

## Chapter 336, SEWAGE TREATMENT

[HISTORY: Adopted by the City Council of the City of Binghamton 12-20-1984 by L.L. No 1-1985 (Sub-Part LIX of the 1970 Code); amended in its entirety 2-17-1998 by L.L. No. 1-1998. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Sewers -- See Ch. 339.

Sewer use -- See Ch. 342.

Subdivision of land -- See Ch. 360.

## ARTICLE I, Short Title; Policy and Purpose; Applicability

### § 336-1. Short title.

This chapter shall be known as the "Binghamton-Johnson City Joint Sewage Treatment Plant Law."

### § 336-2. Policy and purpose.

- A. It is the policy of the City of Binghamton and the Village of Johnson City, as joint owners of the Binghamton-Johnson City Joint Sewage Treatment Plant, to protect and preserve the joint sewage treatment plant by preventing the introduction of substances into the plant which impair the strength and/or durability of the plant; which pass through the plant inadequately treated; or which are otherwise incompatible with the plant or the treatment processes utilized by the plant. It is the further policy of the owners to protect the public health and the environment by promoting the use and operation of the plant in a manner which complies with the terms and conditions of the SPDES permit issued for the plant by the DEC, and in a manner which is consistent with the letter and spirit of the Industrial Waste Pretreatment Program developed for the plant under the guidelines of the DEC and the EPA. It is the further policy of the owners to foster the fiscal self-sufficiency of the sewage treatment plant through the imposition of user charges which equitably distribute the cost of operating and maintaining the plant among all users in an economically sound manner.
- B. The purpose of this chapter is to provide for the management, operation and use of the joint sewage treatment plant and its appurtenant structures and facilities so as to achieve maximum adherence to the policies stated above.

### § 336-3. Applicability.

The provisions of this chapter shall apply to all users of the Binghamton-Johnson City Joint Sewage Treatment Plant. Municipal users shall be governed by the provisions of their individual contract with the owners and by the rules and regulations of the Joint Sewage Board and shall, except as specifically provided hereinafter, be exempt from the coverage of this chapter.

## ARTICLE II, Definitions

### § 336-4. Definitions and word usage. [Amended 4-18-2012, by Ord. No. 12-28]

- A. Unless otherwise defined herein, technical terms shall be as defined in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Health Association, the American Water Works Association and the Water Pollution Control Federation.
- B. Whenever used in this chapter, unless otherwise expressly stated or required by subject matter of context, the following terms shall have the meanings indicated:

BOARD or JOINT SEWAGE BOARD -- The Binghamton-Johnson City Joint Sewage Board, established under the contract between the City of Binghamton and the Village of Johnson City for the operation of a

joint wastewater treatment facility. The term includes any duly authorized designee, agent or representative of the Board.

BOD (denoting "biochemical oxygen demand") -- The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

CITY -- The City of Binghamton, New York.

COOLING WATER -- The water discharges from any system of condensation, air conditioning, cooling, refrigeration or other sources. It shall contain no polluting substances which would produce BOD or suspended solids each in excess of 10 milligrams per liter.

CPLR -- The New York Civil Practice Law and Rules.

DEC -- The New York State Department of Environmental Conservation.

DISCHARGE DIRECTLY OR INDIRECTLY INTO THE JOINT SEWAGE TREATMENT PLANT -- To contribute wastewater or cause or permit the contribution of wastewater into the Binghamton-Johnson City Sewage Treatment Plant or into any public sewer which conveys wastewater to the Binghamton-Johnson City Joint Sewage Treatment Plant.

EASEMENT -- An acquired legal right for the specific use of land owned by others.

EPA -- The United States Environmental Protection Agency.

FEDERAL ACT or ACT -- The 1972 Federal Water Pollution Control Act Amendments, Public Law 92-500, and the 1977 Clean Water Act, Public Law 95-217, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the United States Environmental Protection Agency pursuant to the Act.

FLOW RATE -- The quantity of waste or liquid that flows in a certain period of time.

GARBAGE -- Animal and vegetable wastes from the preparation, cooking and disposing of food and from handling, processing, storage and sale of food products and produce.

HOLDING TANK WASTE -- Any sanitary waste from holding tanks such as marine vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INDIRECT DISCHARGE or DISCHARGE -- The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL USER or USER -- A source of indirect discharge.

INDUSTRIAL WASTE -- Any discarded matter, including any liquid, gaseous or solid substance or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from development or recovery of natural resources. The term does not include garbage.

INDUSTRIAL WASTEWATER -- Wastewater in which industrial wastes are carried.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT -- A permit, issued by the Joint Sewage Board, authorizing the permittee to deposit or discharge industrial wastewater into any public sewer served by the joint sewage treatment plant.

INFILTRATION— Water, other than sewage, that enters a sewage collection system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

INFILTRATION/INFLOW(I/I)—The total quantity of water from both Infiltration and Inflow, without distinguishing the source.

INFLOW— Water, other than sewage, that enters a sewage collection system (including sewer service connections) from sources such as roof leaders, cellar drains, sump pumps, missing or defective cleanout caps, swimming pools, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between stormwater sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

INTERFERENCE -- The inhibition or disruption of the treatment plant processes or operations or its sludge processes, use or disposal. The term includes any action which is a cause of, or significantly contributes to, a violation of any requirement of the Joint Sewage Board's SPDES permit or which results in the prevention of sewage sludge reuse, reclamation or disposal by the treatment plant in accordance with Section 405 of the Act (33 U.S.C. 1345), 40 CFR Part 503, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Clean Air Act

and the Toxic Substances Control Act, or any more stringent state criteria or local regulations applicable to the method of disposal or use employed by the treatment plant.

**JOINT SEWAGE TREATMENT PLANT, SEWAGE TREATMENT PLANT or TREATMENT PLANT**

-- The Binghamton-Johnson City Joint Sewage Treatment Plant, including all facilities, buildings, equipment, appurtenances and land owned jointly by the City of Binghamton and the Village of Johnson City, in accordance with agreements between the owners, for the expressed purpose of providing adequate conveyance, treatment and disposal of sewage.

