

## CHAPTER 18

### SEWERS AND SEWAGE DISPOSAL

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## **PART 1**

### **SEWER RENTALS AND CHARGES**

#### **A. Mandatory Connection and Sewer Charges.**

##### **§101. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this Part shall be as follows:

**AMMONIA-NITROGEN** — a form of nitrogen commonly found in wastewater, a compound resulting from the hydrolysis of urea or urine, expressed as NH<sub>3</sub>-N.

**AUTHORITY** — the Joint Municipal Authority of Wyomissing Valley or any other governmental entity, including a borough, city, municipal authority, township or other political subdivision, to which sewage originating in the Borough or flowing through the Borough is discharged.

**BOD (BIOCHEMICAL OXYGEN DEMAND)** — the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C. expressed in milligrams per liter.

**BOROUGH** — the Borough of Wyomissing, its employees and its representatives.

**COUNCIL** — the group of elected officials acting as the Borough Council of the Borough of Wyomissing, its employees and its representatives.

**DISSOLVED SOLIDS** — the anhydrous residues of the dissolved constituents in water or wastewater, expressed as D.S.

**DOMESTIC SEWAGE** — the normal water-carried household and toilet wastes from residences, business buildings, institutions and industrial establishments.

**INDUSTRIAL WASTES** — any liquid or gaseous substances, whether or not solids are contained therein, discharged into the sewer system which does not constitute domestic sewage.

**mg/l** — milligrams per liter.

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

**PERSON** — any individual, firm, company, property owner, association, society, corporation or group.

**PROPERTY OWNER** — a person owning property and served by the Borough's sewer system.

**SANITARY SEWER** — any pipe or conduit constituting a part of the sewer system, or usable for sewage collection purposes, which carries sanitary sewage and to which storm, surface and ground waters are not admitted.

**SEWAGE** — the water-carried wastes from residences, business buildings, institutions and industrial establishments.

**SEWAGE TREATMENT PLANT** — an arrangement of processes, devices and structures used for treating and disposing of sanitary sewage and certain industrial wastes.

**SEWER SYSTEM** — all facilities, as of any particular time, for collecting, pumping, treating, transporting or disposing of sanitary sewage and/or industrial wastes.

**SUSPENDED SOLIDS** — that matter in wastewater that will not stay in suspension during a preselected settling period, such as one hour, but either settles to the bottom or floats to the top, expressed as S.S.

**TOTAL SOLIDS** — solids that either float on the surface of or are in suspension or dissolved in water, sewage or other liquids, and which are determined by laboratory analysis.

(Ord. 1172, 7/11/1995, §1)

## **§102. Applicability.**

This Part and any rules or regulations promulgated under it shall be applicable to all persons using the Borough's sewer system.

(Ord. 1172, 7/11/1995, §2)

## **§103. Mandatory Connection.**

1. **Connection to Sewer System.** All persons owning houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situate within the Borough and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a Borough sanitary sewer, shall at his/her expense install suitable toilet facilities and shall connect these facilities directly to the Borough's sewer system within 60 calendar days after the date of official notice to connect is given by the Borough; provided, that the sanitary sewer is within 150 feet of the property line.
2. **Prohibitions Against Noncentral Sewage Disposal.** 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 sanitary sewage within the Borough unless mandatory connection is not possible.

3. Abandonment of Existing Onlot Systems. All privies, privy vaults, cesspools, septic tanks and drains shall be abandoned upon connection of the properties to the sewer system and left in a manner that they cannot again be used or injuriously affect the public health.
4. Inspection of Abandoned Systems. Privies, privy vaults, cesspools, septic tanks, drains and polluted wells abandoned and closed shall be subject to inspection by the Borough or its authorized representatives and by the appropriate public health authority having jurisdiction. The person upon which any abandoned and closed facility is located shall take remedial action as may be prescribed by the Borough to assure that the closed and abandoned facility will not constitute a hazard to the public health or safety.

(Ord. 1172, 7/11/1995, §3)

#### **§104. Charges for Domestic and Industrial Sewage.**

The charge for collection, transporting and treatment of domestic and industrial sewage discharged into the sewer system shall be computed at rates set from time to time by resolution adopted by the Council.

##### **A. Determination of Charges for Industrial Wastes.**

- (1) There shall be additional charges for industrial wastes having total suspended solids, total dissolved solids, BOD and ammonia-nitrogen in excess of the average total suspended solids, total dissolved solids, BOD and ammonia-nitrogen of normal domestic sewage. Normal domestic sewage shall be considered as having the following concentrations:
  - (a) Total suspended solids — 300 mg/L.
  - (b) Total dissolved solids — 500 mg/L.
  - (c) BOD — 200 mg/L.
  - (d) NH<sub>3</sub>-N — 25 mg/L.
- (2) To determine the additional charge for concentration of industrial wastes above that of normal domestic sewage, the following formula shall be used:

$$SQ = .00834QI[(BOD-200) \$\_\_\_ + (S.S. - 300) \$\_\_\_ + (D.S. - 500) \$\_\_\_ + (NH_3N - 25) \$\_\_\_].$$

SQ = Surcharge quarterly.

QI = Quarterly industrial flow in million gallons.

