written notification must include the name of the hazardous waste, the EPA hazardous waste number, type of discharge, volume/mass of discharge and time of occurrence. The Executive Director or designee may prohibit or condition the discharge at any time.
 - (7) Wastewater identified as causing, along or in conjunction with other sources, the POTW treatment plant effluent to fail a toxicity test.
 - (8) Any portion of human or animal anatomy.
 - (9) Any wastes containing detergents, surface active agents, or other substances which will cause excessive foaming in the JSA's sewer system.

- (10) Any water or wastes which have characteristics based on a twenty-four (24) hour composite sample, grab or a shorter period composite sample, if more representative, that exceed the following normal maximum domestic wastewater parameter concentrations:

Parameter	Maximum Allowable Concentration Without Surcharges
BOD	300 ppm
TSS	350 ppm
NH ₃ -N	25 ppm
Oil and grease (total)	100 ppm

Any person discharging wastewater exceeding the maximum allowable concentration as noted above will be subject to a surcharge fee for each pound of loading over and above the set limit. Any other amenable constituents requiring the addition of specific chemicals for proper treatment will also be subject to surcharge as noted on the Discharge Permit. Exceeding the effluent limits specified above shall not be deemed to constitute a violation of a permit condition or this article if the appropriate surcharge fee is paid and the discharge does not cause interference or pass through of the POTW.

- (11) The following limitations are established for characteristics of any wastewaters to be discharged into the JSA's sewer system. All Significant Industrial Users must comply with these limitations where they are more stringent than applicable State and/or Federal regulations.

Parameter	Maximum Daily Concentration
Arsenic	0.30 ppm
Cadmium	0.08 ppm
Chloride	10,000 ppm
Chromium, Total	0.70 ppm
Chromium, Hexavalent	0.39 ppm
Copper	1.06 ppm
Cyanide	0.39 ppm
Lead	0.14 ppm
Mercury	0.02 ppm
Nickel	1.90 ppm
pH	6—9 units
Selenium	0.10 ppm
Silver	0.53 ppm
Tetrachloroethylene	0.27 ppm
Zinc	1.70 ppm

(Code 1997, § 114-131; Ord. No. 2008-1-7389, 1-22-2008; Ord. No. 2012-12-7999, § 2, 12-18-2012)

Sec. 114-132. Enforcement of Federal and State requirements.

The JSA has received authority through the EPA and State statutes to enforce the requirements of 40 CFR subchapter N, and 40 CFR 403, and 35. Accordingly, in addition to the requirements set forth above, all users shall comply with the requirements of those regulations.

(Code 1997, § 114-132; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-133. Dilution of wastewater discharge.

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 the limitations contained in the categorical pretreatment standards, or in any pollutant specific limitation developed by the JSA or the State.

(Code 1997, § 114-133; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-134. Protection from accidental and slug discharges.

- (a) Each significant industrial user shall provide protection from accidental and/or slug discharges of prohibited materials or other substances regulated by this division. Facilities to prevent accidental and/or slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. At any time, the JSA may require each industrial user to develop or update a plan to control slug discharges. If the JSA determines that a slug control plan or revision is necessary, the plan shall contain the following:
 - (1) Description of discharge practices.
 - (2) Description of stored chemicals.
 - (3) Procedures for notifying the POTW.
 - (4) Prevention procedures for spills.
- (b) In the case of all actual accidental and/or slug discharges, the user shall immediately telephone to notify the JSA of the incident. In any event, said telephone notification shall be followed by a written confirmation no later than two (2) hours after the accidental and/or slug discharge. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
- (c) Within five (5) days following an accidental and/or slug discharge, the user shall submit to the Executive Director or designee a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability applicable under this division or other applicable law.
- (d) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer from such a dangerous discharge are advised of the emergency notification procedure.

(Code 1997, § 114-134; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-135. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this division.

(Code 1997, § 114-135; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-136. JSA's right of revision.

The JSA reserves the right to establish more stringent limitations, or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in this division.

(Code 1997, § 114-136; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-137. Categorical pretreatment standards.

Upon the promulgation of categorical pretreatment standards for a particular industrial subcategory, the standard, if more stringent than limitations imposed under this division for sources in that subcategory, shall immediately and automatically supersede the limitations imposed under this division.

(Code 1997, § 114-137; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-138—114-160. Reserved.*DIVISION 6. RETREATMENT PROGRAM ADMINISTRATION***Sec. 114-161. Wastewater discharges.**

It shall be unlawful to discharge to the POTW any wastewater except as authorized by the JSA in accordance with the provisions of this division. Any person outside the jurisdiction of the JSA that desires to contribute wastewater to the POTW must execute (through an authorized representative) an agreement, whereby the person agrees to be regulated by all provisions of this division and State and Federal regulations. A Discharge Permit may then be issued by the JSA in accordance with the regulations of this division.

(Code 1997, § 114-161; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-162. Discharge permits.

- (a) All industrial users proposing to connect to or contribute to the POTW or who are now contributing other than ordinary sewage or waste into the POTW shall obtain a Discharge Permit before connecting to or contributing to the POTW.
- (b) Users required to obtain a Discharge Permit shall complete and file with the JSA an application in the form prescribed by the JSA, accompanied by a permit fee. New users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. Existing permit holders shall apply no later than sixty (60) days prior to expiration of the permit. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
 - (1) Name, address, and discharge location if different from the address;

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- (2) SIC number according to the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972, as amended;
 - (3) Wastewater constituents and characteristics as determined by an analytical laboratory acceptable to the JSA; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended;
 - (4) Time and duration of contribution;
 - (5) Average daily and thirty (30) minutes' peak wastewater flow rates, including daily, monthly and seasonal variations if any;
 - (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
 - (7) Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged;
 - (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by the JSA, State or categorical pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional pretreatment is required for the user to meet applicable categorical pretreatment standards;
 - (9) If additional pretreatment will be required to meet the categorical pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable categorical pretreatment standards. The following conditions shall apply to this schedule:
 - a. The schedule must be acceptable to the JSA;
 - b. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable categorical pretreatment standards; and
 - c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Executive Director or designee including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress and the reason for delay, and the steps being taken by the user to return the construction to the schedule established.
 - (10) Each product produced by type, amount, or process and the rate of production;
 - (11) Type and amount of raw materials processed (average and maximum per day);
 - (12) Number of employees, hours of operation of the plant and proposed or actual hours of operation of the pretreatment system;
 - (13) Any other information as may be deemed by the JSA to be necessary to evaluate the permit application;
 - (14) A copy of the industry's written environmental control program, comparable document, or policy.
- (c) The JSA shall evaluate the application and may require additional information prior to the issuance of the Industrial Discharge Permit. After evaluation and acceptance of the application, the JSA may issue an Industrial Discharge Permit or a General Discharge Permit subject to the terms and conditions provided herein. If the application is rejected, the person will be notified of the rejection and the reason therefor.

(Code 1997, § 114-162; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-163. Permit modifications.

Within nine (9) months of the promulgation of a categorical pretreatment standard, the Discharge Permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to the categorical pretreatment standards, has not previously submitted an application for a Discharge Permit as required, the user shall apply for a Discharge Permit within ninety (90) days after the promulgation of the applicable categorical pretreatment standard. In addition, the user with an existing Discharge Permit shall submit, to the Executive Director or designee within ninety (90) days after the promulgation of an applicable categorical pretreatment standard, the information required by this division.

(Code 1997, § 114-163; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-164. Permit conditions.

Discharge Permits shall be expressly subject to all provisions of this division and all other applicable regulations, user charges and fees established by the JSA. Discharge Permits may contain the following:

- (1) The unit surcharges or schedule of other charges and fees for the wastewater to be discharged to a public sewer;
- (2) Limits on the average and/or maximum wastewater constituents and characteristics;
- (3) Limits on average and/or 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 schedules;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;
- (8) Requirements for maintaining and retaining, for a minimum of three (3) years, all records relating to pretreatment and/or wastewater discharge as specified by the JSA, and affording the JSA access thereto as required by 40 CFR 403.12(o)(2);
- (9) Requirements for notification of the JSA 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;
- (11) A requirement that the user reimburse the JSA for all expenses related to monitoring, sampling and testing performed at the direction of the Executive Director or designee and deemed necessary by the JSA to verify that the user is in compliance with the said permit; or
- (12) Other conditions as deemed appropriate by the JSA to ensure compliance with this division.

