

Wilson, Tabatha

From: Gilliam, Allen
Sent: Friday, September 26, 2014 2:58 PM
To: Denise.Georgiou@CH2M.com
Cc: Billy.Ammons@CH2M.com; lhyke@ci.fayetteville.ar.us; tnyander@fayetteville-ar.gov; Fuller, Kim; Wilson, Tabatha
Subject: AR0020010_Fayettevilles Sept 2014 revised Pretreatment Ordinance and ADEQ approval_20140926
Attachments: ADEQ-NPDES Permit No AR0020010 AFIN 72-00781 Pretreatment Ordinance Rev....pdf; Fayetteville pret ord mod submittal_2014Sep_FAY Response to Comments.pdf

Thank you Denise,

One last comment that I may be misunderstanding:

In the Ordinance's definition section, you commented "LEAVE THIS AS IS." for the definition of "Wastewater treatment plant. That portion of the WRRF which is designed to provide treatment of municipal sewage and industrial waste."

My comment was "Recommend clarifying somewhat. How many times have you heard "POTWs are NOT designed to treat industrial waste"? This is a mistake in EPA's model ord." and I suggested adding "...sewage and compatible industrial waste."

Are you stating your Ord is still going to define "Wastewater treatment plant. [as] That portion of the WRRF which is designed to provide treatment of municipal sewage and industrial waste."? Or do you intend to strike "...and industrial waste."(I don't see the strikeout)?

(Good point in comment [GD87R86])

Fayetteville's Pretreatment Ordinance is hereby approved (please clarify above comment). You may begin the process for public notice, Council readings and codification per the proposed attached schedule (1st attachment).

Once adopted, please forward Fayetteville's final, signed and dated modified Pretreatment Ordinance as a .pdf attachment electronically to this office.

Thank you for your cooperation and thoroughness in this endeavor.

Sincerely,

Allen Gilliam
ADEQ State Pretreatment Coordinator
501.682.0625

From: Denise.Georgiou@CH2M.com [<mailto:Denise.Georgiou@CH2M.com>]
Sent: Friday, September 26, 2014 12:39 PM
To: Gilliam, Allen
Cc: Billy.Ammons@CH2M.com; lhyke@ci.fayetteville.ar.us; tnyander@fayetteville-ar.gov; Fuller, Kim; Wilson, Tabatha;

Duyen.Tran@ch2m.com

Subject: RE: AR0020010_Fayetteville Pretreatment Ordinance Aug 2014 Revision with ADEQ comments recommendations and required changes_20140813

Allen,

Please find attached Fayetteville's response to your comments on our Pretreatment Ordinance modifications to be current with the Streamlining revisions to 40 CFR 403.

We have included the Word Version of the ordinance modifications that can be viewed as Simple Markup on Word's Review tab, which will only show your comments and our responses. The pdf version shows all changes.

We look forward to hearing from you.

Sincerely,
Denise

Denise Georgiou
Industrial Pretreatment Coordinator
Fayetteville WWTPs & CH2M HILL
1400 N. Fox Hunter Road
Fayetteville, AR 72701
Tel 479.443.3292/Fax 479.443.5613
Denise.Georgiou@ch2m.com



September 26, 2014

Allen Gilliam, Engineer / Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

**RE: City of Fayetteville Pretreatment Ordinance Revisions
NPDES Permit No. AR0020010, AFIN 72-00781**

Dear Mr. Gilliam,

The enclosed version of the City of Fayetteville Pretreatment Ordinance Revisions includes responses to your comments, recommendations, and requirements.

Assuming you approve the revisions within 30 days, the projected timeframes for adopting the ordinance revisions follow. Elections this year and coordinating with the Council Ordinance Review Committee may delay projected dates. No time was allotted here for the Ordinance Review Committee.

Water & Sewer Committee Review & Comments, Nov. 13, 2014
Ordinance Review Committee Review & Comments if necessary (this committee does not have a regular meeting schedule)
Public Notice to Newspaper for publication, Nov. 21
30-day Public Notice, Nov. 24 – Dec. 24
Response to Comments, Jan. 9, 2015
Council Agenda, Jan. 13
Council Reading 1, Jan. 20
Council Reading 2, Feb. 3
Council Reading 3, Feb. 17
Codification, Mar. 19

Thank you for all your valuable input on the pretreatment ordinance revisions.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Sincerely,
City of Fayetteville



Tim Nyander
Water & Sewer operations Manager

Encl: Pretreatment Ordinance Revisions

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

**ARTICLE III
DISCHARGE AND
PRETREATMENT REGULATIONS**

(Ord. No. 3965, 5-7-96; Ord. No. 4088, §1, 4-7-98; Code 1991, §51.070)

TABLE OF CONTENTS

51.070 Purpose

This article sets forth standards and requirements for users of the ~~publicly-owned treatment works~~ Water Resource Recovery Facility (POTWWRRF) for the City of Fayetteville and enables the city to comply with all applicable federal and state laws, including Clean Water Act (33 U.S.C. §1251 et seq.) and the General Pretreatment Regulations (40 ~~C.F.R.CFR-pt.~~ 403). The objectives of this article are:

- (A) To prevent the introduction of pollutants into the POTWWRRF that will interfere with its operation or contaminate its resulting sludgebiosolids;
- (B) To prevent the introduction of pollutants into the POTWWRRF which will pass through the POTWWRRF, inadequately treated, into receiving waters or otherwise be incompatible with the POTWWRRF;
- (C) To protect both POTWWRRF personnel who may be affected by wastewater and sludgebiosolids in the course of their employment and the general public;
- (D) To improve opportunities for reuse and recycling of wastewater and sludgebiosolids from the POTWWRRF;
- (E) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTWWRRF;
- (F) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludgebiosolids use and disposal requirements, and any other federal or state laws to which the POTWWRRF is subject; and
- (G) To provide for penalties for violations of the regulations established herein.
- (H) To encourage pollution prevention through waste minimization, source reduction, and ~~reuse~~ practices, recycling, and water and energy conservation.

This article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

51.071 Applicability

This article shall apply to all users of the POTWWRRF.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, 4-7-98; Code 1991, §51.071)

51.072 Administration

Except as otherwise provided herein, the ~~control authority~~ City, as defined in this article, shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the ~~control authority~~ City may be delegated by the ~~control authority~~ City to his/her authorized representative.

~~This ordinance shall apply to all Users of the WWRFF. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures and requires User reporting.~~

(Code 1991, §51.072)

51.073 Abbreviations

The following abbreviations shall have the designated meanings:

See table.