- (3) The dollar value of the additional charge shall be determined by resolution of Borough Council.
- B. Time and Method of Payment. All sewer charges shall be due and payable at the same time that water charges are payable. Sewer charges shall be included with water bills and shall be collected at the same time and in the same manner as the charges for water, applying the same discounts and penalties.
- C. Right to Terminate Water or Sewer Service. If any person served by the Borough shall neglect or fail to pay, for a period of 30 calendar days from the due date of any bill, any charge for sewer, sewerage or sewage treatment service imposed by the Borough, the Borough shall have the right to: (1) cut-off sewer services for this person and not restore service until all bills and the cost of cutting off and restoring service shall have been paid; and, (2) request the Western Berks Water Authority or any other appropriate water supplier to shut off the water supply to this person until all overdue charges, together with any penalty and interest, are paid. The water supply shall not be shut-off to any person until 10 calendar days after written notice of an intention to do so has been sent certified mail, return receipt requested, to the person for the payment of the charges and there has been posted a written notice of this intention to terminate water service at a main entrance to the premises.
- D. Property Liens. Sewer charges imposed by this Part shall be a lien on the property connected to and served by the sewer system. Any sewer charges that are delinquent shall be filed as a lien against the property connected to and served by the sewer system. This lien shall be filed in the office of the Prothonotary of Berks County, Pennsylvania, and/or shall be collected in the manner provided by law for the filing and collecting of municipal claims. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. 7101 et seq, 53 P.S. 7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bill is paid and recovery of all charges, costs, expenses and attorneys fees incurred in the recovery of the account. [Ord. 1325]
- E. Additional Surcharge for Oil, Grease and Strong and Nondomestic Waste. The formula specified in subsection (A) above, is to determine additional charges or surcharges for the treatment of strong wastes having certain concentrations in excess of those of domestic sewage. It is, however, recognized that the discharge of any waste or other matter not meeting the limits of Part 1A, §104(A)(1) above, or which contains any one or more of the prohibited substances listed in Part 1A, §107 below, may result in extraordinary laboratory, labor, maintenance and/or treatment expense to the Borough. Therefore, in the event of the discharge of any nonresidential waste or other matter or substance not meeting the limits of Part 1A, §104(A)(1) above, or containing any one of the controlled or prohibited substances listed in §107 below, the Borough shall have the power to bill the owner and/or user of the property from which such discharge is made

an additional surcharge of \$500 for each exceeded discharge limit or controlled or prohibited constituent. Each day that such discharge is made shall result in a separate \$500 additional surcharge per exceeded discharge limit or controlled or prohibited constituent. The \$500 shall be in addition to the normal sewer rental and/or any extra strength waste surcharge as incurred under this subsection (A). [Ord. 1236]

F. Further Right to Terminate Service. In the event any person shall discharge into the sewer system any waste or other matter not meeting the limits of Part 1A, §104(A)(1) above, or which contains one or more of the controlled or prohibited constituents set forth in §107, the Borough shall also have the right to terminate water or sewer service to such person in the manner set forth in subsection (C) above. [Ord. 1236]

(Ord. 1172, 7/11/1995, §4; as amended by Ord. 1236, 7/8/2003, §1; as amended by Ord. 1325, 12/13/2011, §1)

## **§105. Measuring Volumes of Domestic Sewage.**

1. Methods of Measuring Volume.
  - A. Whenever a person purchasing all water used from the Borough discharges domestic sewage to the sewer system, the volume of water purchased shall be used in computing the sewer charge.
  - B. In cases where dwellings and establishments have sources of water supply in addition to or other than Borough water, those dwellings and establishments will be required to provide a meter at their cost and expense on the source of supply. The amount of water consumed as shown by the meter readings will be used in computing the sewer charge.
  - C. Whenever a dwelling or establishment utilizes one (1) or more "deduct meters" in accordance with Section 127 of Chapter 26 of this Code, then the volume of water consumed as shown by the deduct meter readings shall be utilized in computing the sewer charge as a deduction from the total metered volume of water consumed or delivered to the dwelling or establishment.
2. Measuring Devices. All meters or other measuring devices required to be used under this Part by the Borough shall be purchased and installed by the person using this service at the person's sole cost and expense. These meters or other measuring devices shall be under the Borough's control, and may be tested, inspected or repaired by the Borough whenever the Borough deems necessary. The person for which the meter or measuring device is installed shall be responsible for maintenance and safekeeping. All repairs shall be made at this person's cost and expense, whether these repairs are made necessary by ordinary wear and tear or other causes. Bills for repairs, if made by the Borough, shall be due and payable by persons responsible for their payment at the same time, and collected in the same manner as are the bills for sewer

services. These bills from and after their date due shall constitute a lien upon the property where the meter or measuring device was installed.

3. Meter Reading. The Borough shall be responsible for the reading of all meters or measuring devices.

(Ord. 1172, 7/11/1995, §5; as amended by Ord. 1279, 4/8/2008, §2)

## **§106. Building Sewers and Connection Methods.**

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any sanitary sewer or appurtenance without first obtaining approval from the Borough.
2. Old building sanitary sewers may be used in connection with new buildings only when they are found, on examination and tested by the Borough, to meet all the requirements of this Part and the Borough's regulations.
3. 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 Borough's Plumbing Code [Chapter 4, Part 2] and/or other applicable rules, regulations and specifications of the Borough.
4. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the sanitary sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.
5. All excavation for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Borough.
6. Area drain lines from all swimming pools in the Borough may be connected to storm sewers, where applicable, and filter backwash lines shall be discharged to the sewer system as follows: [Ord. 1185]
  - A. Sand filter backwash shall be discharged to the sewer system.
  - B. Diatomaceous earth filter backwash shall be connected to the sewer system through settling tanks with three months storage capacity of spent diatomaceous earth, which tanks shall be readily accessible for removing solid waste for disposal.

