

ORDINANCE NO. 2021 – 16
TO AMEND SECTION 56 OF THE CITY OF CULLMAN CODE OF ORDINANCES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA, AS FOLLOWS:

Section 1. Section 56-51 of the Code of Ordinances City of Cullman is hereby amended by adding the following definitions:

Sec. 56-51. - Definitions.

ADMI means the American Dye Manufacturers Institute color units.

Color means the true color as established by standard method due to the substances in solution expressed in ADMI units.

Objectionable Color means any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions that is above the ADMI number for Daily Maximum Concentration, mg/l.

Section 2. Section 56-121 of the Code of Ordinances City of Cullman is hereby amended deleted in its entirety and replaced with the following definitions:

Sec. 56-121. - General discharge prohibitions—Domestic and non-domestic.

- (a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation or performance of the city's wastewater collection and/or treatment facilities. These general prohibitions apply to all such users of the city's wastewater facilities whether or not the user is subject categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (b) A user may not discharge to the city's wastewater collection and treatment facilities any of the following:
 - (1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the city's wastewater facilities or to the operation of the city's wastewater treatment facilities. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited material include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substances which the city, the state or EPA has notified the User is a fire hazard or a hazard to the system.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: garbage with particles greater than one-half inch in any dimension, grease, animal guts or tissues, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, sheets, pillowcase, eggshells, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes.
 - (3) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with the other pollutants, to injure or interfere with any wastewater treatment process, constitutes a hazard to humans or animals, health, safety or the environment, create a toxic effect in the city's wastewater treatment facilities or receiving water, or to exceed the limitations set forth in a categorical pretreatment standard or requirement of this article, the Alabama Water Pollution Control Act, or the Federal Pretreatment Regulations.
 - (4) Toxic pollutants including pollutants identified pursuant to Section 307(a) of the Act, hazardous constituents or wastes under RCRA, hazardous substances under CERCLA, except as specifically authorized under this article, permit or other authorization issued by the city.
 - (5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
 - (6) Any substances which may cause the city's wastewater treatment facilities effluent or any other product of the city's wastewater treatment facilities such as residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the city's wastewater treatment facilities cause the city's wastewater treatment facilities to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge used or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State Criteria applicable to the sludge management method being used.

- (7) Any substance which will cause or has the reasonable potential to cause or contribute to an exceedance of any effluent limitation, exceedance or excursion of any water quality criteria or standard, or non-compliance with any condition set forth in the city's NPDES and/or state disposal system permit, receiving water quality standards, or any applicable Federal, state, or local law.
 - (8) Any pollutants released at a flow rate and/or pollutant concentration which alone or in conjunction with other discharges causes interference to the city's wastewater treatment facilities.
 - (9) Any wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal, state, and local law and regulations and as specifically authorized by the city.
 - (10) Any wastewater which causes a hazard to human life or creates a public nuisance.
 - (11) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the city.
 - (12) Medical wastes or wastewater, except as specifically authorized by the city.
 - (13) Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a toxicity test.
 - (14) Wastes prohibited by this section shall be processed or stored in such a manner that these wastes could not be discharged to the city's wastewater system. All floor drains located in process or materials storage areas must discharge to the user's pretreatment facility before connecting with the city's wastewater system.
 - (15) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye or ink wastes, and vegetable tanning solutions.
 - (16) Any wastewater having a temperature which will inhibit biological in the city's wastewater treatment plant resulting in interference, but in no case wastewater with a temperature and /or in such quantities that the temperature at the POTW exceeds 40°C (104°F).
 - (17) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - (18) Any wastewater or wastes containing a toxic or poisonous substance(s) or any other material in sufficient quantity to injure or interfere with any sewage treatment process, or constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant, and without proper pretreatment and written approval of the council.
 - (19) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create public nuisance or hazard to life or are sufficient to prevent entry into the sewer for maintenance and repair.
 - (20) Any wastewater or wastes having an objectionable color which is not removable in the existing sewage treatment plant process.
 - (21) Any long half-life (over 100 days) of toxic radioactive isotopes, without special permit.
- (c) In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes in each 24-hour period more than five times the average 24-hour concentration, quantities, or flow during normal operation, or exceed the maximum concentration or qualities of pollutants established in this article or any permit or authorization issued by the city or council. Normal operation is defined as the operational characteristics as described in any permit or authorization issued by the city or council, or in the absence of a permit or authorization, operational characteristics as submitted by the user in any application, industrial waste survey, or other documentation provided to the city or council, and/or ADEM.
- (d) The director or his designee bearing proper credentials and identification shall be permitted to enter properties without delay at any reasonable time for the purposes of inspection, observation, measurement and sampling of the wastewater discharge to ensure that the discharge to the POTW is in accordance with the provisions of this chapter. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (e) The director may, after informal notice to the discharger, take whatever steps are reasonably necessary to immediately temporarily suspend a user's sewer use permit, or impose temporary restrictions on discharges, or halt and prevent the discharge of pollutants to the POTW which reasonably appear to present an immediate endangerment to the health or welfare of persons. If the director determines that an industrial user's discharge to the POTW does not present an immediate endangerment to the health or welfare of persons, but presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW, he shall notify the discharger in writing setting forth sufficient facts to describe the violation and allowing a reasonable period of time, which shall be stated in the notice, to respond or to abate or correct the violation and if the response or actions of the discharger do not result in abatement and correction within such reasonable period of time, the director may take

action as reasonably necessary to halt or prevent the discharge.