<u>ADPC&E</u>	Arkansas Department of Pollution Control & Ecology
BOD	BioChemical <u>Biochemical</u> oxygen demand
<u>BMP</u>	<u>Best Management Practice</u>
<u>C.F.R.CFR</u>	<u>Code of Federal Regulations</u>
<u>CIU</u>	<u>Categorical Industrial User</u>
<u>COD</u>	<u>Chemical Oxygen Demand</u>
EPA	U.S. Environmental Protection Agency
gpd	gallons per day

Commented [GA1]: Would be appropriate to have a Table of Contents at least identifying the different Sections and what pages they can be located.

Commented [GD2R1]: DELETED
Table of Contents already in Fayetteville Ordinance is for the entire chapter. May need revisions.

Formatted: Font color: Red

Commented [GA3]: Not traditional nor used in the Federal Pretreatment Regs, nor used or recognized nationwide, but if Fayetteville wishes to change this term and defines it exactly as EPA's "POTW", this office will concur.

Commented [GD4R3]: Duyen spoke with Allen in September and he is fine with WRRF.

Commented [GA5]: Recommend adding this para per EPA's model ord.

Commented [GD6R5]: DELETED
This language is contained in 51.071 Applicability, and at the bottom of 51.070 Purpose. In the model all language is at the bottom of Purpose & Policy.

Formatted: Font color: Red

Formatted Table

Formatted: Font: Italic

Commented [GD7]: USED THIS.
CIU abbreviation not used in document, but commonly used pretreatment term. Also used AG added definition.

Formatted: Font color: Red

Commented [GD8]: DELETED
COD abbreviation only used once. The full wording is included with COD in parentheses afterwards, "chemical oxygen demand (COD)".

Commented [GA9]: Suggest adding the other abbreviations that are in EPA's Model Ord.

Commented [GD10R9]: We did not put abbreviations and their meanings in this table if the abbreviation is not used in the ordinance or if it is only used once and the meaning is included with the abbreviation unless it is a commonly used pretreatment term that is needed here.

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

IU	Industrial User
mg/l	milligrams per liter
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
NAICS	North American Industrial Classification System
RCRA	Resource Conservation and Recovery Act
TSS	Total suspended solids
SIU	Significant Industrial User
SNC	Significant Noncompliance
U.S.C.	United States Code
WRRF	Water Resource Recovery Facility

facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) If the user is a partnership or sole proprietorship:

- (a) ~~a~~ general partner; or
- (b) ~~proprietor~~, respectively;

(3) If the user is a federal, state or local governmental facility:

- (a) ~~a~~ director or highest official appointed or designated to oversee the operation; and performance of the activities of the government facility; ~~or~~
- (b) ~~his/her designee~~;

(4) The individuals described in paragraphs (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the ~~control authority~~ City.

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 51.075(B) (1) and (2). BMPs also include treatment requirements, operating procedures, and practices to control plant

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.073)

51.074 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.

Approval Authority. Arkansas Department of Pollution Control and Ecology Environmental Quality.

Authorized signatory or authorized or duly authorized representative of the user.

(1) If the user is a corporation:

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
- (b) The manager of one or more manufacturing, production, operating

Commented [GD11]: DELETED
IU abbreviation not used in the document except for one A. Gilliam suggested addition. Changed to full wording in his suggested addition.

Formatted: Font color: Red

Formatted: Font color: Red

Commented [GD12]: DELETED
mg/l abbreviation only used once. The full wording is included with mg/l in parentheses afterwards, "milligrams per liter (mg/l)."

Commented [GD12]: DELETED
mg/l abbreviation only used once. The full wording is included with mg/l in parentheses afterwards, "milligrams per liter (mg/l)."

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

Commented [GD14R13]: USED THIS
Use NAICS abbreviation AND suggested additions that contain "NAICS"

Formatted: Font color: Red

Commented [GA13]: Recommend including as the old SIC code system is becoming obsolete. Your permit apps and IU survey should now ask for these.

Formatted: Font color: Red

Commented [GD15]: SIU abbreviation not used in document.

Commented [GD16R15]: USED THIS.
Not used in document, but commonly used pretreatment term.

Formatted: Font color: Red

Formatted: Font color: Red

Commented [GD17]: SNC abbreviation not used in document.

Commented [GD18R17]: USED THIS. ...

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Indent: Hanging: 0.5"

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted ...

Formatted: Indent: Left: 0", Hanging: 0.5"

Formatted: Indent: Left: 0.25", Tab stops: Not at 0.75"

Formatted: Indent: Left: 0.25", Hanging: 0.25"

Formatted: Indent: Left: 0.25", Tab stops: Not at 0.75"

Commented [GA19]: Recommend retaining the te ...

Commented [GD20R19]: KEEP AS IS ...

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration of milligrams per liter (mg/l).

Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 C.F.R. Chapter 1, Article N, ~~parts~~ Parts 405-471.

Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

City. The mayor or his/her duly authorized representative, or the City of Fayetteville, the Fayetteville City Council or its duly authorized representative. The City is the Control Authority as defined in 40 CFR 403.3(f)(1).

Control Authority. The City.

Composite sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the ~~control authority~~ City.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Control authority. The mayor or his/her authorized representative.

Domestic waste. Liquid and water-carried waste generated by a typical household or waste comprised of waste equivalent to that generated by a typical household - human excrement and gray water (household showers, dishwashing operations, etc.). This does not include waste from commercial or

industrial processes whether generated at a household or other premises.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or its authorized representative.

Existing source. ~~Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with §307 of the Act. Any source of discharge that is not a "New Source."~~

Grab sample. An individual sample collected over a period of time not to exceed 15 minutes.

~~Hauled Wastewater. Should include a definition of this as it is extensively discussed in Section 51-076(D). does it include Septic Tank Waste?~~

Hauled Wastewater. Wastewater that is loaded to a tanker truck, a portable tank or other container and conveyed to another location for discharge. Hauled wastewater includes, but is not limited to, septic tank waste and portable toilet waste.

Indirect discharge or discharge. The introduction of pollutants into the POTW/WRRF from any nondomestic source, regulated under §307(b), (c), or (d) of the Act.

Industrial user. A discharger into the POTW/WRRF of nondomestic wastewater.

