



Date: November 19, 2013

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Donald F. Greeley, Director, Water Management
Subject: Sewer Use Ordinance revision and Wastewater Pretreatment Interlocal Agreement with Durham County

Executive Summary

The Federal Pretreatment Regulations in 40 CFR 403.8(f)(1) require Pretreatment Control Authorities to have ordinances in place that codify and identify the Publicly Owned Treatment Works (POTW's) responsibility to enforce all applicable pretreatment requirements and standards. The North Carolina Department of Environment and Natural Resources (DENR), Division of Water Resources (DWR) Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit updated the State's model Sewer Use Ordinance (SUO) in 2012. Local authorities were strongly encouraged to revise local SUOs incorporating the updates which reflect both state and Environmental Protection Agency (EPA) recommendations and requirements. The proposed amendments to the City's SUO align it with the NC DWR PERCS model.

Another major requirement of the SUO is to clearly identify and designate the control authority for City customers whose wastes ultimately enter the County owned POTW for wastewater treatment. In order to meet both pretreatment regulations and National Pollution Discharge Elimination System (NPDES) permit requirements, an official Interlocal Agreement (ILA) needs to be adopted. The DWR PERCS has indicated they would step in if necessary to ensure that a formal agreement is put in place.

Recommendation

The Department of Water Management recommends that the City Council:

1. Adopt an ordinance to repeal Chapter 70 Article IV Sections 70-187 through 70-411 of the City Code in its entirety and replace it with the revised Chapter 70 Article IV 70-187 through 70-411, and;
2. Ratify by resolution the Wastewater Pretreatment Interlocal Agreement between the City of Durham and Durham County pursuant to NCGS 160A-461.

Background

North Carolina General Statute (NCGS) 143-215.3(a)(14) and 143-215.1 and 15A NCAC 02H .0906(b)(1) require POTWs to have a SUO. A SUO provides the legal authority to implement the Pretreatment Program at the local level in order to protect the POTW, its workers, the public, and the surface waters of the State. Additionally, the National Pollution Discharge Elimination System (NPDES) permits issued to the City's water reclamation facilities contain discharge limits and outline the requirement to implement an industrial

pretreatment program to ensure that discharge limits and other conditions are met. Periodically, both EPA and NC DENR review and update regulations that require local authorities to amend and/or repeal and adopt these regulations. The City's proposed SUO update incorporates both required and optional changes to further strengthen the industrial pretreatment program and protect the City's wastewater collection and treatment system. The changes are highlighted in red font in the attached document Chapter 70 Article IV – Mark-up. The document, with the proposed revisions, has been reviewed and approved by the DENR PERCS unit.

A portion of the City's collection system discharges into Durham County's Triangle Wastewater Treatment Plant and any City customers that discharge through the City's system into the County's system are therefore tributary to this facility. Because these dischargers are City customers, Durham County does not have the authority to issue permits or require compliance with its Sewer Use Ordinance to protect its collection system, treatment facility and workers. To facilitate this process, Durham City and County staff have agreed to operate under the guidelines of the proposed interlocal agreement. This agreement ensures that City staff is the main interface for these City customers tributary to the County POTW. Additionally, this agreement meets DENR PERCS requirements by clearly identifying and outlining pretreatment responsibilities for this service area. Additionally, the City's proposed revision to the SUO incorporates the County discharge requirements for City customers tributary to the County POTW.

Issues/Analysis

The proposed amendments to the City of Durham SUO incorporate both required and optional changes by the PERCS Unit to align the City of Durham's SUO with the PERCS Model. These requirements more clearly define program elements and reinforce the City's authority to regulate dischargers.

The proposed ILA clearly outlines responsibilities for City staff and County staff to appropriately address pretreatment issues for City customers tributary to the County Triangle Wastewater Treatment Facility. The City and County have collaborated and agreed on the proposed ILA. As drafted, the ILA allows the City to be the main point of contact for its customers, while protecting the County's collection system and treatment facility.

Alternatives

If the Council does not adopt the revised SUO, the City will be in violation of NPDES permits at the City's two water reclamation facilities as well as other statutes and federal regulations.

Should the Council decide not adopt the resolution for the proposed Interlocal Agreement, the DENR PERCS Unit will develop and impose an ILA that may be more burdensome to the City's customers and staff.

Financial Impacts

There are no anticipated financial impacts for the City of Durham as the SUO and ILA will be administered by existing staff. Minimal potential financial impacts could be experienced by the industrial facilities. These impacts include monitoring charges, permit fees, surcharges and Notice of Violation penalties.

SDBE Summary

The Ordinance to Promote Equal Opportunity in City Contracting does not apply to this item.

Attachments:

Wastewater Pretreatment Interlocal Agreement with Durham County
Chapter 70, Article IV, Sections 70-187 through 70-441, Revised
Chapter 70, Article IV, Sections 70-187 through 70-411, Markup