(Ord. 1172, 7/11/1995, §6; as amended by Ord. 1185, 5/13/1997)

## **§107. Use of Sanitary Sewers.**

1. No person shall place, deposit or permit to be deposited upon public or private property within the Borough any human or animal excrement or other objectionable waste.
2. No person shall discharge to any natural outlet within the Borough any sanitary sewage, industrial waste or other polluted wastes except where suitable treatment has been provided to the satisfaction of the Borough and the Authority.
3. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.
4. No person shall discharge or cause to be discharged any of the following described waters or wastes to the sewer system:
  - A. Any liquid or vapor having a temperature higher than 150°F.
  - B. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - C. Any garbage that has not been properly shredded.
  - D. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in the sewer system or other interference with the proper operation of the sewage treatment plant.
  - E. Any waters or wastes having a pH lower than 4.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage treatment plant.
  - F. Any waters or wastes containing total solids of a character and quantity that unusual attention or expense is required to handle these materials at the sewage treatment plant, except as may be approved by the Borough and the Authority.
  - G. Any waters or wastes containing a toxic or poisonous substance containing in sufficient quantity to injure or interfere with any sewage treatment process or pass through the sewage treatment plant in the effluent constituting a hazard to humans or animals or create any hazard in the Wyomissing Creek and Schuylkill River in concentrations that exceed the following local limits:

<b>Toxic/Poisonous Substance</b>	<b>Concentration in mg/L</b>
Arsenic	0.75
Beryllium	0.005
Cadmium	0.650
Chromium	1.0
Copper	1.0
Cyanide, Free	0.05
Cyanide, Total	0.75
Iron	5.0
Lead	0.50
Mercury	0.0002
Molybdenum	0.20
Nickel	2.0
Oil and Grease (animal origin)	100.00
Oil and Grease (petroleum origin)	25.0
Phenol	1.0
Selenium	0.140
Silver	0.30
Tin	1.0
Zinc	1.00

H. Any waters or waste containing color from any source that contains more than 250 units or color as determined by the Platinum-Cobalt method of determining color in Standard Methods for the Examination of Water and Wastewater.

5. Grease, oil and/or sand interceptors shall be provided when, in the opinion of the Borough, they are necessary for the proper handling of wastewater containing excess amounts of grease and oil, or sand; provided, however, that such interceptors shall not be required for residential users. All interceptors shall be reviewed and approved by the Borough prior to installation and shall be so located to be easily accessible for cleaning and repaired regularly, as needed, by the user and/or property owner at its expense. [Ord. 1236]

6. The Borough shall have the right to inspect any building, sewer, lateral or collecting sewer on public or private property that discharges wastewater directly or indirectly into the sewer system to determine compliance with this Chapter 18. As part of the

inspection process, the Borough may take samples of the wastewater to test for compliance with any of the Borough's wastewater discharge limits. [Ord. 1236]

(Ord. 1172, 7/11/1995, §7; as amended by Ord. 1236, 7/8/2003, §2; as amended by Ord. 1411-2020, 4/14/2020, §1.)

## **§108. Admission of Industrial Wastes into the Sewer System.**

1. Treatment of Industrial Wastes. The Borough may accept those types and quantities of industrial waste that it determines are not harmful or damaging to the structures, processes or operation of the sewer system and/or sewage treatment plant. Additional charges may be required that must be paid by those persons using and receiving these services.
2. Approval Required for Industrial Wastes. To control the admission of industrial wastes, joint approval of the Borough and the Authority in the form of an industrial waste permit shall be required prior to the discharge into the sewer system of water or wastes by any person having any or all of the following:
  - A. A five-day, 20° C. BOD greater than 200 mg/L.
  - B. A suspended solids content greater than 300 mg/L.
  - C. A dissolved solids content greater than 500 mg/L.
  - D. Ammonia nitrogen content greater than 25 mg/L.
  - E. An average daily flow greater than 10% of the sewage treatment plant's capacity.
3. Pretreatment.
  - A. Requirements. Where required, in the opinion of the Borough and the Authority, any person seeking to discharge a waste to the sewer system deemed unacceptable by the Borough and/or the Authority shall provide at its own cost and expense any preliminary treatment or handling as may be necessary to:
    - (1) Reduce BOD to 200 mg/L, suspended solids to 300 mg/L, dissolved solids to 500 mg/L, and ammonia nitrogen to 25 mg/L.
    - (2) Modify the objectionable characteristics or constituents to come within the maximum limits provided for in this Part, any rules and regulations, or as required by the Borough or the Authority.
    - (3) Control the quantities and rates of discharge of these waters or wastes over a twenty-four-hour day and a seven day week.

4. Plans, Specifications Etc. Plans, specifications and any other pertinent information relating to the proposed pretreatment or handling facilities shall be submitted by the person requesting this service for the approval by the Borough and the Authority. No construction of these facilities shall be commenced or discharge of these waters or wastes shall be permitted until written approval is obtained and received from the Borough and the Authority in the form of an industrial waste permit.

(Ord. 1172, 7/11/1995, §8)

## **§109. Measuring Volume of Industrial Wastes.**

1. Methods of Measuring Volume.
  - A. Whenever a person purchasing all water used from the Borough discharges only industrial waste to the sewer system, the volume of water purchased shall be used as a measure of the quantity of industrial waste discharged.
  - B. Whenever a person purchasing all water used from the Borough discharges combined domestic sewage and industrial waste to the sewer system, the volume of water purchased chargeable as industrial waste shall be the total volume of water purchased less the volume of water determined to be domestic sewage. The volume of water determined to be domestic sewage shall be determined in either of the following ways:
    - (1) Actual measured flows.
    - (2) By multiplying the average number of employees in the establishment during the preceding billing period by 300 cubic feet.
  - C. To measure the volume of water not discharged into the sewer system, a person may install a water meter at its cost and expense. The water passing through the meter shall be only the water that is not discharged into the sewer system. No sewer charge shall be imposed upon the water passing through this meter and not discharged into the sewer system.
  - D. Whenever a person using a private water supply discharges industrial wastes to the sewer system the charges for the discharge shall be in accordance with §104 of this Part. This person, however, shall install at its cost and expense either a water meter or meters, as may be required by the Borough and/or Authority, to measure the total volume of water used in the industrial plant; or shall install, at its cost and expense, a meter on the sewer line leaving the plant to measure the entire flow of waste discharged to the sewer system. No meter for measurement either of the water or sewage shall be installed until a plan for the installation is submitted to the Borough and the Authority, and approved. All meters or other measuring devices installed or required to be used under this Part shall be under the control of the Borough, and may be tested, inspect-

ed or repaired by the Borough whenever it deems necessary; The person for which the meter or measuring device is installed shall be responsible for maintenance and safekeeping. All repairs shall be made at the person's sole cost and expense, whether the repairs are made necessary by ordinary wear and tear or other causes. Bills for these repairs, if made by the Borough, shall be due and payable from the person responsible for payment at the same time, and collected in the same manner as are the bills for sewer services. These bills, from and after their due date, shall constitute a lien upon the property upon which the meter or measuring device was installed.