(Code 1997, § 114-164; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-165. Alternative discharge limits.

- (a) Where an effluent from a categorical industrial process is mixed prior to treatment with wastewater other than that generated by the regulated process, the Executive Director or designee may derive fixed alternative discharge limits for the Discharge Permit. These alternative limits shall be applied to the mixed effluent and shall be calculated using the combined waste stream formula and/or flow-weighted average formula as defined in article I of this chapter.
- (b) Where the effluent limits in a categorical pretreatment standard are expressed only in terms of mass of pollutants per unit of production (production-based standard), the Executive Director or designee may convert the limits to equivalent limitations expressed either as mass of pollutants discharged per day or of effluent concentration for purposes of calculating effluent permit limitations applicable to the permittee. The permittee shall be subject to all permit limits calculated in this manner under 40 CFR 403.6(c) and must fully comply with these alternative limits.
- (c) All Significant Industrial Users subject to production-based standards must report production rates annually so that alternative permit limits can be calculated if necessary. The Significant Industrial User must notify the Executive Director or designee thirty (30) days in advance of any major change in production levels that will affect the limits in the Discharge Permit.

(Code 1997, § 114-165; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-166. Permit duration.

Discharge Permits shall be issued for a specified time period, not to exceed three (3) years. A Discharge Permit may be issued for a period less than one (1) year or may be stated to expire on a specific date. The user shall apply for permit re-issuance a minimum of one hundred twenty (120) 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 JSA during the term of the permit as limitations or requirements as identified in article V of this chapter are modified or other just cause exists. The user shall be informed of any proposed changes in the 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.

(Code 1997, § 114-166; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-167. Permit transfer.

Discharge Permits are issued to a specific user for a specific operation. A Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without a thirty (30) day prior notification to the Executive Director or designee. A copy of the existing permit must be provided to the new owner. The Executive Director or designee may deny the transfer of the permit if it is deemed necessary.

(Code 1997, § 114-167; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-168. Compliance data reporting.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the POTW, any user subject to categorical pretreatment standards shall submit to the Executive Director or designee, a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which

are limited by categorical pretreatment standards and the average and maximum daily flow for these process units in the user's facility which are limited by such categorical pretreatment standards. The report shall state whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, what additional pretreatment and time schedule is necessary to bring the user into compliance with the applicable categorical pretreatment standards. This statement shall be signed by an authorized representative of the user.

(Code 1997, § 114-168; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-169. Periodic compliance reports.

- (a) All Significant Industrial Users shall submit, to the Executive Director or designee, on dates specified in the discharge permit (unless required more frequently), a report indicating, at a minimum, the nature and concentration of pollutants in the effluent which are limited by categorical pretreatment standards or the Discharge Permit. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow. At the discretion of the Executive Director or designee and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Executive Director or designee may agree to alter the months during which the above reports are to be submitted.
- (b) All analyses shall be performed by a laboratory acceptable to the JSA. Analytical procedures shall be in accordance with procedures established by the U.S. EPA Administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto and 40 CFR 261 or with any other test procedures approved by the U.S. EPA Administrator. Sampling shall be performed in accordance with the techniques approved by the U.S. EPA Administrator.
- (c) Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the U.S. EPA Administrator.
- (d) A Baseline Monitoring Report (BMR) must be submitted to the Executive Director or designee by all Significant Industrial Users at least ninety (90) days prior to initiation of discharge to the sanitary sewer. The BMR must contain, at a minimum, the following:
 - (1) Production data: process description, SIC code number, raw materials used, chemicals used, final product, pretreatment industrial category (if applicable), and a schematic which indicates points of discharge to the sewer system;
 - (2) Identifying information to include the name, address of facility, owner, contact person and any other permits held by the facility;
 - (3) Wastewater characteristics: total plant flow, types of discharges, average and maximum flows from each process;
 - (4) Nature/concentration of pollutants: analytical results for all pollutants regulated by this division and/or any applicable categorical pretreatment standards and sample type and location. All analyses must conform with 40 CFR 136 and amendments thereto; and
 - (5) Information concerning any pretreatment equipment used to treat the facility's discharge.
- (e) New sources shall give estimates of the information requested in subsections (d)(3) and (4) of this section, but at no time shall a new source commence discharges to the public sewer of substances that do not meet the provisions of this division. All new sources must be in compliance with all provisions of this division, and state and categorical pretreatment standards prior to commencement of discharge to the public sewer.

(Code 1997, § 114-169; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-170. Permit violations.

- (a) All Significant Industrial Users must notify the Executive Director or designee within twenty-four (24) hours of first becoming aware of a permit violation. This notification shall include the date of violation, the parameter violated and the amount by which the parameter was exceeded.
- (b) The user shall immediately repeat the sampling and analysis of the parameters in question and submit the results to the Executive Director or designee within thirty (30) days after becoming aware of the violation. An exception to this regulation applies only if the JSA performs the sampling within the same time period for the same parameters in question.

(Code 1997, § 114-170; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-171. Monitoring.

- (a) The JSA shall require Significant Industrial Users to provide and operate, at the user's own expense, monitoring facilities and equipment necessary to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage system. The monitoring facility should normally be situated on the user's premises, but the JSA may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public right-of-way. The Executive Director or designee shall review and approve the location, plans, and specifications for such monitoring facilities and may require them to be constructed to provide for the separate monitoring and sampling of industrial waste and sanitary sewage flows.
 - (1) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility shall be designed and maintained in a manner such that the safety of JSA and user personnel shall be the foremost concern. The facility, sampling, and measuring equipment shall be maintained at all times in a proper operating condition at the expense of the user.
 - (2) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the JSA's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following approval of the location, plans and specifications.
- (b) Any sampling analysis done in accordance with approved Federal EPA procedures by the industrial user during a reporting period shall be submitted to the Executive Director or designee regardless of whether or not that analysis was required by the industrial user's Discharge Permit.
- (c) The industrial user must receive the approval of the Executive Director before changing the sampling point and/or monitoring facilities to be used in all required sampling.

(Code 1997, § 114-171; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-172. Pretreatment.

All Significant Industrial Users shall provide necessary wastewater treatment as required to comply with this division and achieve compliance with any applicable categorical pretreatment standards within the time limitations as specified by the categorical pretreatment standards. The JSA may require the development of a compliance schedule for installation of pretreatment technology and/or equipment by any Significant Industrial User that

cannot meet discharge limits required by this division. Any facilities required to pretreat wastewater to a level required by this division shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the JSA for review, and shall be acceptable to the JSA before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent that complies with the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported and acceptable to the JSA prior to the user's initiation of the changes.

(Code 1997, § 114-172; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 14-173. Annual publication.

- (a) The JSA shall annually publish in its jurisdiction's largest daily newspaper a list of Significant Industrial Users, which were in significant noncompliance with any categorical pretreatment standards. The notification shall also summarize any enforcement actions taken against the user during the same twelve (12) months.
- (b) All records relating to the JSA's pretreatment program shall be made available to officials of the EPA or Control Authority upon request. All records shall be maintained for a minimum of three (3) years in accordance with 40 CFR 403.12(o)(2).

(Code 1997, § 114-173; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-174. Significant noncompliance.

A user is defined as being in significant noncompliance when the user commits one (1) or more of the following conditions:

- (1) Causes imminent endangerment to human health or the environment or results in the exercise of emergency authority;
- (2) In accordance with 40 CFR 403.8(f)(2)(viii), a Significant Industrial User (or any Industrial User which violates subsections (2)c, d, or h of this section) is in significant noncompliance if its violation meets one (1) or more of the following criteria:
 - a. Chronic violations of wastewater Discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
 - b. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l), multiplied by the applicable TRC (TRC = one and four-tenths (1.4) for BOD, TSS, fats, oil, and grease and one and two-tenths (1.2) for all other pollutants except pH);
 - c. Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

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- e. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - f. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90)-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - g. Failure to accurately report noncompliance;
 - h. Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1997, § 114-174; Ord. No. 2008-1-7389, 1-22-2008; Ord. No. 2012-12-7999, § 3, 12-18-2012)

Sec. 114-175. Confidential information.