Interference. A discharge which that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW/WRRF, its treatment processes or operations or its sludge/biosolids processes, use or disposal and therefore, is a cause of a violation of the City's NPDES permit or a cause of the prevention of sewage sludge/biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: §405 of the Act; the Solid Waste Disposal Act, including Title I commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge/biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Instantaneous maximum allowable discharge limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample

- Formatted: Strikethrough
- Formatted: Font color: Red, Not Strikethrough
- Commented [GA27]: Recommend using language from EPA's model ord.
- Commented [GD28R27]: MADE THIS CHANGE
- Formatted: Font color: Red
- Formatted: Indent: Left: 0.25"
- Formatted: Font: Not Italic
- Formatted: Font: Italic
- Formatted: Font: Not Italic
- Formatted: Indent: First line: 0.25"
- Commented [GA29]: Recommend including a definition as it is used extensively in Sec. 51.076(D)
- Commented [GD30R29]: ADDED definition (see next paragraph) and deleted this paragraph.
- Formatted: Font: Not Italic
- Commented [GA21]: Recommend including this definition per EPA's model ord.
- Commented [GD22R21]: USED CIU Definition. CIU not used in document, but "users subject to categorical standards" is used frequently and this is a common pretreatment term.
- Formatted: Font color: Red
- Commented [GA23]: Recommend including as this term (or the "City") should be used throughout this Ord. even tho you've mentioned it above here.
- Commented [GD24R23]: USED THIS
- Formatted: Font: Italic
- Formatted: Font: Not Italic, Font color: Red
- Formatted: Strikethrough
- Commented [GA31]: Recommend using simplified language from EPA's model ord.
- Commented [GD32R31]: MADE THIS CHANGE
- Formatted: Font: Italic, Font color: Red
- Formatted: Font color: Red
- Formatted: Font: Italic, Font color: Red
- Formatted: Font color: Red
- Commented [GA25]: Recommend including these definitions per EPA's model ord.
- Commented [GD26R25]: USED THESE.
- Formatted: Font color: Red
- Formatted: Font color: Red

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

collected, independent of the industrial flow rate and the duration of the sampling event.

Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

May. Discretionary or permissive.

Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pollutant Discharge Elimination System (NPDES) permit. A permit issued to a POFWWRRF or other discharger pursuant to §402 of the Act.

New source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under §307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) ~~the~~The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) ~~the~~The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) ~~the~~The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining

whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of §(1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) ~~begun~~Begun, or caused to begin as part of a continuous onsite construction program:
 - (i) ~~any~~Any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling ~~which that~~ does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. NAICS was developed under the auspices of the Office of Management and Budget (OMB) and adopted in 1997 to replace the Standard Industrial

Formatted: Font: Italic

Commented [GA33]: Recommend including these definitions per EPA's model ord.

Commented [GD34R33]: USED THIS

Formatted: Font color: Red

Formatted: Font: Italic

Formatted: Font: Italic

Commented [GA35]: Recommend including these definitions per EPA's model ord.

Commented [GD36R35]: USED THESE

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Indent: First line: 0.25"

Formatted: Indent: First line: 0"

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

Classification (SIC) system.

Pass through. A discharge which exits the ~~POTW/WRRF~~ into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of ~~or has the potential to cause~~ a violation of any requirement of the city's NPDES permit, (including an increase in the magnitude or duration of a violation).

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, or local governmental entities.

pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

Pharmaceutical drug. ~~Also referred to as medicine, medication or medicament, can be loosely defined as any chemical substance intended for use in the medical diagnosis, cure, treatment, or prevention of disease.~~

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, ~~sewage sludge~~ biosolids, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or ~~discharged~~ discarded equipment, rock, sand, cellar dirt, municipal agricultural and industrial wastes, and ~~the certain~~ characteristics of the wastewater (e.g., pH, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor).

Pollution Prevention (P2). ~~shall mean w~~Waste reduction prior to recycling, treatment, or disposal. Pollution prevention means "source reduction," as defined under the Pollution Prevention Act, and other practices that reduce or eliminate the creation of pollutants through: increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources by conservation, or use of less toxic alternatives.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the ~~POTW/WRRF~~. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means ~~except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.~~

Pretreatment requirements. Any substantive or procedural requirement, other than a pretreatment

standard, related to pretreatment and imposed on a user.

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, narrative BMPs, and local limits.

Prohibited discharge standards or prohibited discharges. Prohibitions against the discharge of certain substances; these prohibitions appear in §51.075(B) of this article.

~~Publicly owned treatment works (POTW).— A "treatment works," as defined by §212 of the Act (33 U.S.C. §1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.~~

Qualified professional. A person who is proven to be competent or suited for a specific position or task.

~~Comment: Why did you delete Septic Tank Waste?~~

~~Septic tank waste.— Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.~~

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Shall. Mandatory.

Significant industrial user.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the ~~POTW/WRRF~~ (excluding sanitary, noncontract cooling, and boiler blowdown wastewater); or
 - (b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the ~~POTW/WRRF~~ treatment plant; or
 - (c) Is designated as such by the ~~control authority~~ City on the basis that it has a reasonable potential for adversely

Commented [GA37]: Recommend including

Commented [GD38R37]: USED THIS

Formatted: Font: Italic

Commented [GA39]: Recommend including as it will be advised to prohibit the discharge of pharmaceuticals further down

Commented [GD40R39]: USED THIS

Formatted: Font color: Red

Formatted: Font color: Red

Commented [GA43]: Why was this removed?

Commented [GD44R43]: Septic Tank Waste is confusing. We accept mostly portable toilet waste and want the Hauled Waste requirements to apply to all hauled waste.

Formatted: Font color: Red

Commented [GA41]: Recommend including

Commented [GD42R41]: USED THIS

Formatted: Font color: Red

Formatted: Strikethrough

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

affecting the ~~POTWWRRF~~'s operation or for violating any pretreatment standard or requirement.

- (3) Upon a finding that a user meeting the criteria in (2) has no reasonable potential for adversely affecting the ~~POTWWRRF~~'s operation or for violating any pretreatment standard or requirement, the ~~control authority~~City may at any time, on its own initiative or in response to a petition received from a user (and in accordance with procedures in 40 ~~C.F.R.CFR pt.~~ 403.8(f)(6)) determine that such user should not be considered a significant industrial user.

Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this article or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the ~~WRRF's~~ the City's regulations, local limits or permit conditions.

Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

State. State of Arkansas.

Storm water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge. A service charge in addition to the normal monthly rate which shall be assessed to the significant industrial users who discharge into the city system wastewater having an average BOD concentration in excess of 300 milligrams per liter or an average TSS concentration in excess of 300 milligrams per liter.

Total suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by EPA under §307 (33 U.S.C. §1317) of the Act.