- E. The Borough shall be responsible for the reading of water and/or sewage meters when installed in industrial establishments. Where, in the opinion of the Borough, it is not necessary to install a meter, measurements of the discharge to the sewer system shall be made at appropriate times determined by it. The measurements so made shall be used for determining the sewer charge. Any person dissatisfied with the sewer charge may, at its own cost and expense, install a meter or other measuring device as provided by this Section.

(Ord. 1172, 7/11/1995, §9)

## **§110. Measurement of Concentration of Industrial Waste.**

1. Sampling and Inspection. Industrial wastes being discharged into the sewer system shall be subject to sampling and inspection to be used as basis for determining additional charges due to excessive concentrations of BOD, suspended solids, dissolved solids, ammonia nitrogen, and/or other substances. Sampling and inspection shall be made by the Borough and/or the Authority as frequently as may be deemed necessary. The analysis of the sample so obtained shall be the basis for computing additional charges in accordance with §104. The cost of this sampling and testing shall be paid by the person discharging the sanitary sewage. The results of the testing of samples and the findings of inspections made by this person shall be made available to the Borough and the Authority.
2. Sampling and Inspection Cost. When required by the Borough and the Authority, the person discharging industrial waste to the sewer system shall at its cost and expense install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the waste. This manhole shall be accessible and safely located. It shall be constructed in accordance with plans approved by the Borough and the Authority. The manhole shall be maintained by the person discharging industrial waste at its cost and expense and shall be accessible at all times to the Borough and/or the Authority.
3. Access to Properties. The Borough and/or the Authority shall at all reasonable times be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing.
4. Charge of Waste Discharged. Any person connected to the sewer system and discharging or proposing to discharge industrial wastes who changes methods of operation to

alter the type of sanitary sewage previously discharged, shall notify the Borough and the Authority in writing 30 calendar days prior to the change so that the Borough and/or the Authority may analyze the sewage immediately prior to the change taking place to determine whether or not the new sewage discharge complies with this Part.

(Ord. 1172, 7/11/1995, §10)

### **§111. Rules and Regulations.**

Council may from time to time promulgate or adopt by resolution any rules and regulations it deems appropriate to apply the provisions of this Part.

(Ord. 1172, 7/11/1995, §11)

### **§112. Holding Tanks for Gray Water Sewage.**

1. Purpose. The purpose of this Section is to establish procedures for the use and maintenance of existing and new holding tanks to receive and retain "gray water sewage" on any property not accessible to the sewer system, whether from residential or commercial uses, and it is hereby declared that the enactment of this Section is necessary for the protection, benefit, and preservation of the health, safety and welfare of the inhabitants of the Borough.
2. Definitions. Unless the context specifically and clearly indicates otherwise, the meanings of terms used in this Section shall be as follows:

**GRAY WATER SEWAGE** — all liquid waste which does not contain any of the waste products or excrement or any discharge from the bodies of human beings or animals and which contain no noxious or deleterious substance being harmful or inimical to the public health.

**HOLDING TANK** — a watertight receptacle, whether permanent or temporary, which receives and retains gray water sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.

**IMPROVED PROPERTY** — any property within the Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings from which structure gray water sewage shall or may be discharged.

**OWNER** — any person vested with ownership or possession, legal or equitable, sole or partial, of any property located in the Borough.

PERSON — any individual, partnership, company, association, corporation or other group or entity.

3. Rules and Regulations to be in Conformity with Applicable Law. All such rules and regulations adopted by the Borough shall be in conformity with the provisions herein, all other ordinances of the Borough, and applicable rules and regulations of the administrative agencies of the Commonwealth of Pennsylvania.
4. Exclusiveness of Rights and Privileges.
  - A. The collection and transportation of all gray water sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Borough, and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.
  - B. The Borough will receive, review and retain pumping receipts from any permitted holding tank.
  - C. The Borough will complete and retain annual inspection reports for each permitted holding tank.
5. Duties of Improved Property Owner. The owner of an improved property that utilizes a holding tank shall:
  - A. Maintain the holding tank in conformance with this or any ordinance of the Borough, the provisions of any applicable law, and the rules and regulations of the Borough and any administrative agency of the Commonwealth of Pennsylvania including, but not limited to, 25 Pa. Code §73.62, "Standards for Holding Tanks."
  - B. Permit only the Borough or its agents to inspect holding tanks on an annual basis.
  - C. Permit only the Borough or its agents to collect, transport and dispose of the contents therein.
6. Maximum Capacity and Usage. No holding tank installed for the purposes described herein shall exceed a maximum capacity of 1,000 gallons or a volume equal to the quantity of waste generated in three days, whichever is larger.
7. Daily Usage. The maximum discharge to a holding tank shall be 30 gallons per day.
8. Abatement of Nuisances. In addition to any other remedies provided in the Code of Ordinances, any violation of this Section which shall constitute a nuisance and shall be abated by the Borough by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

(Ord. 1215, 3/13/2001, §1)

## B. Sewer Rates.

### §121. Industrial Sewage Rate.

1. The Borough of Wyomissing Ord. 1172 provides, in §4, subsection (a) thereof [§104], that Borough Council shall establish by resolution additional charges for concentration of industrial wastes above that of normal domestic sewage. The following formula shall be used:

Quarterly Surcharge = 0.00834 QI [(BOD-200) \$208.84 + (S.S.-300) \$248.29 + (D.S.-500) \$25.27 + (NH<sub>3</sub>N-25) \$618.34]

Where: 0.00834 – is a constant to convert waste strength expressed in mg/L to thousand pounds of waste.