- (a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections may be subject to disclosure and available to the public or other governmental agencies in accordance with the Kentucky Open Records Act located at KRS 61.870 et seq. unless the user requests that any such information, at the time it is provided to the JSA, be kept confidential and is able to demonstrate at the time of the request, to the satisfaction of the JSA, that the release of such information is not subject to disclosure pursuant to the Kentucky Open Records Act. Any amendment to KRS 61.870 will serve as an amendment to this division to the extent this policy is inconsistent with the Kentucky Open Records Act.
- (b) Any and all information provided by a person furnishing a report required by this division, the portions of a report which might disclose trade secrets or secret processes, even if not required to be disclosed pursuant to the Kentucky Open Records Act, shall be made available to all governmental agencies for uses related to this division, the KPDES Permit, Sludge Disposal System Permit and/or the Pretreatment Programs upon request. Such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information and shall be available to the public without restriction.

(Code 1997, § 114-175; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-176. Signatory requirements.

All applications, reports or information submitted to the JSA shall be signed and certified.

- (1) All permit applications shall be signed:
 - a. For a corporation or limited liability company; by a principal executive officer of at least the level of vice-president;
 - b. For a partnership or sole proprietorship; by a general partner or the proprietor, respectively.
- (2) All other correspondence, reports and self-monitoring reports shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above;

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- b. The authorization specifies either an individual or a position of responsibility having facility or activity, such as the position of plant manager, superintendent or position of equivalent responsibility.
- (3) Certification. Any person signing a document under this section shall make the following certification:
- "I certify under penalty of law that I am familiar with the information contained in this report and its attachments and that to the best of my knowledge and belief such information is true, complete and accurate."

(Code 1997, § 114-176; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-177. Industrial private sewage disposal.

- (a) Where a public sanitary sewer is not available to a premises, the building sewer shall be connected to an individual private sewage disposal system complying with the requirements of the appropriate public authority.
- (b) The owner shall, at the owner's own expense, operate and maintain the individual private sewage disposal facility to the satisfaction of the appropriate public authority.
- (c) It shall be unlawful for any individual private residential sewage disposal facility to be connected to the JSA sanitary sewer system without written approval and securing proper permits and payment of required connection fees.
- (d) All entities who enter the JSA system whether voluntarily, involuntarily or by mandate from others are subject to fees and charges applicable at the time.
- (e) Rules and regulations regarding private sewage disposal systems is the responsibility of sewer boards of health and their appearance here is for information only.

(Code 1997, § 114-177; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-178—114-190. Reserved.

DIVISION 7. FEES

Sec. 114-191. Purpose.

This division provides for the recovery of costs from users of the POTW for the matters covered by this division. The applicable charges or fees shall be set forth in the JSA's Schedule of Rates and Charges, as amended from time to time by the JSA.

(Code 1997, § 114-191; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-192. Sewer service charges.

- (a) The sewer service charge for normal strength sewage is based on the water discharged to the sewer system as measured by the public water supply meter. The basic sewer service charge shall be determined upon the metered flow and at rates as provided by the JSA's fee schedule approved by resolution of the Board of Directors.

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- (b) Tap-On Fees and Capacity Fees will be charged per Equivalent Residential Unit (ERU) according to the Schedule of Rates and Charges. Replacement service Tap-On Fees and Capacity Fees will be calculated on the difference in ERU's between the prior and upgraded development. At no time shall a refund be payable as a result of a decrease in ERU's.
 - (c) A lateral connection fee will be charged for a new service that requires the construction of a lateral connection from the sewer main to the right-of-way line or easement line where none exists or where a relocation is required by the JSA. The fee recovers construction expenses from the benefiting property owner.
 - (d) Wells or sources of water supply other than municipal water supplies shall be registered in writing to the Executive Director, giving the name of individuals or firm, address, source and amount of water supply other than that from the public water supplies, together with a sketch to a scale showing the plan of the property, water distribution system, sewer layout and existing meters. All sources of water that enter the sewer system shall be properly metered and subject to the sewer service charge.
 - (e) Any customer who is found to be connected to the sewer system but has not been billed shall be billed back one (1) year from time the connection is discovered.

(Code 1997, § 114-192; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-193. Payment for services.

- (a) The sewer service charges are billed and collected by the JSA and for the JSA by its assigned billing and collection agents (Paducah Water and Hendron Water District).
- (b) Bills not paid by the payment due date will be considered delinquent. A penalty, according to the policies of JSA's assigned agents (Paducah Water and Hendron Water District), shall be added to those not paid by the payment due date.
- (c) Failure of any user to pay for services rendered shall subject the said user to the water shutoff policies of JSA's assigned agents (Paducah Water and Hendron Water District).
- (d) The JSA shall suspend wastewater treatment service to the user for failure to pay for services when required by the Executive Director. Reconnection of sewer service shall be charged according to the rate schedule for lateral connection fees.

(Code 1997, § 114-193; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-194. Pretreatment and other charges and fees.

The JSA may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up and operating the JSA's pretreatment program;
- (2) Fees for monitoring, inspections, and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for inspection of pretreatment and/or monitoring devices;
- (5) Fees for pretreatment and wastewater permit applications;
- (6) Fees for filing appeals;
- (7) Fees for consistent removal by the POTW of excessive strength conventional pollutants; and

(8) Other fees as the JSA may deem necessary to carry out the requirements contained herein.
(Code 1997, § 114-194; Ord. No. 2008-1-7389, 1-22-2008)

Secs. 114-195—114-220. Reserved.

DIVISION 8. ENFORCEMENT AND PENALTIES

Sec. 114-221. Right to enter premises.

The Executive Director and other duly promulgated employees and representatives of the JSA and authorized representatives of applicable Federal and State regulatory agencies bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent to discharges to the public sewer system in accordance with the provisions of this division.

(Code 1997, § 114-221; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-222. Right to obtain information regarding discharge.

The Executive Director and other duly authorized employees of the JSA and authorized representatives of applicable Federal and State regulatory agencies bearing proper credentials and identification are authorized to obtain information including, but not limited to, copies of records concerning character, strength and quantity of industrial wastes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(Code 1997, § 114-222; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-223. Access to easements.

Duly authorized employees and representatives of the JSA bearing proper credentials and identification shall be permitted to enter all private properties through which the JSA holds a duly negotiated easement for the purpose of, but not limited to, construction, inspection, observation, measurement, sampling, repair, and maintenance of any portions of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1997, § 114-223; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-224. Authority to serve notice of violations.

Duly authorized employees and representatives of the JSA bearing proper credentials and identification shall have the authority to serve notices of violations of this division. The Executive Director shall be responsible for the enforcement of and shall have authority to issue orders and impose penalties as authorized therein, assess and require payment for consequential damages, to establish limits for the discharge of toxic or objectionable substances and shall have any other powers or authority necessary and proper for the enforcement and the achievement of the goals of this division.

(Code 1997, § 114-224; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-225. Enforcement.

- (a) The JSA, through the Executive Director or designee, to ensure compliance with this division, and as permitted through 40 CFR subchapter N, and 401 KAR 5:055, may take the following enforcement steps against users in noncompliance with the division. The remedies available to the JSA include injunctive relief, civil and criminal penalties, immediate discontinuance of wastewater treatment service, and the publishing of the list of significant violators annually.
- (b) The JSA may suspend wastewater treatment service and/or a Discharge Permit when such suspension is necessary, in the opinion of the Executive Director or designee, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the JSA to violate any condition of its KPDES permit.
- (c) Any user notified of a suspension of the wastewater treatment service and/or the Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the JSA shall take such steps as deemed necessary including immediate severance of the sewer connection to prevent or minimize damage to the POTW system or endangerment to any individuals. The JSA shall reinstate the Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Executive Director or designee within fifteen (15) days of the date of occurrence.