Treatment plant's effluent. The discharge from the ~~POTWWRRF~~ wastewater treatment plant into the receiving stream.

User. Any person who contributes or permits the contribution of wastewater into the ~~POTWWRRF~~.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions.

Wastewater treatment plant. That portion of the ~~POTWWRRF~~ which is designed to provide treatment of municipal sewage and compatible industrial waste.

Water Resource Recovery Facility (WRRF). A "treatment works," as defined by §212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The WRRF is the Publicly Owned Treatment Works or POTW as defined in 40 CFR 403.3(g).

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §2, 4-7-98; Code 1991, §51.074)

51.075 General Sewer Use Requirements

(A) Wastewater generated by development located in 100-year floodplain not to be transported or treated by facilities constructed under EPA Project No. C-050366-01 for 50 years.

- (1) For the purpose of this section area of existing development shall mean an area which, at the EPA issued a finding of no significant impact for EPA Project No. C-050366-01 was:

- (a) Occupied by existing structures or facilities;
- (b) Substantially surrounded by existing structures or facilities and which serves no significant independent natural floodplain function; or
- (c) Characterized by substantial investment in public infrastructure but which is only partially occupied by structures or facilities.

- (2) No wastewater generated by development located in the 100-year floodplain shall be transported or treated by facilities constructed under EPA Project No. C-050366-01 for a period of 50 years from January 1, 1987, except that service may be provided to:

- (a) Areas of existing development in a floodplain;
- (b) Commercial or public facilities which by

Commented [GA49]: Recommend clarifying somewhat. How many times have you heard "POTWs are NOT designed to treat industrial waste"? This is a mistake in EPA's model ord.

Commented [GD50R49]: LEAVE THIS AS IS. POTWs are not designed to treat industrial wastes.

Commented [GA51]: This office believes this term and its acronym may come back to haunt your program as "POTW" is used exclusively in the Pretreatment Regs

Commented [GD52R51]: DECISION ON THIS

Commented [GA45]: delete WRRF as it is not the control authority

Commented [GD46R45]: MADE THIS CHANGE

Formatted: Strikethrough

Formatted: Font color: Red

Commented [GA47]: The WRRF includes manholes and other appurtenances. Delete WRRF.

Commented [GD48R47]: MADE THIS CHANGE

Formatted: Strikethrough

Formatted: Font color: Red

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

nature must be located in a floodplain;

- (c) Areas of projected growth if the environmental information document for EPA Project No. C-050366-01 demonstrates that proposed development will be consistent with the floodplain management criteria for flood-prone areas (44 C.F.R.CFR-pt. 60.3) of the Federal Emergency Management Agency (FEMA) and will have no significant impacts on natural functions and values of the floodplain; or
- (d) An area of projected growth if an environmental impact statement demonstrates that there is no practicable alternative to such growth, that such growth will be consistent with the floodplain management criteria for flood-prone areas (44 C.F.R.CFR-pt. 60.3) of FEMA, and that the benefits of such growth outweigh its environmental costs.

(B) *Prohibited discharge standards.*

- (1) *General prohibitions.* No person shall introduce or cause to be introduced into the POTW/WRRF any pollutant or wastewater which causes, or has the potential to cause, pass through or interference. These general prohibitions apply to all users of the POTW/WRRF whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.
- (2) *Specific Prohibitions.* No person shall introduce or cause to be introduced into the POTW/WRRF the following pollutants, substances, or wastewater:
 - (a) Pollutants which create a fire or explosive hazard in the POTW/WRRF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° Fahrenheit (60° C) using the test methods specified in 40 C.F.R.CFR-pt. 261.21;
 - (b) Wastewater having a pH less than 5.0 or more than ~~12.5~~ 12.4, or otherwise causing corrosive structural damage to the POTW/WRRF or equipment;
 - (c) Solid or viscous substances including, but not limited to, fats, oil or grease of animal or vegetable in amounts which will cause obstruction of the flow in the POTW/WRRF resulting in interference but

in no case solids greater than one-half inch in any dimension;

- (d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW/WRRF;
- (e) Wastewater having a temperature greater than 150° Fahrenheit (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° Fahrenheit (40° C);
- (f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW/WRRF in a quantity that may cause acute worker health and safety problems;
- (h) Trucked or hauled pollutants, except at discharge points designated by the ~~control authority~~ City in accordance with §51.076(D) of this article;
- (i) Any liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye, wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal or state regulations and approved by the ~~control authority~~ City;
- (l) Storm water, surface water, ground water, ~~artesian~~ well water, roof runoff, subsurface drainage,

Commented [GA53]: 12.5 is a haz waste. Once received, Fayetteville becomes a TSD subject to RCRA regs. Recommend not allowing this high of a pH and reducing it to 12.0 or 11.5 s.u.

Commented [GD54R53]: USED 12.4 Can use alkalinity.

Formatted: Strikethrough

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the ~~control authorityCity~~;

- (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (n) Medical wastes or pharmaceutical drugs ~~(Also referred to as medicine or medication. Can be loosely defined as any chemical substance intended for use in the medical diagnosis, cure, treatment, or prevention of disease),~~ except as specifically authorized by the ~~control authorityCity~~;
- (o) Wastewater causing, alone or in conjunction with other sources, the ~~POTWWRRE~~ to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;
- (p) Any substance which may cause the ~~POTWWRRE~~'s effluent or other product of the ~~POTWWRRE~~ such as residues, ~~sludgebiosolidss~~ or scums, to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;
- (q) Detergents, surface-active agents, or other substances which may cause excessive foaming in the ~~POTWWRRE~~;
- (r) Any material into a manhole through its top unless specifically authorized by the ~~control authorityCity~~.
- (s) Non-flushable wipes, non-dispersible wipes, and non-biodegradable wipes including, but not limited to, baby wipes, paper towels, dusting wipes, cleaning wipes, and disposable mop heads.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the ~~POTWWRRE~~.

- (C) Categorical pretreatment standards or categorical standards. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. Users must comply with the t ~~The categorical pretreatment standards, found at 40 C.F.R.CFR Chapter I, Article N, pts.Parts 405-471,~~

Categorical pretreatment standards ~~—and—are~~ hereby incorporated.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the ~~control authorityCity~~ may impose equivalent concentration or mass limits in accordance with 40 ~~C.F.R.CFR-pt.~~ 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the ~~control authorityCity~~ shall impose an alternate limit using the combined wastestream formula in 40 ~~C.F.R.CFR-pt.~~ 403.6(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 ~~C.F.R.CFR-pt.~~ 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 ~~C.F.R.CFR-pt.~~ 403.15.