QI = quarterly industrial waste flow expressed in million gallons.

BOD = five day BOD in mg/L of the industrial waste.

S.S. = suspended solids of industrial waste in mg/L.

D.S. = dissolved solids of industrial waste in mg/L.

NH<sub>3</sub>N = Ammonia nitrogen of industrial waste in mg/L.

200, 300, 500 and 25 = constants expressing waste load strength in mg/L for the respective pollution parameters.

\$208.84, \$248.29, \$25.27 and \$618.34 = costs of treating 1,000 pounds of waste for the respective pollution parameter. These costs will change as operating costs increase, as capital additions are made or as flow changes.

[Res. 00-4]

2. Based upon the formula, the annual notice from the JMA of the surcharge rate for industrial waste is hereby adopted for billings commencing July 1 of each year. [Res. 01-8]

(Res. 6/11/1996; as amended by Res. 6/10/1997; by Res. 98-8, 6/9/1998; by Res. 99-12, 7/13/1999; by Res. 00-4, 7/11/2000; and by Res. 01-8, 6/12/2001)

### §122. Domestic Sewage Rate.

The Borough of Wyomissing Ord. 1172 provides in §4 thereof that Borough Council shall establish by resolution a charge for collection, transporting and treatment of domestic and

industrial sewage discharged into the sewer system which shall be computed at rates set forth below:

A. Standard Metered Rates. The following rates will apply to all quantities of water consumed:

- (1) \$55.44 for the first 1,200 cubic feet per quarter.
- (2) \$4.62 per 100 cubic feet in excess of 1,200 cubic feet per quarter.
- (3) Minimum quarterly fee is \$55.44.

(Res. 12/10/1996-A; as amended by Res. 10/14/1997B; and by Res. 12/9/1997A; as amended by Res. 2013-07, 12/10/2013)

## PART 2

### SEWER CONNECTIONS

#### **§201. Definitions.**

AUTHORITY — the Joint Municipal Authority of Wyomissing Valley as presently or hereafter constituted, which has been created jointly by the Councils of the Borough of Wyomissing and the Borough of West Reading.

CONNECTION — the pipe line or pipe lines from the main or street sewer in any public highway, street, lane or alley to the building line.

INDUSTRIAL WASTE — the liquid waste from industrial processes as distinct from domestic sewage.

OCCUPIED BUILDING — any structure erected and intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage and industrial waste, or either thereof, is or may be discharged.

PERSON — individuals or natural persons, artificial persons existing only in contemplation of law, and shall be construed to include associations, partnerships, limited partnerships, joint stock companies and corporations.

PREMISES ACCESSIBLE — real estate which adjoins, abuts on or is adjacent to the sewer system.

SEWAGE — the normal water-carried household and toilet wastes from residences, business buildings, institutions and industrial establishments.

SEWAGE TREATMENT WORKS — the arrangement of devices and structures acquired and about to be constructed by the Authority for treating and disposing of sewage.

SEWER SYSTEM — the present sanitary sewer collection system of the Borough and any additions or extensions that hereafter may be made thereto by the Borough.

(Ord. 480, 3/27/1951, §1)

#### **§202. Owners to Connect at Own Expense.**

1. All persons owning any occupied building now erected upon premises accessible to the sewer system shall at their own expense connect such building with the sewer system nine months after the effective date of this Part.

2. All persons owning any premises accessible to the sewer system upon which a building is hereafter erected shall, at the time of the erection of such building and at their own expense, connect the same with the sewer system.
3. All persons owning any occupied building upon premises which hereafter becomes accessible to the sewer system shall, at their own expense, connect such building with the sewer system within three months after notice to do so from Borough Council.

(Ord. 480, 3/27/1951, §2)

### **§203. Other Methods of Sewage Disposal Unlawful.**

It shall be unlawful for any person owning any occupied building on premises accessible to the sewer system to erect, construct or use, or maintain or cause to be erected, constructed, used or maintained, any privy, cesspool, sinkhole, septic tank or other receptacle on such premises for receiving sewage after January 1, 1952.

(Ord. 480, 3/27/1951, §3)

### **§204. Connection Procedures Regulated.**

No connection shall be made to the sewer system except in compliance with the ordinances, rules and regulations of the Borough Council or as may be otherwise required by law.

(Ord. 480, 3/27/1951, §4)

### **§205. Abatement of Nuisances.**

Any person who erects, constructs or maintains a privy, cesspool, sinkhole or septic tank on any property accessible to the sewer system shall be deemed, and shall be declared to be erecting, constructing and maintaining a nuisance, which nuisance the Borough is hereby authorized and directed to abate in the manner provided by law.

(Ord. 480, 3/27/1951, §5)

**PART 3****SEWER TAPPING FEE****§301. Imposition of Taping Fee.**

There is hereby imposed on each and every owner of real estate located in the Borough of Wyomissing, Berks County, Pennsylvania, connecting to the sanitary sewer collection system of said Borough after the effective date of this Part, a tapping fee in an amount to be determined from time to time by resolution of Borough Council, per equivalent dwelling unit ("EDU"), or portion of such EDU, for each new connection of a structure and/or proposed structure to said sanitary sewer collection system. The tapping fee shall be calculated in accordance with 53 Pa. C.S.A. Section 5607(d)(2t)(i)(c)(i) and shall consist only of a capacity part, representing the fee charged from time to time to the Borough by the Joint Municipal Authority of the Wyomissing Valley per EDU. The within established tapping fee, as collected by the said Borough of Wyomissing, shall be forwarded to the Joint Municipal Authority of the Wyomissing Valley, Berks County, the same to be deposited in a restricted interest bearing bank account by the said Authority and thereafter expended by the said Authority solely for the upgrading and/or expansion of its sanitary sewage treatment plant facilities, which facilities treat, in part, sewage transported through the sanitary sewer collection system of the Borough.