**MAJOR CONTRIBUTING INDUSTRY** -- All significant industrial users and all other industries having a wet process discharge to the public sewer system.

**MUNICIPAL USER** -- A municipal corporation which owns or has jurisdiction over any public sewer which conveys wastewater to the Binghamton-Johnson City Joint Sewage Treatment Plant.

**NATIONAL PRETREATMENT STANDARD or PRETREATMENT STANDARD or STANDARD** --

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

**NORMAL SEWAGE** -- Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed 240 milligrams per liter of BOD<sub>5</sub>, 300 milligrams per liter of TSS or 50 milligrams per liter of oil and grease and which is otherwise acceptable for discharge into the POTW under the terms of the rules and regulations of the Board. The numbers and values of characteristics are subject to the revision of the Joint Sewage Board when, in the opinion of the Board, a revision is necessary in order to maintain the physical integrity of the POTW or maintain the treatment works' capability of providing treatment in compliance with federal, state and local standards.

**OWNERS** -- The City of Binghamton and the Village of Johnson City, joint owners of the sewage treatment plant.

**PASS THROUGH** -- A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

**PERSON** -- Any individual, firm, company, partnership, association, private or public corporation, political subdivision, governmental agency, municipality, industry, trust or estate or any other legal entity whatsoever.

**POLLUTANTS** -- Substances which may be present in wastewater, whether gaseous, liquid or solid, in an amount which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content of natural waters, contribute solids, contain oil, grease or floating solids which may cause unsightly appearance on the surface of such waters or contain materials detrimental to aquatic life, or may be defined now or hereafter by appropriate local, state or federal authorities or by the Board.

**PREMISES** -- Any parcel of real property, including land, improvements or appurtenances or buildings, grounds, etc.

**PRETREATMENT REQUIREMENT** -- Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

**PUBLIC SEWER** -- Any sewer owned or controlled by a governmental agency. The term includes any devices, structures or systems used by the governmental agency in the storage, transmission, treatment or reclamation of municipal sewage or industrial wastes.

**RULES AND REGULATIONS OF THE BOARD** -- The Rules and Regulations Relating to the Use of the Binghamton-Johnson City Joint Sewage Treatment Plant, promulgated by the Binghamton-Johnson City Joint Sewage Board.

**SANITARY SEWER** -- A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants and institutions.

**SANITARY WASTE** -- Wash water, culinary wastes, the liquid waste containing only human excreta and similar matter, flowing in or from a building drainage system or sewer originating in a dwelling, business building, factory or institution.

SEWAGE -- The water-carried domestic human or animal waste, together with industrial and commercial waste, from residences, buildings, industrial, and commercial establishments or other places. Neither infiltration nor inflow are components of "sewage".

SEWER -- A pipe or conduit for carrying wastewater; the term includes sanitary sewers and combined sewers.

SHREDDED GARBAGE -- Garbage shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having any dimension greater than one-half inch in any direction.

SIGNIFICANT INDUSTRIAL USERS -- Those industries meeting one or more of the following criteria:

- (1) All industrial facilities subject to promulgated federal categorical pretreatment standards.
- (2) Industrial facilities having substantial impact, having a reasonable potential to affect the POTW operation, either singly or in combination with other industrial facilities on the operation of the treatment works.
- (3) A single industrial facility using, on an annual basis, more than 10,000 pounds or 1,000 gallons of any substance constituting a priority pollutant (designated pursuant to the Act) and discharging a measurable amount of that substance to the sewer system from the process using that substance.
- (4) Those industries discharging more than 1% of the average daily flow or more than 1% of the load of conventional pollutants tributary to the treatment plant receiving the waste.
- (5) All industries discharging heavy metals in any quantity of priority pollutants in any amount where the Board determines the discharge of such materials into the sewer system may have significant impact on the POTW.

SIGNIFICANT NONCOMPLIANCE -- A violation which meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all the measurements for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.)
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Board determines has caused, alone or in combination with other discharges, interference as pass through (including endangering the health of POTW personnel or the general public.
- (4) 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 to halt or prevent such a discharge.
- (5) Failure to meet, within 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.
- (6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, periodic self-monitoring reports and reports on compliance with compliance schedules.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations which the Board determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG DISCHARGE -- Any discharge of a nonroutine, episodic nature, including but not limited to an accidental or intentional spill or a noncustomary batch discharge.

SPDES PERMIT -- A wastewater discharge permit issued by the DEC under the state pollutant discharge elimination system.

SUSPENDED SOLIDS -- The total suspended matter in wastewater, as determined by Standard Methods.

TOXIC SUBSTANCES -- Any substances, whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient amounts may tend to interfere with any sewage treatment process, constitute a hazard to the receiving waters of the effluent from the sewage treatment plant, pose a hazard to sewer maintenance personnel or constitute a hazard to fish or animal life or inhibit aquatic life. This definition includes, but is not limited to, EPA priority pollutants.

UNPOLLUTED WATER -- Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

USER -- Any person who contributes, causes or permits the contribution of wastewater into the joint sewage treatment plant or into any public sewer which conveys wastewater to the sewage treatment plant.

VILLAGE -- The Village of Johnson City, New York.

WASTEWATER—The composite of all flow constituents conveyed in a sewer including sewage and infiltration and inflow.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS -- The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and such other parameters, that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

C. Word usage. "Shall" is mandatory; "may" is permissive.

### **ARTICLE III, Joint Sewage Board**

#### **§ 336-5. Continuation of established Board.**

The Binghamton-Johnson City Joint Sewage Board, which was established by the municipal cooperation agreement between the City of Binghamton and the Village of Johnson City dated July 14, 1965, is hereby continued; and all of the powers, functions, and obligations possessed by the Board pursuant to such agreement immediately preceding the effective date of this chapter are hereby continued.

#### **§ 336-6. Composition; terms; vacancies.**

The composition of the Joint Sewage Board, the terms of its members, and the manner of filling vacancies shall be as governed by the provisions of the agreement which created the Board, and any amendments thereto.