(Code 1997, § 114-225; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-226. Notice of Violation (NOV).

Any user found to be violating any provisions of this division, any permit, or any order issued hereunder, shall be served by the JSA with written notice stating the nature of the violation. The NOV requires the user to evaluate and explain the cause of the violation, states actions to be taken to achieve compliance, and required steps to be taken to ensure the violation will not reoccur. The NOV requires the user to return to compliance and may state conditions or requirements for achieving compliance. The NOV may also state deadlines for a response demonstrating compliance has been achieved. Within ten (10) days of the receipt date 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 to the Executive Director or designee. Submission of this plan in no way relieves the user of potential liability for any violation occurring before or after receipt of the NOV.

(Code 1997, § 114-226; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-227. Show cause hearing.

- (a) The Executive Director or designee may issue to any user who causes or contributes to violations of this division, any permit or any order issued hereunder, an order to appear and show cause why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the hearing, the proposed enforcement action, the reasons for such proposed action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of the user. Whether or not a duly notified user or its representative appears, immediate enforcement action may be pursued.
- (b) The JSA may, itself, conduct the hearing and take the evidence, or designate a representative to:

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- (1) Issue, in the name of the JSA, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - (2) Take the evidence; and
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the JSA for action thereon. At any hearing held pursuant to this division, testimony taken must be under oath and recorded by a stenographer. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- (c) After the JSA has reviewed the evidence, it may issue an order as set forth in section 114-228. Further orders and directives as are necessary and appropriate may be issued.

(Code 1997, § 114-227; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-228. Administrative orders.

An administrative order may take any of the following three (3) forms:

- (1) *Consent orders.* A negotiated settlement between the JSA and a user found to be in noncompliance with this division. The consent order differs from the other forms of administrative orders in that the signatures of both the JSA and user representative are required. The consent order may also contain a compliance schedule (General Reporting Requirement, Compliance Schedule) for meeting progress milestone dates and possibly fines or remedial actions.
- (2) *Show cause orders.* An order to direct the user to appear before the JSA, explain its noncompliance, and show cause why more severe enforcement actions against the user should not be taken. Show cause orders may be used in circumstances where previous enforcement actions have failed to resolve the noncompliance. This could lead to further enforcement actions.
- (3) *Cease and desist orders.* When the Executive Director finds that a user has violated or continues to violate this division or any permit or order issued hereunder, the Executive Director or designee may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - a. Comply forthwith; or
 - b. Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(Code 1997, § 114-228; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-229. Emergency suspension.

- (a) Notwithstanding the foregoing, the JSA may suspend wastewater treatment service and/or any permit immediately whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing any of the following conditions:
 - (1) An imminent or substantial endangerment to the health or welfare of persons or the environment;
 - (2) An interference or pass through; or
 - (3) A violation of any condition of the JSA's KPDES permit.
- (b) Any user notified of a suspension of wastewater treatment service and/or any permit shall immediately stop or eliminate its contribution. A hearing will be held within fifteen (15) days of the notice of suspension to

determine whether the suspension may be lifted or the user's permit terminated. In the event of a failure of the user to comply voluntarily with the suspension order, the JSA shall take such steps as deemed necessary, including immediate severance of the sewer's connection, to prevent or minimize damage to the sewer system or endangerment to any individuals. The JSA shall reinstate the wastewater treatment service and permit upon proof of the elimination of the noncompliance.

- (c) Prior to the hearing described in subsection (b) of this section, the user shall submit, to the Executive Director or designee, a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

(Code 1997, § 114-229; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-230. Judicial remedies.

If any person discharges sewage, industrial wastes or other wastes into the JSA's sewer system contrary to the provisions of this division or any order or permit issued hereunder, the JSA may commence an action for appropriate legal and/or equitable relief in the appropriate court of this jurisdiction.

(Code 1997, § 114-230; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-231. Injunctive relief.

If any person discharges any waste or wastewater into the JSA's sewer system contrary to the provisions of this division or any order or permit issued hereunder, the JSA may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user.

(Code 1997, § 114-231; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-232. Revocation of permit.

In addition to any other provision contained herein, any user who violates the following conditions of this division, or applicable State or Federal regulations, is subject to having the user's permit revoked in accordance with the procedures of this division. Violations include, but are not limited to, the following:

- (1) Failure of the user to factually report the wastewater constituents and characteristics of the user's discharge;
- (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of any permit.

(Code 1997, § 114-232; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-233. Penalties.

- (a) Any person who violates any provision of this division or any permit condition or who violates any cease and desist order, prohibition, effluent limitation, or pretreatment or toxicity standard, may be liable for a court-ordered civil penalty not to exceed \$1,000.00 per violation. Each day in which a violation occurs shall

constitute a separate offense. In addition to the fine imposed pursuant to this section, the JSA may recover its attorney fees, related court costs, and other expenses associated with the enforcement action.

- (b) Any such penalty imposed shall not be construed as liquidated damages and shall accrue in addition to any liability for any consequential damages resulting from the violation for which the penalty is imposed.

(Code 1997, § 114-233; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-234. Judicial enforcement remedies.

The judicial process may be implemented by JSA to secure court-ordered action to correct violations and to secure penalties for violators. Judicial administrative remedies may be sought:

- (1) When notices of violation or administrative orders have proven ineffective in returning the violating user to compliance;
- (2) When emergency situations require injunctive relief to halt or prevent discharges which threaten human health or the environment or interfere with the treatment system; or
- (3) To impose civil penalties and recover losses incurred due to noncompliance.

The Executive Director shall have the discretion to pursue any and all judicial remedies.

(Code 1997, § 114-234; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-235. Injunctive relief.

The JSA, through counsel, may petition for a court order of injunction to restrain or compel the activity of a noncompliant user. Injunctive relief can be used where an administrative order does not achieve compliance, or where immediate action is required to prevent a danger to human health, the treatment works or the environment. Injunctions can be temporary in nature, permanent or both.

(Code 1997, § 114-235; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-236. Cost recovery.

The judicial process can be used by the JSA to recover the cost associated with noncompliant acts of a user. These costs may be due to actual physical damage to the treatment works or collection system, personal injury to JSA personnel, damage to the environment, or other related costs such as increased testing/monitoring.

(Code 1997, § 114-236; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-237. Termination of wastewater treatment service.

The Executive Director may, upon written findings, revoke any wastewater discharge permit or terminate or cause to be terminated wastewater treatment system service to any premises if a violation of any provision of this division is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this division. This provision is in addition to other statutes, rules, or regulations authorizing termination of service for delinquency in payment.

(Code 1997, § 114-237; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-238. Falsifying information or data.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater treatment discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this division, shall be guilty of a Class A misdemeanor punishable by a fine not to exceed \$500.00, or by imprisonment for a period not to exceed twelve (12) months, or by both. Each day a violation continues shall constitute a separate offense.

(Code 1997, § 114-238; Ord. No. 2008-1-7389, 1-22-2008)

Sec. 114-239. Violations.

Any person who willfully or negligently violates any provision of this division or any orders or permits issued hereunder shall be guilty of a Class A misdemeanor, punishable by a fine not to exceed \$500.00 per violation per day, or by imprisonment for a period not to exceed twelve (12) months or by both. Each day a violation continues shall constitute a separate offense.

(Code 1997, § 114-239; Ord. No. 2008-1-7389, 1-22-2008)

State law reference(s)—Penalty for ordinance violations, KRS 83A.065.

Sec. 114-240. Compliance with other statutes, existing codes, regulations, and standards; severability and conflicts.