- A. The tapping fee imposed by this Part and Section shall be for each residential dwelling unit including, but not limited to, single residence, apartment unit, condominium unit and/or residential retirement unit.
- B. For the purpose of this Part, it is established that an equivalent dwelling unit constitutes 22,800 gallons of sewage per quarter annum, to the said sanitary sewer collection system. In calculating the amount of the said tapping fee for commercial or industrial properties or for uses accessory to residential dwelling units, the Borough Council of the Borough of Wyomissing shall cause to be determined, based upon accepted engineering practices, the projected quarter annual flow of sewage, in gallons, to be contributed by the structure and/or proposed structure to the said sanitary sewer collection system. This projected quarter annual flow of sewage, expressed in gallons, when divided by 22,800 gallons and the quotient thereof (rounded off to the nearest 1/10), when multiplied by the tapping fee in existence at the time of the connection, shall be the amount of the within established tapping fee.
- C. For any property which is used for any combination of residential, commercial, industrial and/or uses accessory thereto, the tapping fee shall be calculated by adding the fees for all the various components of such uses as determined under the prevailing fee schedules.
- D. The minimum tapping fee for any structure or proposed structure connecting to the Borough of Wyomissing sanitary sewer collection system shall be the tapping fee, adopted by Borough Council, at the time of the proposed connection to the sewage system.

(Ord. 1117, 8/8/1989, §1; as amended by Ord. 1241, 12/9/2003, §1)

**§302. Approval of Borough.**

The owner of real estate located within the Borough of Wyomissing, Berks County, Pennsylvania, shall not cause a new connection of a structure and/or proposed structure to the sanitary sewer collection system of said Borough without first having obtained Borough approval therefore. Such approval shall be issued by the appropriate Code Enforcement Office of the Borough upon the filing of an application with such office, submission of plans and specifications, payment of a fee, in an amount as established from time to time by resolution of Borough Council, and furnishing evidence of intended compliance with all other ordinances, rules and regulations of the Borough of Wyomissing affecting the collection and treatment of sewage, such evidence to be given by specific information as may be prescribed by the application form.

(Ord. 1117, 8/8/1989, §2; as amended by Ord. 1185, 5/13/1997)

**§303. Existing Structures.**

For any structures which were existing in the Borough of Wyomissing prior to August 15, 1989, and were not connected to the Borough sanitary sewer collection system as of that date, the tapping fee imposed under this Part shall not become effective until January 1, 1990. The purpose of this Section is to provide a temporary period during which unconnected existing structures can be connected to the Borough sanitary collection system prior to the imposition of the tapping fee. Existing structures which are not connected to the Borough sanitary sewer collection system by January 1, 1990, shall be subject to the tapping fee.

(Ord. 1117, 8/8/1989, §3)

## PART 4

### SANITARY SEWER SYSTEM INSTALLATION

#### A. Standard Specifications.

##### **§401. Reference to Standard Specifications.**

1. All additions, extensions, and/or alterations to the Wyomissing Borough Sanitary Sewer system shall be performed in accordance with the Standard Specifications as may be adopted by Borough Council from time to time by Resolution.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

#### B. General Conditions.

##### **§411. Bond and Insurance Required.**

No person shall disturb any street or alley without first giving to the Borough:

- A. **Bond.** A bond with an acceptable trust or surety company as surety or a letter of credit with an acceptable bank as issuer, in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys. Such bond or letter of credit shall be valid without need of renewal for a period of five (5) years from the date of issuance.
- B. **Permittee's Liability Insurance.** The permittee shall purchase and maintain insurance that will afford the following protection from claims:
  - (1) **Coverage.** For damages because of bodily injury, sickness or disease, or death of any person other than employees including claims insured by usual personal injury liability coverage; property damages and loss of use resulting therefrom; any or all of which may arise out of or result from the operations and completed operations of the contractor, whether such operations and completed operations be by the contractor or by any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. Before starting the work, the contractor will file with the Borough a certificate of such insurance, acceptable to the Borough. Insurance covering comprehensive general liability shall be maintained by the contractor for the duration of the work.

(2) Limits of Insurance. The permittee shall provide insurance in the following minimum amounts:

FORM	MINIMUM LIMITS
Comprehensive General Liability	
Bodily Injury	\$3,000,000
Property Damage	\$3,000,000
Personal Injury	\$3,000,000
Workers Compensation	Statutory Limits
Including premises operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, independent contractors and personal injury, including employees.	

(3) Additional Insureds. This policy shall name both the Borough, Borough Engineer any Building Official or other person the Borough of Wyomissing may from time to time appoint by ordinance, resolution or other to carry the administration, enforcement and all other responsibilities of this Part as “additional insured.”

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

#### **§412. Contractor's Responsibilities.**

1. Supervision and Superintendence. The Contractor shall supervise and direct the work efficiently with the best skill and attention, and shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor shall be responsible to see that the finished work complies accurately with the Borough's specifications.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

#### **§413. Record Drawings.**

The Contractor shall keep one record copy of all drawings at the site in good order. They shall be annotated to show all changes made during construction to reflect the “as-built” condition of the work. These shall be delivered to the Borough upon completion of the work; After the Borough has approved the “record set” drawings, the developer shall provide the Borough with reproducible mylars of all improvements and electronic copies in a format deemed suitable by the Borough's designated representative.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

#### **§414. Safety and Protection.**

1. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to: (a) all employees on the work and other persons who may be affected thereby, (b) all the work and materials or equipment to be incorporated therein, whether in storage on or off the site, and (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
2. The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection.
3. The Contractor shall remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by them, or anyone for whose acts they are liable.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

#### **§415. Shop Drawings and Samples.**

After checking and verifying all field measurements, the Contractor shall submit to the Borough for approval four copies of all shop drawings, three copies for the use of the Borough and one copy for return to the Contractor, which shall have been checked by and stamped with approval of the Contractor and identified as the Borough may require.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

#### **§416. Work Schedule.**

No work will be permitted at night, on weekends, on legal holidays, after eight hours have been worked in any day, or after 40 hours have been worked in any one week period, except upon written authorization of the Borough Public Works Director. Any work performed during the absence of the Borough Public Works Director will be done at the risk and responsibility of the Contractor and may be subject to rejection upon later inspection.