#### **§ 336-7. Additional powers, duties and functions.**

- A. In addition to any other powers, duties and responsibilities previously conferred upon it, the Joint Sewage Board shall have administrative responsibility for implementing, effectuating and enforcing, on behalf of the City, all requirements necessary to ensure compliance with this chapter, with the terms and conditions of the SPDES permit issued for the sewage treatment plant and with the industrial waste pretreatment program developed and approved for the sewage treatment plant.
- B. To carry out its responsibilities under this chapter, the Joint Sewage Board may:
  - (1) From time to time, adopt, amend or cancel administrative rules and regulations, not inconsistent with the provisions of this chapter, governing the use of the sewage treatment plant (including provisions applicable to municipal users); and the procedure to be followed with respect to hearings, filing of reports, the issuance of permits and all other procedural matters relating to the use of the plant and any public sewer served by the plant.
  - (2) Appoint officers and employees and delegate to and allocate among them administrative functions, powers and duties; and retain and employ private consultants for professional and technical assistance and advice.

- (3) Hold hearings, receive pertinent and relevant proof from any party in interest who appears at such hearing, compel the attendance of witnesses, make findings of fact and determinations and assess such penalties therefor as are hereinafter prescribed in Article VIII, all with respect to any aspect or matter involving the administration of this chapter.
- (4) Make, modify or cancel orders requiring the discontinuance of the discharge of wastewater into any public sewer served by the sewage treatment plant and specifying the conditions and time within which such discontinuance must be accomplished.
- (5) With the advice and consent of the City Attorney, institute or cause to be instituted in a court of competent jurisdiction proceedings to compel compliance with the provisions of this chapter or the determinations and orders of the Board.
- (6) Issue or deny permits, under such conditions as may be prescribed for the prevention and abatement of pollution, for the discharge of industrial wastewater into any public sewer served by the Binghamton-Johnson City Sewage Treatment Plant and to fix reasonable charges and fees for such permits.
- (7) Revoke, suspend or modify any wastewater discharge permits issued under the provisions of this chapter whenever, after hearing thereon, the Board determines that such revocation, suspension or modification is necessary or desirable to comply with the intent and purpose of this chapter; provided, however, that the hearing required under this subsection may be waived in writing by the applicant or permittee.
- (8) On its own motion, investigate or make inquiry, in a manner to be determined by it, as to any condition affecting the joint sewage treatment plant and as to any alleged act or commission or failure to comply with any provision of this chapter, with the Board's rules and regulations or with any permit, order or determination issued thereunder.
- (9) Make contracts and leases upon such terms as the Board shall deem appropriate; and execute all instruments necessary and convenient, including applications for permits from state and federal agencies having jurisdiction over the sewage treatment plant or its receiving waters.
- (10) Settle or compromise, with the approval of the City Attorney, any action or cause of action for the recovery of a penalty under the provisions of this chapter as it may deem advantageous to the City.
- (11) Accept and assume from participating municipalities such powers and functions as are necessary, convenient and proper for enforcing its rules and regulations within such municipalities.
- (12) Promote, develop, encourage and assist in the formulation of appropriate sewer use laws by municipalities which directly or indirectly discharge municipal wastewater into the sewage treatment plant; and cooperate with the appropriate agencies of such municipalities with respect to matters having impact on the sewage treatment plant.
- (13) Perform such other and further acts as may be necessary, proper or desirable to carry out effectively the duties and responsibilities prescribed in the provisions of this chapter.

#### **ARTICLE IV, Administrative Procedures**

##### **§ 336-8. Proceedings before Board.**

- A. Whenever it shall appear to the Board, after investigation, that there has been a violation of any of the provisions of this chapter, or of the Board's rules and regulations, or of any permit, order or determination issued thereunder, it shall give written notice to the alleged violator or violators, setting forth any thing or act done or omitted to be done or claimed to be in violation of any such provisions and requiring that the matters complained of be corrected and/or that the alleged violator appear in person or by attorney before the Board or its duly designated representative, at the time and place in said notice specified, and answer the charges complained of.
- B. At least 15 days' notice of such hearing shall be given.

- C. Upon the return day of such notice, the person so notified shall file with the Board a written statement setting forth the position of the person so notified, the answer, if any, to the charges made against him, the methods, practices and procedures, if any, which are being taken to correct each alleged violation and any other defenses or information pertinent to the case. Pertinent and relevant testimony of witnesses shall be received in support of or opposition to said statement. Failure to file a statement shall be treated as a default in appearance.
- D. Following a hearing and after due consideration of the written and oral statements and testimony and arguments filed pursuant to Subsection C above, or on default in appearance in said return day, the Board may issue and enter such final order or make such final determination as it deems appropriate under the circumstances and shall notify such person or persons thereof in writing, personally or by registered mail, within 20 days after completion of the hearing. Where a person appears by attorney, service by mail on the attorney shall be sufficient if made in accordance with CPLR § 321.

**§ 336-9. Hearings; notice and procedure.**

- A. The Board may issue subpoenas and administer oaths in connection with any hearing or investigation under or pursuant to the provisions of this article, and it shall be the duty of the Board to issue subpoenas at the request of and upon behalf of the respondent.
- B. The Board shall not be bound by laws of evidence in the conduct of hearing proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it.
- C. Notice of hearing shall be served at least 15 days prior to the date of the hearing, provided that, whenever because of danger to the public health, safety or welfare it appears prejudicial to the public interest to delay action for 15 days, the Board may proceed in accordance with § 336-52.
- D. Service of notice of hearing or order shall be made by personal service or by registered or certified mail. Where service, whether by personal service or by registered or certified mail, is made upon an infant, incompetent, partnership, corporation, governmental subdivision, Board or commission, it shall be made upon the person or persons designated to receive personal service by Article 3 of the CPLR.
- E. The Board's attorney may prefer changes, attend hearings, present the facts and take any and all proceedings in connection therewith.
- F. At a hearing, the respondent may appear personally, shall have the right of counsel and may cross-examine witnesses against him and produce evidence and witnesses in his behalf.
- G. A record, or summary thereof, of the proceedings of said hearings shall be made and filed with the Board. If requested to do so by any party, full stenographic notes of the testimony presented at said hearing shall be taken and filed. The stenographer shall furnish a certified transcript of the record to any party requesting and paying for same.
- H. Unless precluded by law, disposition may be made of any hearing by stipulation, agreed settlement, consent order, default or other informal method. Within 10 days of the notice specified in § 336-8A, the user may request a prehearing conference with the Board's representative for an informal disposition of any or all charges.