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution.

- (f) In the event of a user's failure to voluntarily comply with the suspension order, the director shall take such steps as the director necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless termination proceedings are initiated against the user.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of a public hearing set as follows below.

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

- (g) If an official who has a duty to perform under this Code and who has presented appropriate credentials has been refused access to private or public property, or any building, structure or land or any part thereof, and if such official has probable cause to believe that there may be a violation of this chapter or that this Code authorizes the official to conduct an inspection and/or collect one or more samples in order to verify compliance with this chapter or any permit or order issued under this chapter, or to protect the overall public health, safety and welfare of the community, then upon application by the city attorney to the municipal court judge and a showing of the above, the municipal court judge of the city shall issue a suitably restricted administrative warrant authorizing an official of the city to search the specific location subject to the warrant and to collect samples as may be necessary to determine compliance with this code. Any such warrant shall only be served at reasonable hours and only by the director or his authorized representative in the company of a uniformed police officer of the city.
- (h) When, at any time, the director determines that a user(s) is contributing to the city's wastewater treatment facilities, any of the above enumerated substances in such amounts as to interfere with the operation of the city's wastewater treatment facilities, the city may:
1. *Notification of violation.* Whenever the director finds that any user has violated or is violating this chapter, a wastewater contribution permit or order issued under this chapter, or any other pretreatment standard or requirement, the director or his authorized representative may serve upon the user a written notice of violation. Within the time specified in the notice, thirty (30) days, the user shall submit an explanation of the violation and a permanent plan for the satisfactory correction and prevention thereof, including specific required actions, to the director. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
 2. *Consent orders.* The director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Any such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified in the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (d) or (e) of this section.
 3. *Show cause hearing.* The director may order any user which causes or contributes to a violation of this chapter, a violation of a wastewater contribution permit, or a violation of an order issued under this section, or a violation of any other pretreatment standard or requirement, to appear before the council and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time, place and location for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting may be served personally or by registered or certified mail, return receipt requested. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing. A show cause hearing shall not be a prerequisite for taking any other action against the user.
 4. *Compliance orders.* When the director finds that a user has violated or continues to violate this chapter, wastewater contribution permits or orders issued under this article, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a time as specified by the director. If the user does not come into compliance within the time specified by the director, the council may discontinue sewer service unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated.

Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

5. *Cease and desist orders.* When the director finds that a user is violating this chapter, the user's wastewater contribution permit, any order issued under this section, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the council may issue an order, at the director's request, through the director to the user ordering it to cease and desist all such violations and directing the user to:
 - a. Immediately comply with all requirements.
 - b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
6. *Issuance of order.* Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.
7. *Issuance of administrative fine.* When the council finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the council may fine such user a mitigating cost consisting of all costs associated with the city being forced to remedy the situation in order to comply with ADEM regulations, not exceeding \$12,000.00. Such fines shall be assessed on a per occurrence violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

Users desiring to dispute such fines must file a written request for the director to reconsider the fine, along with full payment of the fine amount, within 15 days of being notified of the fine. The director shall convene a public hearing on the matter within 30 days of receiving the request from the user in the presence of the council. The director must notify the user in writing of the date, location, and time that the accused shall be heard before the council. If the council determines that the user's appeal is meritorious, then the fine shall be abated and returned to the user. If the council determines the appeal to be without merit, then the council may add administrative enforcement actions, such as notices and orders in addition to the fine.

- (i) If a person violates this chapter, a wastewater contribution permit or any order issued under this article, the director may cause a municipal court summons to be issued and he may also request the city attorney to institute the appropriate legal proceedings to obtain an injunction to restrain, correct or abate such violation of the provisions of this Code.
- (j) Penalties:
 1. *Civil penalties.* Failure to comply with an order which has been duly posted, which interferes with the POTW or significantly contributes to any violation or requirement of the POTW's permit or any violation of any of the provisions of this chapter or the failure to comply with any order, permit, or certificate issued under the provisions of this chapter shall be subject to civil penalties not to exceed \$1,000.00 per day per violation.

Section 3. All other sections of said Ordinance shall remain in full force and effect.

Section 4. That this ordinance shall take effect upon its passage and publication as required by law.

ADOPTED BY THE CITY COUNCIL this the 11th day of January, 2021.

ATTEST:

President of the City Council

City Clerk

APPROVED BY THE MAYOR this the 11th day of January, 2021.

Mayor