- (D) Local limits. To protect against pass through and interference, no Industrial User may discharge or cause to be discharged into the POTWWRRE any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the City as required by Part III in City of Fayetteville NPDES permits No. AR0020010 and AR0050288 authorized by 40 CFR 403.5 (c) and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Part 2. At the discretion of the control authorityCity, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the control authorityCity, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The control authorityCity may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented or revised, the control authorityCity will provide individual notice to parties who have requested such notice and

Commented [GA56]: Recommend including language similar to EPA's model Ord.

Commented [GD57R56]: MADE CHANGES

Commented [GD55]: Deleted pharmaceutical drug definition here because it has been added into the definitions section.

Formatted: Strikethrough

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

~~an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3).~~

~~The following pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits except by permit from the control authority:~~

~~0.68 mg/l arsenic
0.02 mg/l cadmium
0.48 mg/l chromium
0.23 mg/l copper
0.01 mg/l cyanide
0.15 mg/l lead
0.0002 mg/l mercury
0.20 mg/l nickel
1.23 mg/l silver
1.52 mg/l zinc~~

~~The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The control authority may impose mass limitations in addition to, or in place of, the concentration-based limitations above.~~

~~The city may revise or modify the local limits as required, or if deemed necessary to comply with the objectives presented in 51.070 of this article or the general and specific prohibitions in 51.075(B) of this article, or to insure compliance with federal, state, or local law.~~

- (E) *Right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW/WRRF.
- (F) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authorityCity may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 3965, §§2, 3, Exh. A, 5-7-96; Ord. No. 4088, §3, 4-7-98; Code 1991, §51.075)

51.076 Pretreatment ~~of~~ Wastewater

- (A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all pretreatment standards, local limits, and the

prohibitions set out in §51.075(B) of this article within the time limitations specified by EPA, the state, or the control authorityCity, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the control authorityCity for review, and shall be acceptable by the control authorityCity before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the control authorityCity under the provisions of this article.

(B) *Additional pretreatment measures.*

- (1) Whenever deemed necessary, the control authorityCity may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocated and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW/WRRF and determine the user's compliance with the requirements of this article.
- (2) The control authorityCity may require any person discharging into the POTW/WRRF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authorityCity, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the control authorityCity and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Formatted: Indent: First line: 0.25"

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

~~(5) At the City's discretion and when deemed necessary the industrial user shall have a licensed wastewater treatment operator on duty at all times when treating and discharging regulated wastewater to the City's collection system. Said operator shall meet the license or level of operator qualifications deemed necessary for proper treatment per Arkansas Pollution Control and Ecology Commission's Regulation #3.~~

(C) ~~Accidental discharge/slug control plans.~~ At least once every two years the control authorityCity shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan or other action to control slug discharges. The control authorityCity may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the control authorityCity may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the control authorityCity of any accidental or slug discharge, as required by §51.079(F) of this article. Such notification must also be given for any discharge which would violate any of the prohibited discharges in §51.075(B) of this article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(D) *Hauled wastewater.*

~~Hazardous waste will not be accepted by truck or liquid waste hauler at the WRRF.~~

- (1) ~~Septic tankDomestic~~ waste haulers are required to submit an application to discharge liquid wastes. This application must be accompanied by a fee of ~~\$100.00~~ in accordance with §51.137(G). ~~Hauled Septic~~

~~Domestic~~ waste may be introduced into the POTW/WRRF only at locations approved by the control authorityCity and at such times as are established by the control authorityCity. Such wastes shall not violate §51.075 of this article or any other requirements established by the control authorityCity. A fee ~~must be paid of \$50.00~~ for each ~~septic tank domestic~~ waste load in accordance with §51.137(G). ~~must be paid in advance.~~ The control authorityCity may require the ~~septic tank domestic~~ waste haulers to obtain wastewater discharge permits.

- (2) The control authorityCity ~~shall~~ may require haulers of industrial waste to obtain wastewater discharge permits. The control authorityCity may require generators of hauled industrial waste to obtain wastewater discharge permits. The control authorityCity also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

~~(-3) If the industrial waste is from a categorical user, the hauled wastewater must include analytical waste analysis proving it meets the required limitations of its respective category.~~

- (34) ~~Septic tankDomestic~~ waste haulers and industrial waste haulers may only discharge loads at locations designated by the control authorityCity. No load may be discharged without prior consent of the control authorityCity. The control authorityCity may collect samples of each hauled load to ensure compliance with applicable standards. The control authorityCity may require the hauler to provide a waste analysis of any load prior to discharge.

- (45) ~~Septic tankDomestic~~ waste and industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. For industrial waste, the form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

~~(56) Any waste not deemed domestic by the City will be handled on a case by case basis at the discretion of the control authorityCity.~~

Commented [GA58]: Recommend including this operator's requirement "as deemed" appropriate.

Commented [GD59R58]: USED THIS

Commented [GA62]: Require adding.

Commented [GD63R62]: USED THIS

Formatted: Font color: Red

Commented [GA60]: STRONGLY recommend including this prohibition. The city does NOT want to be recognized as a TSDF under the RCRA regs.

Commented [GD61R60]: USED THIS

Formatted: Font color: Red

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.076)

51.077 Wastewater Discharge Permit Application

- (A) *Wastewater analysis.* When requested by the ~~control authority~~City, a user must submit information on the nature and characteristics of the user's wastewater. within thirty (30) days of request, unless otherwise specified. The ~~control authority~~City is authorized to prepare a form for this purpose and may periodically require users to submit or update the information.
- (B) *Wastewater discharge permit requirement.*
- (1) No significant industrial user shall discharge wastewater into the POTW/WRRF without first obtaining a wastewater discharge permit from the ~~control authority~~City, except a significant industrial user that has filed a timely application pursuant to §51.077(C) of this article may continue to discharge for the time period specified therein.
 - (2) The ~~control authority~~City may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
 - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in §51.082 through §51.084 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.
- (C) *Wastewater discharge permitting; existing connections.* Any non-permitted user required to obtain a wastewater discharge permit, who was discharging wastewater into the POTW/WRRF prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the ~~control authority~~City for a wastewater discharge permit in accordance with §51.077(E) of this article, and shall not cause or allow discharges to the POTW/WRRF to continue after 180 days of the effective date of this article except in accordance with a wastewater discharge permit issued by the ~~control authority~~City.
- (D) *Wastewater discharge permitting; new connections.* Any user required to obtain a wastewater discharge permit that proposes to

begin or recommence discharging into the POTW/WRRF must obtain such permit prior to the beginning or recommending of such discharge. An application for this wastewater discharge permit, in accordance with §51.077(E) of this article, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