- I. At any time prior to the expiration of the time limited for commencement of judicial review of any decision or determination of the Board, a party may request that the Board furnish him with a copy of the record and transcript of the proceeding or any part thereof. The Board shall prepare the record together with any portion of the transcript requested and shall furnish a copy of the requested materials to the party. Except when any law provides otherwise, the Board is authorized to charge not more than its cost for the preparation and furnishings of such record or transcript, or the rate specified in the contract between the Board and a contractor if prepared by a private contractor.
- J. Upon application of any affected user the Board may modify or amend any determination after a hearing.

**§ 336-10. Declaratory rulings.**

Any interested person may petition the Board for a declaratory ruling relating to any rule, regulation, order, policy or interpretation used by the Board in the discharge of its functions under this chapter. A petition to the Board for a declaratory ruling shall be in writing and shall be in such form as the Board prescribes. No later than 30 days after its receipt of a petition, the Board shall state its opinion of the petitioner's position and the policy to be followed by the Board. This statement shall constitute a declaratory ruling which shall be served by mail on the petitioner. When the Board deems appropriate, it may schedule an adjudicatory hearing to be held in accordance with the procedures set forth in § 336-9 above, prior to its issuing a declaratory ruling.

**§ 336-11. Appeals to Board.**

- A. Any person aggrieved by any determination or order made by any delegate, deputy or representative of the Board may appeal such order or determination to the Board by filing with the Board a request for Board review. Requests for Board review shall be in writing and shall be made within 15 days of the date of the determination or order complained of. The request shall contain a short and plain statement of the matters asserted and the relief being sought. No later than 30 days after receipt of a request for review, the Board shall schedule an adjudicatory hearing to be held in accordance with the procedures set forth in § 336-9 above. A special meeting of the Board may be called by the Chairperson upon the filing of the request for review, and the Board may, in its discretion, suspend the operation of the order or determination being reviewed until such time as the Board has acted upon the appeal.
- B. The Board shall review and evaluate all appeals, and in making any decisions it shall give due consideration to such factors as it deems appropriate for effectuating the policy and purpose of this chapter. For appeals taken pursuant to § 336-27B of this chapter, the Board shall be reviewable in a proceeding pursuant to Article 78 of the CPLR. Application for such review must be within 30 days after service, in person or by mail, of a copy of the determination or order upon the attorney of record for the applicant and for each person who has filed a notice of appearance, or the applicant in person if such applicant is not represented by an attorney.

**§ 336-12. Adoption and amendment of rules and regulations.**

- A. The Joint Sewage Board, prior to the adoption, amendment or repeal of any rule or regulation, shall:
  - (1) Publish notice at least 10 days prior to the intended action. Notice shall include a statement of either the terms or substance of the intended action or a description of subjects and issues involved and the time and manner at which interested persons may present their views.
  - (2) Afford all interested parties reasonable opportunity to submit data, views or arguments, orally or in writing. Reasons for adoption and refusal of proposed rules as well as the decision of the Joint Sewage Board shall be recorded and available for public inspection.

- (3) Within 15 days after Board action, file a certified copy of each such amendment to the rules and regulations with the City Council for approval. In the event that no action is taken by the City Council within 30 days, the proposed amendment shall be deemed approved. Where City Council disapproves a proposed amendment to the rules and regulations, then the clerk of the City Council shall promptly notify the Board of such disapproval. Within 10 days, the City Council shall convene a meeting with the Board and the Village Board of Johnson City to resolve any disagreement.
- B. The rule or regulation, or amendment or repeal thereof, shall be effective 10 days after approval; except that if the rule is adopted under the emergency procedures of Subsection C, then it shall be effective upon adoption by the Board.
- C. If the Board determines that emergency action is required under § 336-52 of this chapter the Board may waive the provisions of Subsection A above and proceed to adopt an emergency rule. The emergency rule shall be effective for a period not exceeding 120 days unless it is readopted in accordance with Subsection A of this section.

**§ 336-13. Compilation of Joint Sewage Board rulings.**

The Board shall compile, index and make available for public inspection all current rules and regulations and all declaratory rulings and decisions on appeal promulgated by the Board.

**ARTICLE V, Restrictions and Limitations on Use of Joint Sewage Treatment Plant**

**§ 336-14. Prohibited discharges.**

No person shall discharge directly or indirectly into the joint sewage treatment plant any substances, materials, waters or wastes in such qualities or concentrations which cause or are capable of causing, either alone or by interaction with other substances, interference with the operation or performance of the plant or which pass through the plant inadequately treated. The Joint Sewage Board shall by rule and regulation develop specific limits and restrictions to implement the general prohibitions of this section. These general prohibitions and the specific prohibitions developed by the Board shall apply to all users, whether or not a user is subject to any other local, state or federal requirements governing use of the joint sewage treatment plant.

**§ 336-15. Compliance required.**

No person shall discharge directly or indirectly into the joint sewage treatment plant, or otherwise use the sewage treatment plant, unless such discharge or use is in compliance with this chapter, with the rules and regulations of the Joint Sewage Board, with any applicable order or determination of the Board promulgated thereunder and with the terms and conditions of any applicable permit issued by the Board.

**§ 336-16. Protection from damage.**

No unauthorized person shall maliciously, willfully or recklessly break, damage, destroy, deface or tamper with any structure, appurtenance, equipment or other property which is under the jurisdiction, ownership or control of the Joint Sewage Board.