(Ord. 1185, 5/13/1997; as amended by Ord. 1193, 4/14/1998, §1; as amended by Ord. 1358, 1/14/2014, §2)

### **§417. Cleaning Up.**

The Contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work, and at the completion of the work shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the drawings.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

### **§418. Borough Engineer's Status During Construction.**

1. **Borough's Representative.** The Borough Engineer may be the Borough's representative during the construction period. This will be clarified at the mandatory preconstruction job conference, which shall be held a minimum of three days before any work commences. The conference shall be at the mutual convenience of the Borough and the Contractor.
2. **Visits to Site.** The Borough Engineer will make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the drawings and the Borough's specifications. The Borough Engineer will not be required to make exhaustive or continuous onsite inspections to check the quality or quantity of the work.
3. **Rejecting Defective Work.** The Borough Engineer will have the authority to disapprove or reject work which is "defective" (which term is hereinafter used to describe work that is unsatisfactory, faulty or does not conform to the requirements of the drawings or Borough specifications or that does not meet the requirements of any required inspection, test or approval), whether or not the work is fabricated, installed or completed.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

### **§419. Warranty and Guarantee.**

The Contractor warrants and guarantees to the Borough that all materials and equipment shall be new unless otherwise specified and that all work shall be of good quality and free from faults or defects. All unsatisfactory work or all faulty or defective work shall be considered defective. All defective work, whether or not in place, may be rejected, corrected or accepted by the Borough Engineer and/or Public Works Director.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

### **§420. Access to the Work.**

The Borough including but not limited to its Public Work Director and its Engineer will at all times have access to the work. The Contractor shall provide proper facilities for such access and observation of the work and also for any inspection or testing thereof by others.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

**§421. Correction, Removal or Acceptance of Defective Work.**

1. Uncovering Work. If any work is covered without the approval of the Borough Engineer and/or Public Works Director, as applicable, it must, if requested by the Borough Engineer and/or Public Works Director, be uncovered for observation and replaced at the expense of the Contractor.
2. Borough May Stop the Work. If the work is defective or if the Contractor fails to supply sufficient skilled workmen or suitable materials or equipment, the Borough Engineer and/or Public Works Director may order the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated.

(Ord. 1185, 5/13/1997; as amended by Ord. 1358, 1/14/2014, §2)

## **PART 5**

### **ENFORCEMENT AND PENALTIES**

#### **§501. Prohibition.**

Any violation under this Part, including the discharge of any wastes by a user that would interfere, harm or constitute a nonpermissible waste to the Authority's sewage treatment plant or pass through the Borough's collection system, shall be prohibited.

(Ord. 1187, 10/14/1997, §1)

#### **§502. Compliance.**

To secure compliance for a user violating any of this Part's provisions, the Borough, Authority, DEP and EPA may, but are not limited to, requiring that a user implement any one or more of the following:

- A. Compliance Schedule. Require the user to develop a compliance schedule for the installation of technology to meet applicable treatment standards.
- B. Revise Treatment Standards. Deny or condition new or increased contributions of waste, or changes in the nature of waste, where these contributions do not meet applicable treatment standards and requirements or where these contributions would cause the Authority to violate any of its permits.
- C. Inspections and Monitoring.
  - (1) Self-Monitoring. Require users to submit all notices and self-monitoring reports as are necessary to assess and assure compliance with treatment standards.
  - (2) Inspections and Monitoring.
    - (a) Require users to provide access at all times to their property which is connected to the sewer system and any meters used for purposes of establishing or determining water consumption, water excluded from the sewer system or domestic sewage or wastes discharged to the sewer system.
    - (b) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by users, compliance or noncompliance with applicable treatment standards.

- (c) Be authorized to enter any user's premises in which a discharge source or treatment system is located or in which records are required to be kept to assure compliance with treatment standards.

(3) Sampling.

- (a) Random Samples. Randomly sample and analyze the effluent from users and conduct surveillance activities to identify, independent of information supplied by users, occasional and continuing compliance with treatment standards.
- (b) Inspect. Inspect and sample the effluent from any user.
- (c) Evaluation. Evaluate whether a user needs a plan to control discharges.

D. Reporting Requirements. Require users to submit a report which contains the following:

- (1) Identifying Information. The name and address of the facility including the name of the operator and owners.
- (2) Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations.
  - (a) A brief description of the nature, average rate of production and standard industrial classification of the operation(s) carried out by the user.
  - (b) A schematic process diagram which indicates points of discharge to the Borough's collection system.
- (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day.

E. Permits, Contracts, Orders, Etc. Control through permit, contract, order or similar means the contribution to the Authority by each user to ensure compliance with applicable treatment standards and requirements.

F. Suspend Service. Suspend the wastewater treatment service and/or a wastewater contribution permit when the suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial danger to the health or welfare of persons, the environment, interferes with the Authority's treatment plant or causes the Authority to violate its permits.

G. Permit Revocation. Revoking the user's permit for:

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

H. Prohibit Discharge. After informal notice to the user, halt or prevent any prohibited discharge to the Borough's sewage collection system and the Authority's treatment plant which reasonably appears to present an imminent endangerment to the health or welfare of persons or the environment.