- (E) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application accompanied by a fee in accordance with 51.137(H) of \$500.00. The ~~control authority~~City may require a user to submit as part of an application the following information:
- (1) The information required by §51.079(A)(2) of this article;
 - (2) ~~A comprehensive description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals (not just trade names) used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW/WRRF. A qualified professional must certify to the accuracy of this process narrative;~~
~~(-) NAICS codes of all manufacturing processes being conducted at the facility.~~
 - (3) Number of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) ~~Comprehensive site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location, and elevation, and all points of discharge. A qualified professional must certify to the accuracy of this schematic(s);~~
 - (7) ~~Time, average gallons per day discharged and duration of discharges; and~~
 - (8) Any other information as may be deemed necessary by the ~~control authority~~City to evaluate the wastewater discharge permit application.
- (9) Pollution Prevention (P2) activities such as

Commented [GA64]: Recommend including a specific time frame in which to submit required this info.

Commented [GD65R64]: USED THIS with my additional language

Formatted: Strikethrough

Commented [GA66]: Strongly recommend including additional language. Most process narratives seen throughout the State are woefully inadequate.

Commented [GD67R66]: USED THIS

Formatted: Indent: Left: 0.25"

Commented [GA68]: Strongly recommend including.

Commented [GD69R68]: DELETED
This is already in 51.079(A)2) which is referred to in (E)(1) of this section.

Formatted: Font color: Red

Formatted: Strikethrough

Commented [GA70]: Strongly recommend including additional language. Most w.w. flow schematics seen throughout the State are woefully inadequate.

Commented [GD71R70]: MADE CHANGES

Commented [GA72]: Recommend including flows.

Commented [GD73R72]: MADE CHANGES

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

source reduction, waste minimization, environmental management systems, water and energy conservation, and use of less toxic alternatives.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

- (F) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- (G) *Wastewater discharge permit decisions.* The ~~control authority~~City will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the ~~control authority~~City will determine whether or not to issue a wastewater discharge permit. The ~~control authority~~City may deny any application for a wastewater discharge permit.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Code 1991, §51.077)

51.078 Wastewater Discharge Permit Issuance Process

- (A) *Wastewater discharge permit duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the ~~control authority~~City. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (B) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the ~~control authority~~City to prevent pass

through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate ~~sludge~~biosolids management and disposal, and protect against damage to the ~~POTAW~~WRRF.

- (1) Wastewater discharge permits must contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
- (b) A statement that the wastewater discharge permit is nontransferable except in accordance with §51.078 (E).
- (c) Effluent limits including Best Management Practices, based on applicable pretreatment standards;
- (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(f) Requirements to control Slug Discharge, if determined by the Control AuthorityCity to be necessary.

- (2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (b) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (c) Requirements for the development and

Commented [GA74]: Recommend including.

Commented [GD75R74]: USED this with my added language

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

- (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW/WRRF;
- (e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (f) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (g) Other conditions as deemed appropriate by the control-authorityCity to ensure compliance with this article, and federal and state laws, rules, and regulations.

(h) A licensed wastewater operator as deemed necessary on duty at all times of treatment and discharge of regulated wastewater discharge to the City's collection system (per §51.076(B)(5)).

- (C) *Wastewater discharge permit appeals.* A permittee may petition the control-authorityCity to reconsider the terms of a wastewater discharge permit within 30 days of notice of issuance of the discharge permit.
 - (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the control-authorityCity fails to act within 30 days of receipt of the request, the request for reconsideration shall be deemed to be

denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

- (D) *Wastewater discharge permit modification.* The control-authorityCity may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:
 - (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - (3) A change in the POTW/WRRF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating the permittee's discharge poses a threat to the POTW/WRRF, POTW/WRRF personnel, ~~or~~ the receiving waters, or threats to the WRRF's beneficial biosolids use;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R.CFR pt. 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit;
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with 51.078(E).
- (E) *Wastewater discharge permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator if the permittee gives at least seven days' advance notice to the control-authorityCity, provides a copy of the existing permit to the new owner or operator, and the control-authorityCity approves the wastewater discharge permit transfer. The

Commented [GA76]: Recommend giving the City the authority to require this condition "as deemed necessary".

Commented [GD77R76]: USED THIS (this is the "permits may contain" section).

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

notice to the ~~control-authorityCity~~ must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(F) *Wastewater discharge permit revocation.* The ~~control-authorityCity~~ may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the ~~control-authorityCity~~ of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the ~~control-authorityCity~~ of changed conditions pursuant to §51.079(E) of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring or other reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the ~~control-authorityCity~~ timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application; or
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(G) *Wastewater discharge permit re-issuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with §51.077(E) of this article, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

(H) *Regulation of waste received from other jurisdictions.*

- (1) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the ~~POTWWRRE~~, the ~~control-authorityCity~~ shall enter into an interjurisdictional agreement with the contributing jurisdiction; enter into an agreement with, or permit, users located in another jurisdiction; or both. Certain hauled wastewater may be exempted from the requirements of this paragraph with specific authorization by the ~~control-authorityCity~~.
- (2) An interjurisdictional agreement, as required by paragraph (1), above, shall contain the following conditions:
 - (a) A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in §51.075(D) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance and/or local limits;
 - (b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;
 - (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the ~~control-authorityCity~~; and which of these activities will be conducted jointly by the contributing jurisdiction and the ~~control-authorityCity~~;

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

- (d) A requirement for the contributing jurisdiction to provide the ~~control authorityCity~~ with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;
- (e) A provision insuring the ~~control authorityCity~~ access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the ~~control authorityCity~~; and
- (f) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

(Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §§4, 5, 4-7-98; Code 1991, §51.078)

51.079 Reporting Requirements

(A) ~~Baseline monitoring reports.~~

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R.CFR pt. 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW/WRRF shall submit to the ~~control authorityCity~~ a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the ~~control authorityCity~~ a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (2) Users described above shall submit the information set forth below.
 - (a) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - (b) *Environmental permits.* A list of any environmental control permits held by or for the facility.

- (c) ~~Description of operations. A comprehensive narrative brief description of the nature, average rate of production, all applicable NAICS and standard industrial classifications of the operation(s) carried out by such user. This description should include a comprehensive schematic process diagram which indicates points of discharge to the POTW/WRRF from the regulated processes. A qualified professional must certify to the accuracy of this process narrative and wastewater flow schematics.~~
- (d) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW/WRRF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R.CFR pt. 403.6(e). ~~The control authorityCity may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.~~

- (e) *Measurement of pollutants.*
 - (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the ~~control authorityCity~~) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §51.079(J) of this article. ~~Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the control authorityCity or the applicable standards to determine compliance with the standard.~~
 - (iii) Sampling must be performed in accordance with procedures set out in §51.079(K) of this article.