**§ 336-17. Tampering with measuring devices prohibited.**

No person shall tamper with or knowingly render inaccurate any measuring device or mechanism installed pursuant to any requirement under this chapter or the rules and regulations of the Board.

**§ 336-18. False statements prohibited.**

No person shall knowingly make any false statement in any application, report or other document required to be filed pursuant to any provision of this chapter or the rules and regulations of the Board.

## **ARTICLE VI, Industrial Wastewater Pretreatment Program**

### **§ 336-19. Administration.**

The Binghamton-Johnson City Joint Sewage Board, having jurisdiction over the indirect discharges to and the discharges from the joint sewage treatment plant, shall serve as the municipal agency responsible for the implementation and administration of industrial wastewater pretreatment program developed for the joint sewage treatment plant in accordance with the requirements prescribed in the USEPA General Pretreatment Regulations (Part 403 of Title 40 of the Code of Federal Regulations).

### **§ 336-20. Authority of Joint Sewage Board.**

- A. The admission of industrial waste into the joint sewage treatment plant shall be subject to the review and approval of the Joint Sewage Board.
- B. For any user discharging or proposing to discharge industrial wastewater directly or indirectly into the joint sewage treatment plant, the Board may:
  - (1) Require pretreatment of the user's wastewater to a condition acceptable for discharge to the treatment plant;
  - (2) Require the user to apply for and obtain an industrial wastewater discharge permit as a means of controlling the quantities and rates of discharge;
  - (3) Require payment by the user to cover added cost of handling and treating the wastewater not covered by existing fees or charges;
  - (4) Require the development of compliance schedules by the user to meet any applicable pretreatment requirements, or any other applicable requirements prescribed by the Board's rules and regulations;
  - (5) Require the submission of reports necessary to assure compliance with applicable pretreatment requirements and with any other applicable requirements prescribed by the Board's rules and regulations;
  - (6) Carry out all inspection, surveillance and monitoring necessary to ascertain the user's compliance with applicable pretreatment requirements and any other requirements prescribed by the Board's rules and regulations;
  - (7) Obtain remedies for noncompliance by any user as specified in Article VIII of this chapter; or
  - (8) Reject the user's wastewater, where the Board determines that the wastewater contains substances or possesses characteristics which have a deleterious effect on the joint sewage treatment plant or its appurtenant structures and facilities, or the processes, equipment or receiving waters of the plant; or which constitute a public nuisance or hazard; or
  - (9) Take such other measures as are necessary and proper to ensure compliance with this chapter, with applicable state and federal law and with the rules and regulations of the Board.
  - (10) Request that the user submit revised industrial chemical survey and industrial waste survey forms when industrial facility expansions, production increases or process modifications result in new, different or increased discharges of pollutants, including hazardous wastes. Furthermore, the Board may deny or condition new or increased contributions of pollutants where such contributions do not meet applicable pretreatment standards and requirements or when they would cause the Board to violate its NPDES permit.
  - (11) All industrial users must notify the Board, the state and the EPA, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

### **§ 336-21. Wastewater discharge reports.**

As a means of determining compliance with this chapter, with the Board's SPDES permit conditions and applicable state and federal law, the Board may require that any user discharging or proposing to discharge wastewater directly or indirectly into the joint sewage treatment plant file a wastewater discharge report within 90 days following the date for final compliance (or, if a new source, following the commencement of its discharge) and to supplement such reports with self monitoring reports as required under federal regulation 40 CFR 403.12. The wastewater discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate or other information which relates to the generation of waste; a certification of whether pretreatment standards are being met consistently; and, if not, a description of needed additional operation and maintenance, or pretreatment. The report may also require disclosure of the chemical constituents and quantity of liquid or gaseous materials stored on site, notwithstanding that such materials are not normally discharged. Such information shall be provided by completion of a questionnaire supplied by the Board and by such supplements thereto as the Board determines necessary.

**§ 336-22. Industrial wastewater discharge permits.**

Each major contributing industry is hereby required to obtain an industrial wastewater discharge permit as a condition for discharging or continuing to discharge wastewater to the joint sewage treatment plant. New major contributing industries must obtain an industrial wastewater discharge permit from the Board prior to discharging wastewater into the public sewage systems. Major contributing industries currently connected must obtain a permit from the Board within 180 days after the effective date of this chapter.

**§ 336-23. Permit application.**

- A. Users required to obtain an industrial wastewater discharge permit shall complete and file with the Board an application in the form prescribed by the Board. The applicant may be required to submit the following information:
- (1) Name, address and location (if different from the address).
  - (2) Name and phone number of person to contact concerning industrial waste.
  - (3) Indication of all permits held.
  - (4) Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any.
  - (5) Wastewater constituents and characteristics of the sewage, industrial waste or other wastes discharged to the sewer system, including but not limited to pH, chemical composition, temperature, BOD5, etc.
  - (6) Time and duration of discharge.
  - (7) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation.
  - (8) Description of activities, facilities and plant processes on the premises, including all materials, processes and types of materials which are or could be discharged.
  - (9) Description of each product made, manufactured or produced and type, amount, process or processes and rate of production.
  - (10) Type and amount of raw materials processed.
  - (11) Number and type of employees, and hours of work.
  - (12) Water consumption and uses.
  - (13) Signature and certification that all information submitted is accurate.
  - (14) Any other information in such form and at such times as the Joint Sewage Board deems appropriate to carry out the intent and purpose of this chapter.
- B. In addition to the application to obtain an industrial wastewater discharge permit, categorical industrial users must submit a baseline monitoring report (BMR) in accordance with the requirements of 40 CFR 403.12(b).

- C. The Joint Sewage Board shall evaluate the application and any additional information it requires. After such evaluation, the Joint Sewage Board may issue an industrial wastewater discharge permit subject to the terms and conditions provided herein.