- (a) Present and prospective users of the sewage works of the JSA are herewith advised and warned of other existing regulations, codes, ordinances and laws governing the requirements for use and control of sewage systems and the requirements of their compliance.
- (b) Users and plumbers employed by the user are required to comply with the State Plumbing Law and Code, Rules and Regulations issued by the Division of Plumbing, Department for Natural Resources and Environmental Protection.
- (c) Every person and public corporation desiring to install or enter into a contract for the installation of a public, semi-public or industrial sewage system, or to make additions or alterations in such treatment or pretreatment plant or to alter or extend any such sewer shall comply with all design and construction standards and specifications of the JSA, all rules and regulations of the County board of health in which the facility exists or is to be constructed and comply with all codes, rules and regulations of the Kentucky Department of Natural Resources and Environmental Protection. No such installations, additions or alterations shall begin until the plans and specifications therefor have been submitted to and approved by the JSA.
- (d) Kentucky law prohibits the installation of sanitation improvements without JSA approval.
- (e) Special attention is drawn to Commonwealth of Kentucky, Franklin Circuit Court Civil Action No. 07-CI-1252 Consent Judgment entered September 5, 2007.

(Code 1997, § 114-240; Ord. No. 2008-1-7389, 1-22-2008)

DIVISION 9. JOINT SEWER AGENCY (JSA)

Sec. 114-241. Establishment of Joint Sewer Agency.

In order to provide for the protection of public health, safety, and welfare of its citizens, there is hereby created and established, under and pursuant to the provisions of KRS 76.231, a joint sewer agency (hereinafter "Agency") to own, manage, control, and operate regional comprehensive wastewater facilities within McCracken County. The jurisdiction of the Agency shall include all of McCracken County, including the City of Paducah and the City of Lone Oak.

(Code 1997, § 114-241; Ord. No. 98-8-5927, § 1, 8-25-1998)

Sec. 114-242. Board of Directors.

- (a) The Agency shall be managed by a Board of Directors (hereinafter "Board") consisting of seven (7) persons, one (1) of whom shall be a sitting member of the Paducah City Commission and elected by the Commission, one (1) of whom shall be a sitting member of the McCracken County Fiscal Court and elected by the Fiscal Court, two (2) of whom shall be appointed by the Mayor of the City and subject to approval of the City Commission, two (2) of whom shall be appointed by the McCracken County Judge-Executive and subject to approval of the Fiscal Court, and one (1) of whom shall be jointly appointed by both the Mayor and the County Judge Executive, subject to the approval of both legislative bodies.
- (b) Members of the Board shall be persons of outstanding reputations for ability and integrity, shall be at least twenty-five (25) years of age, and a resident of McCracken County for a period of no less than 3 (three) years. No person shall be appointed a member of the Board who is related within the third (3rd) degree to the Mayor, the Judge Executive, or any member of the governing body of the City or County.
- (c) All private sector appointments shall be for a term of four (4) years, except that the representatives of the McCracken County Fiscal Court and the Paducah City Commission shall serve two (2) year terms.
- (d) In the event of a Board vacancy and also at least thirty (30) days preceding the expiration of the term of office of any appointed Board member, a successor shall be appointed by the appropriate government body. However, the incumbent member shall serve until such time as the vacancy has been filled. All vacancies shall be filled for the unexpired term.
- (e) Any Board member shall be eligible for reappointment upon expiration of the member's term; however, no member shall serve more than two (2) consecutive terms.
- (f) Any person who shall have held an elective office within McCracken County shall not be eligible for appointment until at least one (1) year after the expiration of the term for which the appointee was elected. Except for the representatives of the legislative bodies on the Board, no employees of the City of Paducah or McCracken County shall be eligible for appointment as a member of the Board.
- (g) Each appointed Board member shall be removable for "cause," which shall mean inefficiency, neglect of duty, malfeasance or conflict of interest. Any member of the Board appointed by the Mayor may be removed by the Paducah City Commission, for cause, after a hearing by the Paducah City Commission, and after at least ten (10) days' notice in writing shall have been given to the member, specifying the charges against the member. The finding of the Paducah City Commission shall be final and removal results in vacancy in such office. Any member of the Board appointed by the Judge-Executive may be removed by the McCracken County Fiscal Court, for cause, after a hearing by the McCracken County Fiscal Court, and after at least ten (10) days' notice in writing shall have been given to the member, specifying the charges against the member. The finding of the McCracken County Fiscal Court shall be final and removal results in a vacancy in such office. A member subjected to removal proceedings may be represented by counsel.

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- (h) Any appointed Board member failing to attend three (3) regularly-scheduled successive meetings, or a minimum of seventy-five (75) percent of all meetings within a one (1)-year period, without cause acceptable and approved by the Board, shall automatically be removed from office, and the vacancy shall be filled as provided for herein.
 - (i) Each Board member shall be insured by the Agency against liability for acts and omissions as a member of the Board.
 - (j) Members of the Board shall be paid \$200.00 per month and shall be reimbursed for mileage and out-of-pocket expenses for Agency business conducted outside of McCracken County.
 - (k) All members of the Board shall be required to comply with any applicable rules, regulations and reporting requirements established by the appropriate City or County ethics commission.

(Code 1997, § 114-242; Ord. No. 98-8-5927, § 2, 8-25-1998)

Sec. 114-243. Fiscal year.

The fiscal year of the Agency shall begin on July 1 of each year and end on June 30 next following.

(Code 1997, § 114-243; Ord. No. 98-8-5927, § 3, 8-25-1998)

Sec. 114-244. Meetings of Board; quorum.

- (a) The Board shall meet no less than once per month, and may adopt rules and bylaws for the time and location of their meetings and conduct thereof.
- (b) A majority of the members of the Board shall constitute a quorum, and the affirmative majority vote of a minimum of three (3) affirmative votes shall be required for the adoption of any motion, measure, or resolution.
- (c) A permanent record of Board proceedings shall be maintained, and shall be available for inspection as a public record, in accordance with the procedures established in the Kentucky Open Records Act.

(Code 1997, § 114-244; Ord. No. 98-8-5927, § 4, 8-25-1998)

Sec. 114-245. Officers and employees.

- (a) The jointly appointed member of the Board shall serve as its Chairperson during the first year, and the members of the Board shall elect from its members a Vice-Chairperson. Beginning with the second year and continuing annually thereafter, the members of the Board shall elect the Chairperson and Vice-Chairperson. The Chairperson shall preside at all meetings when present, and shall call special meetings on the Chair's own motion or when requested to do so by three (3) other Board members. The Vice-Chairperson shall preside at any meeting in which the Chairperson is absent.
- (b) The Board shall have the power to employ, fix the compensation of and discharge at will an Executive Director and/or Chief Engineer, and a Secretary-Treasurer. Excepting the foregoing, the Executive Director shall have the power to direct, employ, fix the compensation of, and discharge at will any employees of the agency subject to the general policies of the board and its right to review such actions. The Board shall have the power to establish rules and regulations for all employees of the Agency.
- (c) The Board shall require the Executive Director and/or Chief Engineer and Secretary-Treasurer to execute a bond, and may exact from such of its other officers and employees bonds as it deems expedient. All bonds shall be payable to the Agency in the sums as the Board may fix with approved corporate surety, and

premiums therefor shall be paid by the Agency. The bonds shall obligate the makers thereof to faithfully perform the duties of their respective offices and positions and to fully account for and pay over all money, property, or other thing of value of the Agency, which may come into their possession, custody or control.

- (d) The Board may also employ, and remove at pleasure, accountants, engineers, legal counsel, professional and technical advisors or services, experts, and other persons, skilled or unskilled, as it deems requisite for the performance of its duties.
- (e) No person shall be hired as an employee of the Agency who is related within the third (3rd) degree to the Mayor, the Judge Executive, any member of the governing body of the City or the County, any member of the Board, the executive director and/or chief engineer, or the Secretary-Treasurer.
- (f) The Agency may contract with the City of Paducah or McCracken County for financial, engineering, personnel and other services it deems expedient.

(Code 1997, § 114-245; Ord. No. 98-8-5927, § 5, 8-25-1998; Ord. No. 2002-12-6594, § 1, 12-2-2002)

Sec. 114-246. Merger; Agency to take over existing facilities.