I. Right to Refuse Connection to or Compel Discontinuance of Use of Sewer System or to Compel Treatment. Refuse to any person the privilege of connection to the sewer system, compel the discontinuance of use of a sewer and the sewer system by any person, compel the pretreatment of any wastes, prevent discharges into the sewer system that have a harmful effect on sewage treatment processes or cause the Authority to be in noncompliance with its permits.

J. Injunctive or Equitable Relief. Seek injunctive or other equitable relief against users where:

- (1) A discharge from the user presents an imminent danger or substantial harm.
- (2) A discharge from the user presents an imminent or substantial endangerment to the environment.
- (3) A discharge from the user causes the Authority to violate any conditions of its discharge permit.
- (4) A user has shown a lack of ability or intention to comply with a treatment standard.

K. Fines and Penalties. Imposing any applicable fines and penalties.

(Ord. 1187, 10/14/1997, §1)

### **§503. Violation Notification.**

Whenever the Borough, the Authority, DEP or EPA finds that any user has violated or is violating this Part, its permits or any prohibitions, the Borough, the Authority, DEP or EPA may serve upon this user a written notice stating the violation's nature.

(Ord. 1187, 10/14/1997, §1)

**§504. Show Cause Hearing.**

1. Show Cause Hearing. The Borough and/or the Authority may conduct a show cause hearing for any user violating this Part where the Borough and/or Authority deems that a hearing is necessary to remedy a violation prior to proceeding to court or the user requests a show cause hearing prior to proceeding to court. This procedure shall not apply where the Borough and/or Authority have commenced an injunction proceeding against the user unless the court directs that the Borough and/or Authority conduct a show cause hearing.
2. Hearing Notice. The notice shall specify the time and place of the hearing to be held by the Borough and/or Authority regarding the violation, the reasons why the action is to be taken and the proposed enforcement action.
3. Hearing Notice Service. The hearing's notice shall be served personally or by registered or certified mail return receipt requested at least 15 calendar days before the hearing. Service may be made on any agent or officer of a corporation.
4. Hearing Conduct. The Borough and/or Authority may conduct the hearing and take the evidence, or may designate any of its members, any officer, employee or any other person to:
  - A. Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings.
  - B. Taking evidence under oath.
  - C. Creating a stenographic record and making it available to any party or a member of the public upon payment of charges.
  - D. Transmitting a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Borough, the Authority, DEP or EPA for action.
5. Order. After the Borough and/or Authority has reviewed the evidence, it shall issue an order.

(Ord. 1187, 10/14/1997, §1)

**§505. Penalty, Costs, Reasonable Attorneys' Fees, Etc.**

1. Civil Penalties; Generally. Any user who is found to have violated this Part shall be fined not less than \$100 nor more than \$1,000 for the offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to these penalties, the Borough, the Authority, DEP or EPA may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law or otherwise against the person found to have violated this Part or the orders, rules, regulations and permits issued hereunder.
2. Civil Penalties; For Authority Approved Pretreatment Program.
  - A. Pretreatment Program. In addition to proceeding under any other remedy available at law or equity for violation of treatment standards and/or requirements, the Authority, after adopting an approved pretreatment program, may assess a civil penalty upon a user for the violation for an operational upset. A single operational upset which leads to simultaneous violations of more than one pretreatment standard or requirement shall be treated as a single violation as required by the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.).
  - B. Penalty. The Authority shall publicly adopt a formal, written, civil penalty assessment policy and make it publicly available. Each industrial discharger participating in the pretreatment program shall be given written notice of the policy. In developing the penalty assessment policy, the Authority shall consider:
    - (1) Damage to air, water, land or other natural resources and their uses.
    - (2) Cost of restoration and abatement.
    - (3) Savings resulting to the person in consequence of the violation, history of past violations.
    - (4) Deterrence of future violations.
    - (5) Other relevant factors.
  - C. Penalty Amount. A penalty may be assessed whether or not the violation was willful or negligent. The civil penalty shall not exceed \$25,000 per day for each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct offense. The Authority shall include as part of the notice of an assessment of civil penalties a description of the applicable appeals process to be followed, including the name, address and telephone number of the person responsible for accepting the appeal. The Authority may recover its costs for reestablishing the operation of its plant, in addition to any civil penalty imposed under this Section.
  - D. Uses for Penalties. Civil penalties collected shall be placed in a restricted account and shall only be used by the Authority for the repair of damage and any additional maintenance needed or any additional costs imposed as a result of

the violation for which the penalty was imposed, to pay any penalties imposed on the Authority by the Federal or State government for violation of pretreatment standards, for the costs incurred by the Authority to investigate and take the enforcement action that resulted in a penalty being imposed, for the monitoring of discharges in the pretreatment program and for capital improvements to the treatment works, including sewage collection lines, which may be required by the pretreatment program. Any remaining funds may be used for capital improvements to the treatment works, including collection lines.

3. **Payment of Expenses.** The Borough and/or the Authority may require the user to pay any costs and expenses it incurs in remedying a user's violation in addition to imposing the penalties set forth in this Section.
4. **Falsifying Information.** Any person who knowingly makes any false statement, representation or certification in any application, record, report, permit, plan or other document filed or required to be maintained pursuant to this Part or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Part shall upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 30 calendar days, or by both.
5. **Appeal.** A user shall have 30 calendar days to pay the proposed penalty in full. If the user wishes to contest either the amount of the penalty or the fact of the violation, the user shall file an appeal within 30 calendar days pursuant to 2 Pa.C.S. (relating to administrative law and procedure). Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the penalty's amount.
6. **Penalty Cumulative and Concurrent.** The penalties authorized in this Part are intended to be concurrent and cumulative and the provisions of this Part shall not abridge or alter any right of action or remedy, now or hereafter existing in equity, or under the common law or statutory law, criminal or civil, available to a person, municipality or a governmental agency.

(Ord. 1187, 10/14/1997, §1)