**§ 336-24. Permit conditions.**

- A. Industrial wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other rules and regulations, charges and fees established by the Joint Sewage Board. The conditions of the industrial wastewater discharge permit shall be uniformly enforced by the Board in accordance with this chapter and with applicable state and federal laws and regulations.
- B. The permits may contain the following:
- (1) A statement of duration.
  - (2) A statement of nontransferability.
  - (3) Effluent limitations or other appropriate limitations when toxic substances are present in the user's wastewater discharge.
  - (4) Specifications for monitoring programs, which may include sampling locations, frequency and method of sampling, number types and standards for analytical tests and reporting schedule.
  - (5) A requirement to notify the Board, within 24 hours of becoming aware, of any violations and to resample and resubmit results of this sampling within 30 days.
  - (6) Requirements for submission of reports for conditions of noncompliance.
  - (7) Requirements for submission of technical reports or discharge reports.
  - (8) A requirement that all reports submitted contain a signed certification as required by 40 CFR 403.6(a)(2)(ii).
  - (9) Pretreatment requirements.
  - (10) Requirements for the submission of information concerning the disposal of waste materials separated from the authorized discharge.
  - (11) Requirements for the installation of inspection and sampling manholes.
  - (12) Schedule of compliance allowing reasonable time to conform with the effluent limitations of this chapter.
  - (13) Limits on the average and maximum wastewater constituents, flow rates and time of discharge.
  - (14) Requirements for maintaining records relating to wastewater discharge for a minimum of three years as specified by the Joint Sewage Board and affording access thereto by authorized Joint Sewage Board personnel.
  - (15) The computation and requirement for payment of an industrial waste surcharge.
  - (16) Other conditions which the Joint Sewage Board deems appropriate to ensure compliance with this chapter, with applicable state and federal law and with the rules and regulations of the Board.
  - (17) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

**§ 336-25. Duration of permit.**

Industrial wastewater discharge permits shall be issued for a specified period of time not to exceed three years and shall be renewable.

**§ 336-26. Transfer of permit.**

Industrial wastewater discharge permits shall be issued to a specific user for a specific operation and shall be nontransferable.

**§ 336-27. Modification, suspension or revocation of permit.**

- A. Industrial wastewater discharge permits may be modified, suspended or revoked whenever the Joint Sewage Board finds, after a hearing held in conformance with the procedures set forth in Article IV, that:
  - (1) The user has violated any term of the permit; or
  - (2) The user obtained the permit by misrepresentation or failure to disclose fully all relevant facts.
- B. Permits may additionally be modified, suspended or revoked whenever the Board determines that a change in conditions or the existence of a condition at the joint sewage treatment plant requires either a temporary or permanent reduction or elimination of the authorized discharge. Affected users shall be informed of any proposed changes in their permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Any user aggrieved by a proposed modification, suspension or revocation of the user's wastewater discharge permit under this subsection may appeal to the Board for relief in accordance with the provisions of § 336-11 of this chapter.
- C. If the Board finds that the public health, safety or welfare requires emergency action, and incorporates a finding to that effect in its order, summary suspension or modification of a permit may be ordered pending proceedings for modification, suspension, revocation or other action. As soon as possible thereafter, but not to exceed 15 days, the Board shall provide the affected user an opportunity to be heard in accordance with the hearing provisions of Article IV.

**§ 336-28. Capacity limitation.**

The Joint Sewage Board shall not issue a wastewater discharge permit to any industrial user unless there is sufficient capacity in the wastewater sewers and treatment facilities available to convey and adequately treat the quantity of wastewater which the requested discharge will add to the system.

**§ 336-29. Monitoring, surveillance and sampling.**

The Board shall maintain a continuing program of monitoring, surveillance and sampling of industrial wastes discharged directly or indirectly into the joint sewage treatment plant. The Board shall have the power to obtain samples and make tests necessary to determine the nature and concentration of such wastes and shall have the right to reassess its determination by taking samples and tests at any time or by periodic rechecks without notice to the user discharging such wastes.

- A. Samples shall be taken and flow measurements made at the monitoring station or stations which are specifically identified with the user.
- B. In the event that a monitoring station has not been required, the samples shall be taken at a suitable and accessible point or points to be selected by the Board and which are specifically identified with the user.

**§ 336-30. Monitoring facilities.**

The Board may require that a monitoring facility be installed by any user who discharges, who proposes to discharge or who in the Board's judgment might reasonably discharge wastewater with constituents and characteristics different from that produced by a domestic premises. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by the user. Monitoring facilities shall be designed in accordance with Joint Sewage Board requirements and shall be constructed, operated and maintained at the user's expense. If sampling and metering equipment is also required by the Board, it shall be provided, installed, operated and maintained at the user's expense. When, in the judgment of the Board, there is a significant difference in the wastewater constituents and characteristics produced by different operations of a single user, the Board may require that separate monitoring facilities be installed for each discharge.

**§ 336-31. Pretreatment.**

Where necessary in the opinion of the Board, users shall make wastewater acceptable under the limitations established by this chapter and by Section 307 of the Act before discharging directly or indirectly into the joint sewage treatment plant. Any facilities required to pretreat wastewater to a level acceptable to the Board shall be provided and maintained at the user's expense. Detailed plans showing pretreatment facilities and operating procedures shall be submitted to the Board for review and must be approved by the Board prior to commencement of construction of the facility. The review and approval 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 complying with the provisions of this chapter and with any applicable local, state or federal requirements. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to, and be approved by, the Board. When pretreatment regulations are adopted by the EPA or the DEC for any industry, then users in that industry must immediately conform to the EPA or DEC timetable for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by the EPA or the DEC. Additionally, such users shall comply with any more stringent standards necessitated by local conditions as determined by the Board.

**§ 336-32. Federal effluent limitations.**

Industrial users may perform activities which are subject to national categorical pretreatment standards. The national categorical pretreatment standards, found in 40 CFR Chapter I, Subchapter N, Part 405-471, are hereby incorporated into this chapter. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than limitations in this chapter. Users in industrial categories subject to effluent guidelines issued under Section 304 of the Federal Act shall achieve the level of treatment established by federal regulations. Nothing in this chapter shall be construed to relieve any industrial user from its obligation to comply with the pretreatment standards established pursuant to Section 307 of the Federal Act.