Formatted: Strikethrough

Commented [GA80]: Strongly recommend including additional language. Most process narratives and w.w. flow schematics seen throughout the State are woefully inadequate.

Commented [GD81R80]: MADE CHANGES

Commented [GA78]: Yes, these reporting requirements are basically the same as what's required in your permit applications.

Commented [GD79R78]: Noted

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

- (f) *Certification.* A statement, reviewed by the user's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.
- (g) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §51.079(E) of this article.
- (h) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with §51.077(F) of this article.
- (B) *Compliance schedule progress report.* The following conditions shall apply to the compliance schedule required by §51.079(A)(2)(g) of this article:
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation);
 - (2) No increment referred to above shall exceed nine months;
 - (3) The user shall submit a progress report to the ~~control-authority~~City not later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - (4) In no event shall more than nine months
- elapse between such progress reports to the ~~control-authority~~City.
- (C) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the ~~POTW~~WRRF, any user subject to such pretreatment standards and requirements shall submit to the ~~control-authority~~City a report containing the information described in §51.079(A)(2)(d) through (f) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 ~~C.F.R.~~CFR-pt. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §51.077(F) of this article.
- (D) *Periodic compliance reports.*
- (1) All significant industrial users shall, at a frequency determined by the ~~control-authority~~City but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the ~~control-authority~~City or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with §51.077(F) of this article.
 - (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the ~~control authorityCity~~, using the procedures prescribed in §51.079(J) and §51.079(K) of this article, the results of this monitoring shall be included in the report.
- (E) *Report of changed conditions.* Each user must notify the ~~control authorityCity~~ of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.
- (1) The ~~control authorityCity~~ may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §51.077(E) of this article.
- (2) The ~~control authorityCity~~ may issue a wastewater discharge permit under §51.077(G) of this article or modify an existing wastewater discharge permit under §51.078(D) of this article in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow changes of 20% or greater, and the discharge of any previously unreported pollutants.
- (F) *Reports of potential problems.*
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a ~~non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW/WRRF~~ (including a violation of the prohibited discharge standards in §51.075(B) of this article), the user shall immediately telephone and notify the ~~control authorityCity~~ of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (2) Within five business days following such discharge, the user shall, unless waived by the ~~control authorityCity~~, ~~submit~~ a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the ~~POTW/WRRF~~, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed pursuant to this article.
- (3) ~~If required by the City, a~~ notice shall be permanently posted on the user's bulletin board or other prominent place advising employees ~~whom who~~ to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees are advised of the emergency notification procedure.
- ~~(4) Significant industrial users are required to notify the City immediately of any changes at its facility affecting the potential for a slug discharge.~~
- (G) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports as may be required by the ~~control authorityCity~~.
- (H) *Notification of violation/repeat sampling and reporting.*
- (1) If sampling performed by a user indicates a violation, the user must notify the ~~control authorityCity~~ as soon as possible but no later than 24 hours after becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the ~~control authorityCity~~ within the time period specified by the ~~control authorityCity~~ but at no time later than 30 days after becoming aware of the violation. The user may not be required to resample if the ~~control authorityCity~~ samples between the user's initial sampling and when the user receives the results of this sampling.
- (2) ~~If the control authorityCity performed the sampling and analysis in lieu of the industrial user, the control authorityCity will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.~~
- (I) *Notification of the discharge of hazardous waste.*
- (1) Any person who commences the discharge of hazardous waste shall notify the ~~control authorityCity~~, the EPA Regional Waste Management Division Director, and state hazardous waste authorities (in writing) ~~if~~

Commented [GA82]: Check grammar. This para is so redundant with a slug load (same definition & even includes "slug load"), this office thinks it was not well written by EPA.

Commented [GD83R82]: LEAVE AS IS. It may be redundant, but it is clear without needing to look up every word.

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

any discharge into the ~~POTW~~ of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R.-CFR-~~pt.~~ 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R.-CFR-~~pt.~~ 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the ~~POTW~~, the notification shall also contain the following information to the extent such information is known and readily available to the user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. ~~All notifications to the control authority~~ must be made prior to the commencement of the discharge. ~~All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5~~ §51.079(E) of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3 §51.079(A), (C), and 6.4(D) of this ordinance.

~~(I) Dischargers are exempt from the requirements of paragraph 1, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(c). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(c), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.~~

(2) In the case of any new regulations under §3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the ~~control authority~~City, the EPA Regional Waste Management Waste Division Director, and

state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

- (3) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (4) This reporting provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

~~(J) Certification of Permit Applications and User Reports. - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.7~~ §51.077; ~~Users submitting baseline monitoring reports under Section §51.079(A)6.1 B (5) [Note: See 40 CFR 403.12 (h)]; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section §51.079(C)6.3 [Note: See 40 CFR 403.12(d)]; Users submitting periodic compliance reports required by Section §51.079(D) (1)-(3)6.4 A-D [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4~~ §51.074:

~~I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.~~

(J) Analytical requirements.

- (1) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R.-CFR ~~pt.~~ 136, unless otherwise specified in an applicable categorical pretreatment

Formatted: Strikethrough

Formatted: Underline

Formatted: Underline

Formatted: Underline

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Underline

Formatted: Underline

Formatted: Underline, Font color: Red

Formatted: Font color: Red

Formatted: Underline

Formatted: Font color: Red

Formatted: Underline, Font color: Red

Formatted: Underline, Font color: Red

Commented [GA84]: Recommend using language from EPA's model Ord. Will have to check/change underlined Ord. Sections

Commented [GD85R84]: PUT SECTION AG DELETED BACK IN. USED LAST 2 SUGGESTED SENTENCES. We didn't want users to be able to discharge hazardous waste for 6 months before we heard about it.

Formatted: Underline, Font color: Red

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Indent: Left: 0.25"

Formatted: Indent: Left: 0.5"

Commented [GA88]: Require using this overall certification statement for all IU required reports. It's much more comprehensive than what the City has currently in Section 51.079(A) (2) (f). Will need to check/change underlined Ord. citations.

Commented [GD89R88]: USED THIS The certification statement is contained in 51.077 (F) (Permit applications) and is required for discharge permit applications and user reports, however it is appropriate here, too.