- (a) After the Agency has organized, obtained approval of the Kentucky Public Service Commission (if required), and made all necessary arrangements to assume or refinance the debts and liabilities of the Existing Agencies, the sanitary and combined sewer facilities of the Existing Agencies shall be merged into the Agency, together with all contracts, books, maps, plans, papers and records, of whatever description pertaining to or relating to the design, construction, maintenance, operation, and affairs of the Existing Agencies, and shall thereafter be assigned, transferred, and dedicated to the use of and be in possession, and under the jurisdiction, control, and supervision of the Agency. The Existing Agencies shall also assign, transfer and convey to the Agency all property (whether real, personal or mixed), easements, equipment, inventory, accounts receivable, contracts and rights thereunder and causes of action owned by the Existing Agencies. The Agency shall thereafter have complete jurisdiction, control, possession, and supervision, of all sanitary and combined sewer systems and facilities in the City of Paducah and McCracken County.
- (b) Upon establishment of the Agency, the Agency shall immediately make a determination of all existing assets, liabilities, easements, personnel, control, management, and authority of the Existing Agencies to be transferred to, and become a part of, the Agency. All Existing Agencies are expected to cooperate fully with the Agency and each Existing Agency shall promptly prepare a comprehensive list of its assets, liabilities, easements, and personnel.
- (c) All personnel of the Existing Agencies shall be offered employment by the Agency, and shall retain all existing and accrued benefits, including, but not limited to, wages and/or salaries, vacations, sick leave, years of service and pension investment. All employees of the Agency shall be employees at will.
- (d) At such time as the transfer of assets, liabilities, easements, personnel, and authority of the Existing Agencies is complete, the Existing Agencies shall no longer retain any power or authority and shall be dissolved.
- (e) In the event that the legislative bodies of the City of Paducah and the McCracken County Fiscal Court decide to dissolve the Agency, all existing assets, liabilities, easements, personnel and authority shall be distributed as stipulated in identical ordinances approved and adopted by both governing bodies.

(Code 1997, § 114-246; Ord. No. 98-8-5927, § 6, 8-25-1998)

Sec. 114-247. General powers of the Agency.

The Agency created under this division is empowered:

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- (1) To have full and complete jurisdiction, control, possession, and supervision of the sanitary and combined sewer systems in McCracken County, including the maintenance, operation, reconstruction, and improvements to the same as a regional comprehensive sanitary and combined sewer system; to make additions, betterments, and extensions thereto; and to have all the privileges, and jurisdiction necessary or proper for carrying such powers into execution. No enumeration of powers shall operate to restrict the meaning of this general grant of power, or to exclude other powers comprehended within this general grant.
 - (2) To prepare or cause to be prepared, and to be thereafter revised and adopted, plans, designs, and estimates of costs, of a system of trunk, intercepting, connecting, lateral and outlet sewers, pumping and ventilating stations, disposal and treatment plants and works, and all other appliances and structures which in the judgment of the Board will provide an effective and advantageous means for relieving McCracken County from inadequate sanitary drainage and from inadequate sanitary disposal and treatment of the sewage thereof, and may take all steps the Board deems proper and necessary.
 - (3) To construct any additions, betterments and extensions to the facilities of the Agency by contract or under, through, or by means of its own officers, agents and employees.
 - (4) To establish, construct, operate and maintain, as a part of the sanitary sewer system of the Agency, sewage treatment and disposal plants and systems and all the appurtenances and appliances thereunto belonging. The sewage treatment and disposal plants may be located anywhere the Board deems expedient.
 - (5) To acquire and hold the personal property the Board deems necessary and proper for carrying out the corporate purposes of the Agency, and to dispose of personal property when the Agency has no further need therefor.
 - (6) To acquire by purchase, gift, lease, or by condemnation, real property or any interest, right, easement, or privilege therein, as the Board determines necessary, proper and convenient for the purposes of the Agency, and to use the same so long as the Agency's existence continues. Condemnation proceedings may be instituted in the name of the Agency pursuant to a resolution of the Board declaring the necessity for the taking, and the method of condemnation shall be the same as provided in the Eminent Domain Act of Kentucky. When the Board by resolution declares that any real property which it has acquired, or any interest therein, is no longer necessary or useful to the Agency, the real property and interest therein may be disposed of. If any property to be disposed of has been acquired by condemnation and has not been used by the Agency for the purpose condemned, the Agency shall first offer to sell the property back to the original owner for its then existing fair market value.
 - (7) To make bylaws, regulations and agreements for the management and regulation of its affairs and for the regulation of the use of property under its control, including the power to establish pretreatment regulations.
 - (8) To make contracts and execute all instruments necessary or convenient in the premises.
 - (9) To recommend and initiate all user charges adequate to meet the projected revenue requirements necessary to maintain and operate the complete sanitary and combined sewer collection system and treatment facilities in a manner that complies with Federal and State requirements.
 - (10) To borrow money and issue negotiable revenue bonds to provide for the rights of the holders thereof, and to assume existing financial obligations of any of the Existing Agencies.
 - (11) To enter any lands, waters, and premises for the purpose of making surveys, soundings and examinations.
 - (12) To require payment by customers for wastewater service provided and tap-on fees.

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- (13) To discontinue service for non-payment and to make agreements with water service providers for the discontinuance of water service to delinquent customers.
 - (14) To approve or revise the plans and designs of all wastewater treatment facilities proposed to be constructed, altered, or reconstructed, including, but not limited to,, sewer lines and pump stations, by any other person or corporation, public or private, within McCracken County, in order to ensure that such proposed construction, alteration, or reconstruction shall conform to, and be a part of, a comprehensive wastewater plan for McCracken County. No construction or extensions in the City shall be started until, firstly, the City Engineer, and secondly, the Agency have approved the plans. No construction or extensions in McCracken County outside the City shall be started until, firstly, the County Engineer, and secondly, the Agency have approved the plans. These projects shall also be subject to inspection and supervision by the Agency.
 - (15) To prepare a budget annually for wastewater activities, effective beginning with fiscal year July 1, 1999.
 - (16) To promote the public good by offering reasonable and prudent incentives to promote commercial and economic development efforts within the system where permitted by the laws of the Commonwealth.

(Code 1997, § 114-247; Ord. No. 98-8-5927, § 7, 8-25-1998; Ord. No. 2002-12-6594, § 5, 12-2-2002)

Sec. 114-248. Privately constructed sewers to be approved.

- (a) Any person or corporation, public or private, in McCracken County shall submit for approval plans and designs for sanitary sewers to be constructed by written application to the Agency.
- (b) An application for approval of plans or designs of sanitary sewers to be constructed shall be referred by the Agency to the City Engineer or County Engineer, as determined by the area of jurisdiction for which the project is proposed for approval. After approval by the appropriate engineer, the Agency shall have the right to examine, inspect and investigate the sufficiency of the proposed facilities to serve the purposes intended, and to establish and make reasonable charges for such services as may be required to make such investigation.
- (c) The construction of any sanitary sewer facilities shall be subject to inspection and supervision by the Agency to ensure the protection of public health and the proper completion of such facility for the purposes intended, and the Agency shall charge for such inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

(Code 1997, § 114-248; Ord. No. 98-8-5927, § 8, 8-25-1998)

Sec. 114-249. Rates and charges; use of funds of agency; cutting off sewer and water service to delinquents.

- (a) The existing user rates and charges as established by the Existing Agencies shall be adopted by the Agency. All user rates and charges to be collected from all the real property within McCracken County served by facilities of the Agency shall remain in effect until such time as an adjustment thereof has been approved by the Paducah City Commission and McCracken County Fiscal Court. Notwithstanding the foregoing, all tap-on fees previously established by the Existing Agencies on existing sewer lines at the time the Agency is created shall not be changed. Any proposed adjustments of the schedule of rates and charges shall be recommended by the Agency at a joint meeting of the Paducah City Commission and McCracken County Fiscal Court. The Paducah City Commission and McCracken County Fiscal Court shall approve or disapprove all rate changes recommended by the Agency by majority vote of each body. Neither the Paducah City Commissioner nor the McCracken County Fiscal Court shall have the authority to initiate rate changes. If for any reason the

Paducah City Commission and McCracken County Fiscal Court cannot agree to amendments to a rate schedule, the current schedule shall remain in effect until such time as an agreement can be reached. The schedule of rates and charges may be based upon either:

- (1) The consumption of water on-premises connected with the facilities, taking into consideration commercial and industrial use of water;
- (2) The number and kind of plumbing fixtures connected with the facilities;
- (3) The number of persons served by the facilities;
- (4) May be determined by the Agency on any other basis or classification which the Agency determines to be fair and reasonable, whether similar or dissimilar to those enumerated; except that the schedule shall be equitable for all residential property. Provided, however, pursuant to HB 739, enacted by the 2002 Kentucky General assembly, if the Paducah City Commission, McCracken County Fiscal Court and the Agency find that local needs warrant uniformity of rates for all residential property shall not be required for a period of no more than ten (10) years from the date the Agency was established on July 1, 1999; or
- (5) Any combination thereof.