**§ 336-33. Accidental discharge.**

Each user shall provide protection from intentional and accidental slug discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental slug discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Board for review, and shall be approved by the Board before construction of the facility. Industrial users shall develop slug control plans meeting the Board's approval at the request of the Board. Users shall give immediate notification to the Board upon discharging wastes in violation of this chapter due to (1) breakdown of pretreatment equipment, (2) accidents caused by human error or negligence or mechanical failure, (3) other causes, such as acts of nature, to enable countermeasures to be taken by the Board to minimize any resulting interference or pass through. In addition to the notice provided above, users shall notify the Board, in writing, within five days of the date of occurrence, by a detailed statement describing the cause of the discharge and the measures being taken to prevent future occurrences. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment facility or treatment process, or for any fines imposed on the owners and/or the Joint Sewage Board on account thereof under Section 309 of the Act, or any liability for civil penalties assessed against the user under § 336-47 of this chapter.

**§ 336-34. Confidential information.**

Information and data concerning a user obtained from reports, questionnaires and permit applications are available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Board at the time the information is submitted that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which divulge secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to these rules and regulations,

the national pollutant discharge elimination (NPDES) permit, state pollutant discharge elimination system (SPDES) permit or any state agency in judicial review or enforcement proceedings which arise out of this chapter and involve the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

**§ 336-35. Inspections.**

- A. The Joint Sewage Board, its authorized representatives and representatives of the EPA and the DEC, bearing proper credentials and identification, shall be permitted to enter all properties at all reasonable times for the purpose of inspection, observation, sampling, flow measurement and testing to ascertain a user's compliance with this chapter, with applicable provisions of federal, state and local law governing use of the joint sewage treatment plant, and with the provisions of the rules and regulations of the Board. The Board shall have the right to set up on the user's property such devices as are necessary to conduct sampling or flow measurement. The Board shall additionally have access to and may copy any records the user is required to maintain under this chapter or under the rules and regulations of the Board. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that, upon presentation of suitable identification, inspecting personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities.
- B. Joint Sewage Board representatives, bearing proper credentials and identification, shall be permitted to enter all private premises through which the City holds an easement for the purpose of inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater treatment system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.
- C. On private premises, during the performance of inspections, sampling or other similar operations referred to in Subsections A and B above, Board personnel shall observe all applicable safety rules established by the owner or occupant of the premises.

**§ 336-36. Special agreements.**

No statement in this chapter shall be construed as preventing any special agreement between the Joint Sewage Board and any industrial concern whereby an industrial waste of unusual constituents or characteristics may be accepted by the user. The Board shall not accept any discharge prohibited by state or federal law.

**§ 336-37. Notification to industrial users.**

The Joint Sewage Board shall, from time to time, notify each industrial user of pretreatment standards and of other applicable requirements under Sections 204(b) and 405 of the Clean Water Act and Subtitles C and D of RCRA.

**§ 336-38. Public notification of noncompliance.**

The Board shall at least annually provide public notification, in the largest daily newspaper circulated in Broome County, of all industrial users which, at any time during the previous 12 months, were in significant noncompliance with any pretreatment standard or requirements with which they must comply. The notification shall also summarize the enforcement action taken by the Joint Sewage Board.

**§ 336-39. Analytical procedures.**

All measurements, tests and analysis of the constituents and characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest version of 40 CFR Part 136 procedures or alternate test procedures approved by the EPA administrator.

**ARTICLE VII, Industrial Wastewater Surcharge**

**§ 336-40. Imposition of surcharge.**

In addition to any other fees, charges, sewer rents or taxes provided by law, the owner or tenant of any parcel of real property connected with the public sewer by any means may be required to pay an industrial wastewater surcharge to the Board for discharging industrial wastes or other wastes (other than normal sewage) directly or indirectly into the joint sewage treatment plant. The industrial wastewater surcharge shall consist of, but not be limited to, the following charges:

- A. Debt service charges.
- B. Operation and maintenance charges.

**§ 336-41. Basis for determination.**

The industrial wastewater surcharge shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of the user, which may include but are not limited to flow rate, biochemical oxygen demand (BOD5), total suspended solids (TSS), total phosphorous (TP), total nitrogen (TKN) and total organic carbon (TOC). The wastewater constituents and characteristics used to calculate the industrial wastewater surcharge will be those determined by the Board. Any data provided by the user may be used in addition to the data obtained by the Board.

**§ 336-42. Computation.**

- A. The industrial wastewater surcharge shall be computed by the Board using the following surcharge formulas and shall apply to all industrial users as defined in § 336-4:

$$\text{Surcharge} = 8.34 Q(C_x - C_{x \text{ stp}}) \$x + \dots$$

Where:

- Q = flow of user's discharge in millions of gallons per day.
- C<sub>x</sub> = concentration of parameter x in user's discharge in parts per million.
- C<sub>x stp</sub> = sewage treatment plant design concentration of parameter x in parts per million.
- \$x = unit charge for treatment of parameter x in dollars per pound.

- B. The unit charge for treatment of any parameter subject to surcharge will be based on the sum of charges attributable to the capital cost of the treatment facilities and the operation and maintenance budget for that given year. "Capital cost" is defined as the total annual debt service cost for the sewage treatment plant. The "operation and maintenance cost" is defined as the net annual cost of operating and maintaining the sewage treatment plant after crediting all operating cost grants and aid.
- C. The unit charge for any parameter will include only that portion of the capital and operation and maintenance costs which are directly attributable to the treatment of that parameter. This unit charge will be determined by the Board on an annual basis reflecting current debt retirement and operation and maintenance costs.
- D. The unit charge (\$x) for any parameter (x) subject to surcharge will be determined as follows:

$$\$x = [P_{cx} (\text{capital cost}) + P_{ox} (\text{operation and maintenance cost})] \text{ divided by } 365 \text{ divided by } L_x$$

Where:

- P<sub>cx</sub> = percentage of annual capital cost debt retirement attributable to treatment of parameter x
- P<sub>ox</sub> = percentage of annual operation and maintenance cost attributable to treatment of parameter x
- L<sub>x</sub> = average sewage treatment plant influent loading of parameter x in pounds per day

**§ 336-43. Volume determination.**

In applying the surcharge formula, the Board may represent flow discharged into the sewer system by:

- A. The volume of wastewater discharged into the sewer system by: system as determined by the measurements and samples taken at a monitoring facility installed by the owner of the property served by the sewer system; or
- B. The amount of water supplied to the premises as shown on the water meter, or water records if the premises are metered. Allowances for water not discharged to the sewer system will be made at the discretion of the Board; or
- C. A figure determined by the Board by any combination of the foregoing or by any other equitable method.

