

ORDINANCE NO. 11-18

AN ORDINANCE TO THE CITY OF SOMERSET AMENDING ORDINANCE 91-27, KNOWN AS THE CITY'S "SEWER USE ORDINANCE", AND ORDINANCE 09-04 WHICH IS THE MOST RECENT ORDINANCE SETTING "LOCAL LIMITS" FOR PRETREATMENT MODIFICATIONS;

WHEREAS, CURRENT EPA/DIVISION OF WATER PRETREATMENT COMPLIANCE REQUIREMENTS HAVE CHANGED AND THE CITY'S ORDINANCES THEREFORE NEED UPDATED AND AMENDED PER THE AUDIT OF THE CITY ISSUED ON OR ABOUT THE 3RD DAY OF OCTOBER, 2011 BY THE DIVISION OF WATER; AND

WHEREAS, THE KENTUCKY DIVISION OF WATER REQUIRES SUCH CHANGES TO BE MADE BEFORE IT WILL CONSIDER THE CITY'S PRETREATMENT PROGRAM TO BE UPDATED AND COMPLETE AND READY FOR PUBLIC NOTICE; AND

WHEREAS, TITLE 40 OF THE CODE OF FEDERAL REGULATIONS (40 CFR 403) HAS BEEN AMENDED ADOPTING BOTH REQUIRED, AND OPTIONAL CHANGES; AND THE CITY'S ORDINANCES REGARDING SUCH MUST BE AMENDED AS WELL TO MEET SAID CHANGES;

NOW THEREFORE, PURSUANT TO KRS 83A AND KRS 424, BY AND THROUGH ORDINANCE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY:

(I) That the following modifications considered to be required, and not optional, to the City's pretreatment program as set forth in Ordinances #91-27 (Sewer Use Ordinance) and #09-04 (Local Limits Ordinance), is herein approved and adopted by the City of Somerset by and through the Common Council as set forth below.

(II) The modifications shall be as follows:

A. The City hereby adopts all applicable "required" changes made to the National Pretreatment Program Streamlining Rules as set forth in 40 CFR 403, specifically the following:

1. Slug Control Requirements per 403.8(f)(1)(iii)(B)(6): The City hereby incorporates slug control requirements into the Sewer Use Ordinance control mechanisms and shall hereafter have the ability to modify those control mechanisms as necessary to meet DOW/EPA requirements and/or changes in the future.
2. Evaluation for a Plan or Action to Control Slug Discharges per 403.8(f)(2)(vi): The City shall conduct evaluations of

all Sewer Industrial Users for the need for a slug control plan or other actions at least one time and such shall be documented and kept of record by the City. Modifications to the control plan are to be made as necessary according to the evaluation. If an industrial user has already been evaluated for slug control by the City, then no new evaluation is needed so long as such is documented by the City and no changes occur.

3. Sewer Industrial Users must notify of any changes per 403.8(f)(2)(vi): The City shall ensure that Sewer Industrial Users notify the City immediately of changes that occur at the facility affecting the potential for a slug discharge so that the City can re-evaluate the need for a slug control plan or other actions for that user to prevent such discharge.
4. Significant Noncompliance definition change/expansion per 403.8(f)(20)(viii)(A-C): The City herein adopts the changes and expansions regarding the type of "Standards and Requirements" that are to be considered when determining whether a Sewer Industrial User's violation(s) constitutes "Significant Noncompliance". Specifically, the definitions for "chronic violations" as set forth in (403.8(f)(2)(viii)(A), "technical review criteria violations" set forth in (403.8(f)(2)(viii)(B), and "other" violations set forth in (403.8(f)(20)(viii)(C).
5. Sewer Industrial User Reports must include Best Management Practices (BMPs) compliance information per 403.12(b), (e), and (h): The City shall require Sewer Industrial Users to report on compliance with BMP-based categorical Pretreatment Standards, or the City's Local Limits as set forth in the City's Sewer Use Ordinance and any amendments thereafter regarding said Local Limits. The City shall have authority to enforce said requirements per the City's Sewer Use Ordinance where users fail to submit the required information.
6. Sewer Industrial Users control mechanisms must contain BMPs as required by the City, or other competent authority per 403.8 (f)(1)(iii)(B)(3): The City shall require Sewer Industrial Users to include BMPs in the control mechanisms when appropriate, particularly in regards to the Local Limits set by the City in Ordinance 09-04.

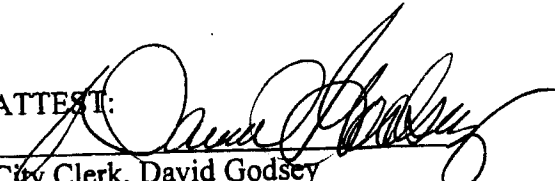
7. Documentation Requirements of compliance with BMPs per 403.12(o): The City shall require Sewer Industrial Users to maintain records of BMP compliance in the same manner as other records are maintained as part of 403.12(o). Further, the City shall require that Sewer Industrial User permits clearly require such documentation be maintained by the User.
8. Control Authorities must perform sampling and analysis within a time period of becoming aware of a violation per 403.12(g)(2): The City shall, if it is considered the "Control Authority", to perform sampling for a Sewer Industrial User, and to repeat a sampling and analysis within 30 days of becoming aware of an exceedance of the City's Local Limits, unless the City, or other designated Control Authority, requires that the Industrial User perform the repeat analysis themselves. In any case, the City shall have the ability to sample any time it is determined appropriate by the City regardless of who is serving as the "Control Authority".
9. Periodic Compliance Reports per 403.12(g)(3), (4), and (6): The City shall require periodic compliance reports with sampling requirements, and require other Control Authorities to specify the number of grab samples necessary in periodic and non-categorical Sewer Industrial Users reports, and also require non-categorical Sewer Industrial Users to report all monitoring results to the City.
10. Non-Categorical Sewer Industrial Users to provide samples in periodic reporting per 403.12(g)(3): The City shall require all non-categorical Sewer Industrial Users to provide representative samples in their periodic monitoring reports so that such samples are representative of conditions present during the reporting period.
11. How and When the City can designate a "duly authorized employee" to sign POTW reports per 403.12(m): The City shall comply with all state regulations currently in place, and adopted in the future, regarding the procedure of designation of a "duly authorized employee" so that designated person(s) shall be able to sign and submit POTW reports.

(III) If any part of this ordinance amending Ordinances 91-27 and 09-04 is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this amending ordinance shall continue in full force and effect.

(IV) Any Ordinance in conflict with this Amending Ordinance, or any policies in conflict with the ones enacted herein, are hereby repealed and replaced with the Amendments contained herein in so far as the same are in conflict herewith.

(V) This ordinance shall be in full force and effect upon passage, approval, and publication according to law, upon the expiration of the public notice period provided that the Division of Water, nor the City of Somerset, receive comments from the public, and finally, upon the Division of Water's approval of the Amendments contained herein.

FIRST READING November 28, 2011
SECOND READING December 12, 2011

ATTEST: 
City Clerk, David Godsey

Approved:
Mayor, Eddie Girdler

APPROVED BY:
KENTUCKY DIVISION OF WATER