

Article XI – Monitoring & Confidentiality

§ 65-1101 Access to Improved Properties.....65-69

- (a) In General..... 65-69
- (b) Security Forces. 65-69
- (c) Monitoring Equipment. 65-69
- (d) Obstructions to Access..... 65-69
- (e) Delays. 65-70

§ 65-1102 Search Warrants.....65-70

§ 65-1103 Confidentiality.65-70

Article XI — Monitoring & Confidentiality

§ 65-1101 Access to Improved Properties.

(a) **In General.** The Borough and the City Director of Public Works shall have the right to enter any part of any Improved Property connected to the POTW to determine whether a User or other Person owning, operating, or using the Improved Property is complying with all requirements of this Chapter and any Wastewater Discharge Permit or order issued under this Chapter. Users and other Persons shall allow the Borough and the City Director of Public Works 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.

(b) **Security Forces.** Where a User or other Person has security measures in force which require proper identification and clearance before entry into its premises, the User or other Person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Borough's employees or agents or the City Director of Public Works will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) **Monitoring Equipment.** The Borough and the City Director of Public Works shall have the right to set up on the User's or other Person's property, or require the User or other Person to install, such monitoring equipment and other devices as are necessary to conduct sampling and/or metering of the User's or other Person's operations. The facility's sampling and monitoring equipment and other devices shall be maintained at all times in a safe and proper operating condition by the User or other Person at his own expense. All devices used to measure Wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

(d) **Obstructions to Access.** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled under this Section shall be promptly removed by the User or other Person at the written or verbal request of the Borough or the City Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the User or other Person.

(e) **Delays.** Unreasonable delays in allowing access required under this Section shall be a violation of this Chapter.

[Ords. 415 10-29-2003, 485 08-26-2009]

§ 65-1102 Search Warrants.

If the Borough or the City Director of Public Works has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Borough or the City designed 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 this community, then the Borough or the City Director of Public Works may seek issuance of a search warrant from the appropriate issuing authority.

[Ords. 415 10-29-2003, 485 08-26-2009]

§ 65-1103 Confidentiality.

Information and data on a User or other Person obtained from reports, surveys, Wastewater Discharge Permit applications, Wastewater Discharge Permits, and monitoring programs, and from inspection and sampling activities conducted under this Chapter, shall be available to the public *without restriction*, unless the User or other Person specifically requests confidentiality, *and* is able to demonstrate to the satisfaction of the Borough and the City Director of Public Works that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable law. Any such request must be asserted at the time the information or data is submitted. When requested and demonstrated by the User or other Person furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

[Ords. 415 10-29-2003, 485 08-26-2009]