**§ 336-44. Determination of pollutant concentration.**

The pollutant concentration of any wastewater shall be determined from the analysis of representative samples taken prior to discharge into the sewers, taken by a representative of the Board at sampling stations as described in § 336-30 of this chapter, at any period, or time, or of such duration, and in such a manner as the Board may elect, or at any place or manner mutually agreed upon between the user and the Board. The intent of any sampling procedure is to establish the pollutant concentration in the wastewater discharge during an average or typical working day. This concentration may be derived according to the best judgment of the Board. The analysis of samples taken shall be performed in a laboratory of the treatment plant or a laboratory designated by the Board. The industrial waste surcharge and/or the acceptability of the wastes shall be determined from said analysis. All surcharges shall be based on the total volume of wastes determined under § 336-43 above.

**§ 336-45. Pollutant concentration disputed by user.**

In the event that a user disputes the pollutant concentration of his wastewater discharge determined in accordance with § 336-44 above, a program of resampling and flow measurement with subsequent analytical determination may be instituted as follows:

- A. The user must submit a request for resampling of the wastes and flow measurement to the Board.
- B. An independent consultant or agency of recognized professional standing in the employ of the user must confer with representatives of the Board in order that an agreement may be reached as to the various factors which must be considered on a new sampling and flow measurement program.
- C. The consultant or agency of recognized professional standing employed by the user shall conduct a resampling and reanalysis program, under the direction of the Board for at least two twenty-four-hour periods.
- D. The results of the resampling and the reanalysis shall be considered to be the current analysis of the wastes discharged to the sewer system and shall be used for determining the acceptability of the sampling and analysis results in question. The new results may be used in place of the results in question or in addition to other data collected by the Board for determining the industrial waste surcharge, and/or compliance with the Board's rules and regulations.
- E. All costs of sampling, analysis and flow measurements are to be paid by the user.

**§ 336-46. Payment of industrial waste surcharge.**

Payment of the industrial waste surcharge within the time period allotted by the Joint Sewage Board shall be made to the Board by the industrial user after receiving the industrial waste surcharge bill unless other arrangements for payment have been made and approved by the Board. A user's failure to submit timely payment of any industrial wastewater surcharge will subject the user to a penalty of 1 1/2% of the unpaid amount for each month or part thereof that the surcharge remains unpaid.

**ARTICLE VIII, Enforcement and Penalties**

**§ 336-47. Enforcement responses.**

The appropriate enforcement response to a specific violation of pretreatment requirements by industrial users of the Binghamton-Johnson City Joint Sewage Treatment Plant will be determined in accordance with the Binghamton-Johnson City Joint Sewage Board Enforcement Response Plan.

**§ 336-48. Civil penalty.**

Any person who violates any of the provisions of or who fails to perform any duty imposed by these rules and regulations or any order or determination of the Joint Sewage Board or the terms of any permit issued thereunder shall be liable to the owners for a civil penalty of at least \$1,000 per day for each violation, to be assessed after a hearing held in conformance with the procedures set forth in the Rules and Regulations Relating to Use of the Binghamton-Johnson City Joint Sewage Treatment Plant. Each violation shall be a separate and distinct violation, and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Board's attorney in the name of the owners in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Board before the matter has been referred to the Board's attorney, and where such matter has been referred to the Board's attorney and such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Board's attorney only with the consent of the owners.

**§ 336-49. Judicial enforcement.**

In addition to the power to assess penalties as set forth in § 336-48 above, the Joint Sewage Board shall have the power, following a hearing held in conformance with the procedures set forth in the rules and regulations, to issue an order suspending, revoking or modifying the violator's permit; and enjoining the violator from continuing the violation. Any such order of the Board shall be enforceable in an action brought by the Board's attorney at the request of the Board in the name of the owners in any court of competent jurisdiction.

**§ 336-50. Judicial review.**

Any civil penalty or final order issued by the Joint Sewage Board pursuant to this article shall be reviewable in a proceeding. Application for such review must be made within 30 days after service, in person or by mail, of a copy of the determination or order upon the attorney of record for the applicant and of each person who has filed a notice of appearance, or the applicant in person if not directly represented by an attorney.

**§ 336-51. Violation a misdemeanor.**

Any person who willfully violates any provision of the rules and regulations or any final determination or order of the Joint Sewage Board made in accordance with the rules and regulations shall, in addition, be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than six months or by a fine of at least \$1,000 per day. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

**§ 336-52. Civil liability.**

Any person violating any of the provisions of the rules and regulations shall, in addition, be liable to the owners for any expense, loss or damage occasioned to the owners by reason of such violation and any expense incurred in correcting the violation.

**§ 336-53. Injunction.**

The Board's attorney shall have the right to seek equitable relief in the name of the owners to restrain the violation of, or to compel compliance with, the rules and regulations or any order or determination issued thereunder by the Board.

**§ 336-54. Summary abatement.**

Notwithstanding any inconsistent provisions of law, whenever the manager finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which, in his/her judgment, presents an imminent danger to the public health, safety or welfare, or to the environment, or which threatens to interfere with the operation of the POTW, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the manager may, without prior hearing, order such user by notice, in writing, wherever practicable or in such other form as in the manager's judgment will reasonably notify such person whose practices are intended to be prescribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of notice is impracticable, the manager may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed 15 days, the manager shall provide the user an opportunity to be heard in accordance with the provisions of the rules and regulations.