This schedule may include additional charges for treatment of sewage, with a surcharge where the sewage contains industrial waste or other waste in excess of limitations established by the regulations of the Agency.

- (b) Prior to modification of the schedule of rates and charges, the Agency shall adopt a proposed schedule and publish notice thereof pursuant to KRS ch. 424. The notice so published shall be dated as of the date of first (1st) publication thereof and shall state that the proposed or revised schedule of rates and charges will remain open for inspection in the office of the Agency for thirty (30) days from the date of the notice, and that objections thereto in writing may be filed during that period with the Agency by any person aggrieved thereby. The Board shall examine and hear any and all complaints, may modify the proposed schedule, and may recommend to the Paducah City Commission and McCracken County Fiscal Court a final schedule within sixty (60) days after the date of the notice. The schedule so adopted and established shall thereafter be the rates and charges for the use of the facilities of the Agency by users within McCracken County until changed in the manner provided herein. The schedule of rates and charges shall be established and revised from time to time so as to produce aggregate revenues to the Agency sufficient:

- (1) For the payment of interest on and principal of all revenue bonds and other obligations of the Agency;
- (2) For the payment of all costs and expenses of operating and maintaining the sewer system of the Agency, including, but not limited to, that portion of the salaries, wages, and fees of all officers and employees of the Agency; and
- (3) For the payment of all costs of renewals and replacement of such system within McCracken County; provided, however, that all expenses, salaries, wages, and fees necessary or incident to improvements for the account of which bonds are issued or other indebtedness incurred may be included as a part of the cost of the improvements and paid from the proceeds of the bonds or other indebtedness.

The use of all monies of the Agency received from any and all sources shall be limited exclusively and devoted solely to the payment of all obligations of the Agency and no funds from any sources shall be diverted to any other purposes than those described in this division.

- (c) Whenever any sewer rates or charges for services rendered remain unpaid for a period of thirty (30) days after the same becomes due and payable, the Agency shall declare the property, the owner thereof, and the user of the service, delinquent until such time as all rates and charges are fully paid, and may cut off the sewer connection and service. The Agency may enter into agreements with any water company or water service, public or private, providing for the discontinuance of water service to delinquents.

(Code 1997, § 114-249; Ord. No. 98-8-5927, § 9, 8-25-1998; Ord. No. 2002-12-6594, § 6, 12-2-2002)

Sec. 114-250. Power to acquire land.

- (a) The Agency shall have the power to acquire by purchase, gift, or eminent domain proceedings, the fee or such right, title, interest or easement, in such lands as may be deemed by the Agency necessary for any of the purposes mentioned in this division, and any personal property necessary for the purpose of the Agency. Such lands or interests therein, or personal property may be so acquired whether or not the same are owned or held for public use by corporations, associations, or other persons having the power of eminent domain, or otherwise held or used for public purposes. Forthwith upon the acquisition of any such fee, right, title, interest or easement, or personal property, the same shall become dedicated to the uses and purposes of the Agency.
- (b) The method of condemnation of such property shall be pursuant to the Eminent Domain Act of Kentucky.
- (c) When the Agency has filed a proceeding to condemn land or any interest therein, or personal property, pursuant to the provisions of the Eminent Domain Act of Kentucky, and the Board shall determine that the necessity for procuring possession of the property is urgent, it may pass a resolution, at the time that said condemnation is authorized or at any time thereafter for a declaration of taking, declaring that said lands are to be taken for the use of the Agency. Said declaration of taking shall contain, or have annexed thereto, the following:
 - (1) A statement of the authority under which and, the public use for which, said lands are taken;
 - (2) A description of the lands taken sufficient for identification thereof;
 - (3) A statement of the estate or interest in said lands taken for said public use; and
 - (4) A plat showing the lands taken.
- (d) At any time after the report of the Commissioners has been made, the Agency may file said declaration of taking and make a deposit with the Clerk of the Court of the sum of money stated in the award of the Commissioners appointed. Title to said lands in fee simple or such lesser estate as is specified in said declaration or to said personal property shall then vest in the Agency, and the right to just compensation for said land or interest therein or personal property shall vest in the persons entitled thereto. Said compensation shall be ascertained and awarded in said proceeding as otherwise provided in the Eminent Domain Act of Kentucky.
- (e) Any property owner whose property is proposed to be the subject of a condemnation action by the Agency shall be provided by U.S. mail at the owner's last-known address, at least five (5) days prior to the meeting, a copy of the official agenda of the Agency meeting wherein the initial resolution for condemnation is to be acted upon. In addition to the agenda, the property owner shall be informed by an accompanying letter from the Agency of the property owner's rights of appeal under section 114-256, in the event the aforesaid resolution is adopted. Each property owner so adversely affected shall be invited to attend the meeting wherein the Agency will act upon the resolution for condemnation.

(Code 1997, § 114-250; Ord. No. 98-8-5927, § 10, 8-25-1998; Ord. No. 2002-12-6594, § 7, 12-2-2002)

Sec. 114-251. Agency revenue bonds.

- (a) The Agency may, from time to time, issue its negotiable interest-bearing revenue bonds for any of its corporate purposes, and it may also, from time to time, issue its negotiable interest-bearing revenue bonds to refund any of its bonds at maturity or pursuant to redemption provisions, or at any time before maturity with the consent of the holders. All the bonds, including interest, are payable solely from and secured only

by the revenues of the Agency realized through the collection of rates or other charges, imposed for use of the facilities of the Agency. The bonds shall be authorized by resolution of the Board and shall bear the dates, mature at the times not exceeding forty (40) years from their respective dates, bear interest at the rates, or method of determining rates, payable at least annually, be in the denominations and form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place, and be subject to the terms of redemption, with or without premium, as the resolutions provide. The bonds shall be sold at public sale for the price the Board determines.

- (b) Any resolution authorizing any bonds may contain provisions which shall be a part of the contract with the holders of the bonds as to:
- (1) Pledging all or any part of the gross or net revenues of the Agency to secure the payment of the bonds and interest on the bonds;
 - (2) The amounts to be raised in each year by rates and charges, and their use and disposition, and of any other revenues of the Agency;
 - (3) The setting aside of reserves or sinking funds and their regulation and disposition;
 - (4) Limitations on the right of the Agency to restrict and regulate the use of its facilities;
 - (5) Limitations on the purposes to which the proceeds of sale of any issue of bonds to be issued may be applied;
 - (6) Limitations on the issuance of additional bonds; and
 - (7) The procedure, if any, by which the term of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent, and the manner in which the consent may be given.
- (c) The bonds or other obligations of the Agency shall not constitute an obligation or indebtedness of the City of Paducah or of McCracken County and it shall be plainly stated on the face of each bond of the Agency that it has been issued under the provisions of this division, and that it does not constitute an indebtedness of the City of Paducah or McCracken County. All bonds authorized may be issued without a vote of the voters and without any other proceedings or happenings of any other conditions or things than those proceedings, conditions and things described herein. The bonds shall be signed in the name of the Agency by the Chairperson or Vice-Chairperson of the Board, and attested by the signature of the Secretary-Treasurer.

(Code 1997, § 114-251; Ord. No. 98-8-5927, § 11, 8-25-1998)

Sec. 114-252. Enforcement of rights of bondholders.

- (a) In the event the Agency shall default in the payment of principal or interest on any of the revenue bonds issued pursuant to this division after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the Agency shall default in any agreement made with the holders of the bonds, the holders of twenty (20) percent in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the McCracken County Court Clerk and approved or acknowledged in the same manner as a deed to be recorded, may apply to a judge of the McCracken County Circuit Court to appoint a trustee to represent all of the bondholders for the purposes herein provided. Upon such application the judge shall appoint a trustee and such trustee may, and upon written request of holders of twenty (20) percent in principal amount of the bonds of the Agency then outstanding shall:
- (1) By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders, including, but not limited to, the right to require the Agency to collect rates and other

charges, adequate to carry out any agreement as to, or pledge of, the revenues of the Agency and to require the Agency and its officers to carry out any other agreement with the bondholders and to perform its and their duties;

- (2) Bring suit upon the bonds;
 - (3) By action or suit in equity, require the Agency to account as if it were the trustee of an express trust for the bondholders;
 - (4) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of bondholders;
 - (5) Declare all bonds due and payable, and if all defaults shall be made good then to annul such declaration and its consequences.
- (b) Any such trustee shall be entitled as of right, upon application to the judge, to the appointment of a receiver, who may enter upon and take possession of the facilities of the Agency, or any part thereof, and operate and maintain the same, and collect and receive all rates and charges and other revenues of the Agency, thereafter arising therefrom, in the same manner as the Agency and its officers might do, and shall deposit all monies in a separate account and apply the same in such manner as the court shall direct. In any suit, action, or proceeding, by the trustee, the fees, the counsel fees, and expenses of the trustee and of the receiver shall constitute disbursements taxable as costs. All costs and disbursements allowed by the court shall be a first charge on any revenue derived from the facilities of the Agency. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any function specifically set forth herein or incident to the general representation of the bondholders and the enforcement and protection of their rights.

(Code 1997, § 114-252; Ord. No. 98-8-5927, § 12, 8-25-1998)

Sec. 114-253. Apportionment of construction costs.

- (a) A resolution of the Board providing for the construction of sewerage facilities and appurtenances shall describe the nature and kind of facilities to be furnished and shall describe the particular area to be benefitted by said sewerage facilities.
- (b) The costs of the sanitary sewers and appurtenances, excepting, at the option of the Agency, core and trunk facilities, shall be assessed against the land in the benefitted area. The square foot method, the front foot method, the equivalent residential unit method, the ten-year net revenue method, or any other equitable basis may be used for determining the assessment. No property which has been assessed for collector lines shall be reassessed for the installation or reinstallation of collector lines. The Agency may, at its option, pay for core and trunk facilities through the Agency's revenues, loans, grants, assessments, or any combination thereof.
- (c) The costs of property service connections from the sewer to the property line or easement line as required shall be assessed against the individual lots or tracts to which such property service connections are furnished. The costs to be assessed for the property service connections shall be fixed by regulation of the Agency based on its experience of costs for such work.
- (d) All land included in the benefitted area shall be assessed, except public roadways and property owned by the City or County.
- (e) When the Board determines that construction of sanitary sewers and appurtenances or property service connections shall be necessary, the Agency shall cause its engineers to prepare complete drawings and specifications for the work and to keep same available for inspection in its offices.

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- (f) The actual construction work of the sanitary sewers and appurtenances shall be done by, or under the control of, the Agency. The cost of the sanitary sewers and appurtenances or property service connections shall include not only the actual construction cost and the cost of any easements required for the sewers, but also the cost of surveys, designs, plans, specifications, advertising, inspection and administration; provided, however, these additional costs shall not exceed fifteen (15) percent of the actual construction cost of the project.
 - (g) A lien superior to all liens except the liens for State, County, City, school and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the sanitary sewers, appurtenances or property service connections for apportionment as provided herein, plus interest thereon at the rate of six (6) percent per annum.
 - (h) If sanitary sewers, appurtenances or property service connections are constructed as provided in the resolution, the Agency shall not be liable for the cost of the sanitary sewers, appurtenances or property service connections and shall have the right to enforce such costs against the property receiving the benefit.
 - (i) Upon completion and acceptance of the sewer facility constructed, the Agency shall make out all apportionment warrants for which liens are given for improvements of sewer facilities and shall immediately enter them in alphabetical order upon a register kept for that purpose. When the holder of the warrant has obtained payment, such holder shall notify the Agency and the Agency shall mark upon the register the fact of payment.
 - (j) The lien shall exist from the date of the apportionment warrant, but a lien shall not be valid against a purchaser for a valuable consideration without notice, unless the apportionment warrant is entered and registered within ten (10) days of its issuance.
 - (k) After any sewer facilities have been constructed, the Agency shall give notice by publication pursuant to KRS ch. 424 of the costs apportioned, and the amounts assessed and levied on the various tracts of land liable for the payment.

(Code 1997, § 114-253; Ord. No. 98-8-5927, § 13, 8-25-1998; Ord. No. 2002-12-6594, §§ 8, 9, 12-2-2002)

Sec. 114-254. Combined sewers.

- (a) All facilities in the City that are a combination of wastewater and stormwater sewers shall be included in the assets transferred to the Agency.
- (b) The Agency shall have the responsibility to maintain all combined sewer system facilities in the City. The combined sewer system facilities visible on the surface (such as inlets, grates, inlet throats, open-ended pipes, surface ditches, surface drainages, etc.) and the connector pipe to the combined sewer main shall be maintained by the City.
- (c) The Agency shall be responsible for compliance with all environmental regulations and requirements for combined sewer overflow established by the Commonwealth.

(Code 1997, § 114-254; Ord. No. 98-8-5927, § 14, 8-25-1998)

Sec. 114-255. Coordination of operations with other agencies.

- (a) The Agency shall take all necessary efforts and make all necessary agreements with the City to establish procedures for coordinating the use and operation of all flood control pump stations used when the Ohio River reaches flood stage.

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- (b) The facilities that constitute the City flood control system shall not be part of the assets transferred to the Agency and shall remain the property of the City.
 - (c) The Agency shall coordinate with the City the operation of the compost facility operated by the City and make such agreements as may be necessary for the disposal of sludge generated by the operations of the Agency.
 - (d) The Agency may enter into an agreement with the City and the County to provide necessary maintenance of storm sewers.

(Code 1997, § 114-255; Ord. No. 98-8-5927, § 15, 8-25-1998)

Sec. 114-256. Appeal process.

- (a) Any entity or person, other than employees of the Agency, aggrieved by any final action of the Agency may appeal from said action to a grievance committee which shall be composed of one (1) member of the McCracken County Fiscal Court selected by the McCracken County Fiscal Court and one (1) member of the Paducah City Commission selected by the Paducah City Commission, and the two (2) members thus appointed shall jointly select a third (3rd) person to serve on the committee. The representatives of the legislative bodies shall not be the same representatives who are then sitting on the Board of the Agency. The aggrieved person and the Agency shall be allowed to appear before the grievance committee to state their positions. The grievance committee may modify, sustain, or overrule the action taken by the Agency.
- (b) Appeals by the aggrieved party shall be made in writing by filing the appeal with the Secretary-Treasurer of the Agency thirty (30) days after the decision of the Agency. All decisions which have not been appealed within thirty (30) days shall become final.

(Code 1997, § 114-256; Ord. No. 98-8-5927, § 16, 8-25-1998)

Sec. 114-257. Additional authority.

The McCracken County Fiscal Court and the City, within their respective jurisdictions, shall have the authority to establish with sufficient funding, a separate and independent stormwater utility by separate ordinance, under the management and control of the Agency.

(Code 1997, § 114-257; Ord. No. 98-8-5927, § 17, 8-25-1998)

Sec. 114-258. Reserved.

Sec. 114-259. Name of Agency.

The name of the Agency shall be the "Paducah-McCracken County Sewer Agency," in which name it may act in accordance with the powers set forth in this division.

(Code 1997, § 114-259; Ord. No. 98-8-5927, § 19, 8-25-1998)

Sec. 114-260. Reserved.