Formatted: Font color: Red

Commented [GA86]: Recommend including language from EPA's model Ord. Was there a reason why the City did not include this section?

Commented [GD87R86]: DELETED THIS SECTION. We didn't want a user to discharge 30 pounds of hazardous waste each month without notifying us.

Formatted: Font color: Red

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

standard. If 40 C.F.R.-pt. 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(2) All independent laboratories performing analyses for users, including, but not limited to, self-monitoring, periodic reports on continuing compliance, baseline monitoring reports and/or split sample verification, shall be certified by the ADEQ Laboratory Certification Program for the specific analysis being performed. The City reserves the right to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.

~~All independent laboratories performing analyses for users, including, but not limited to, self-monitoring, periodic reports on continuing compliance, baseline monitoring reports and/or split sample verification, shall be certified by the ADEQ Laboratory Certification Program for the specific analysis being performed. The City reserves the right to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.~~

(K) *Sample collection.*

(1) ~~Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.~~

(12) Except as indicated in subsection (23) and (34), below, the user must collect wastewater samples using 24-hr flow—proportional composite collection techniques. In the event flow proportional sampling is infeasible, the control authorityCity may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(23) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(34) ~~For sampling required in support of baseline monitoring and 90-day compliance reports required in §§51.079(A) and (C), a minimum~~

~~of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum. For the reports required by §51.079(D), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.~~

(L) *Date of Receipt of Reports/Timing.* Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(M) *Record keeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under 51.075(D). Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the control authorityCity, or where the user has been specifically notified of a longer retention period by the U.S. EPA, state, or control authorityCity.

(Code 1991, §51.079; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §6, 4-7-98)

51.080 Compliance Monitoring

(A) *Right of entry; inspection and sampling.* The control authorityCity shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the control authorityCity 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.

Commented [GA90]: Require including similar language as this is State law.
Commented [GD91R90]: USED THIS
Formatted: Font color: Red
Formatted: Indent: Left: 0.25"

Commented [GA92]: Recommend including language from EPA's model Ord.
Commented [GD93R92]: USED THIS
Formatted: Font color: Red
Commented [GA94]: Recommend including (3) as in EPA's model Ord.
Commented [GD95R94]: USED THIS
Formatted: Font color: Red

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the ~~control authority~~City will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (2) The ~~control authority~~City shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (3) The ~~control authority~~City may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to the ~~control authority~~City upon request.
 - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the ~~control authority~~City and shall not be replaced. The costs of clearing such access shall be borne by the user.
 - (3) Unreasonable delays in allowing the City access to the user's premises shall be a violation of this article.
- (B) *Search warrants.* If the ~~control authority~~City 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 article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the ~~control authority~~City designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the ~~control authority~~City may seek issuance of a search warrant from the city district court.

(Code 1991, §51.080)

51.081 Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the ~~control authority~~City's

inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the ~~control authority~~City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user 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 ~~C.F.R.CFR~~ pt. 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Code 1991, §51.081)

51.082 Publication ~~Of~~ Users ~~In~~ Significant Noncompliance

The ~~control authority~~City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City's WRRF, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter wastewater measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in 51.074~~the daily maximum limit or average limit for the same pollutant parameter by any amount;~~
- (B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

~~limits, as defined by 51.074(daily maximum limit or the average limit~~ multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;

- (C) Any other violation of a ~~pretreatment standard or requirement as defined by 51.074 (daily maximum, long term average, instantaneous limit, or narrative standard) pretreatment effluent limit (daily maximum or longer-term average)~~ that the ~~control authority~~City determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city or ~~POTW/WRRF~~ personnel or the general public;
- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the ~~control authority~~City's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within ~~forty five (45) 30 days~~ after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation(s), ~~which may include a violation of Best Management Practices~~, which the ~~control authority~~City determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1991, §51.082; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §8, 4-7-98)

51.083 Administrative Enforcement Remedies

- (A) *Notice of violation.* When the ~~control authority~~City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~control authority~~City shall serve upon such user either an informal warning or a written notice of violation. Within five business days of the receipt of the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include

specific required actions, shall be submitted by the user to the ~~control authority~~City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the ~~control authority~~City to take any action, including emergency actions or any other enforcement action, without first issuing an informal warning or a notice of violation.

- (B) *Consent orders.* The ~~control authority~~City may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §51.083(D) and §51.083(E) of this article and shall be judicially enforceable.
- (C) *Show cause hearing.* The ~~control authority~~City may order a user which has violated or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the ~~control authority~~City and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five business days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

- (D) *Compliance orders.* When the ~~control authority~~City finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~control authority~~City may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

operated. Compliance ordinances 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 sewer. A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(E) *Cease and desist orders.* When the ~~control authority~~City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the ~~control authority~~City may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) 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.
- (3) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(F) *Administrative fines/charges.*

(1) When the ~~control authority~~City finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~control authority~~City may ~~fine/charge~~ such user in an amount not to exceed one thousand dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. The ~~control authority~~City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the ~~fine/charge~~.

(2) Users desiring to dispute such charges must file a written request with the City Clerk within ten (10) working days of being notified of the charge. The Sewer Committee shall convene a hearing on the matter. In the event the charge is upheld by the Sewer Committee, the City may also add the costs of the appeal, such as notices and orders, to the charge.

~~(3) Issuance of an administrative fine/charge shall not be a bar against, or a prerequisite for, taking any other action against the user.~~

(G) *Emergency suspensions.* The ~~control authority~~City may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The ~~control authority~~City may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the ~~POTW/WRRF~~, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the ~~control authority~~City shall take such steps as deemed necessary, including immediate severance of the sewer connection or water service, to prevent or minimize damage to the ~~POTW/WRRF~~, its receiving stream, or endangerment to any individuals. The ~~control authority~~City may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the ~~control authority~~City that the period of endangerment has passed, unless the termination proceedings in §51.083(H) of this article are initiated against the user.

(2) If necessary, severance of the sewer connection or water service may occur without notice.

(3) 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 ~~control authority~~City within five business days.

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

(H) *Termination of discharge.* Any user that violates the conditions in §51.078(F) of this article is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

cause under §51.083(C) of this article why the proposed action should not be taken. Exercise of this option by the ~~control authority~~City shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Code 1991, §51.083; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.084 Judicial Enforcement Remedies

(A) *Injunctive relief.* When the ~~control authority~~City finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the ~~control authority~~City may petition the appropriate court through the ~~control authority~~City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The ~~control authority~~City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(B) *Civil penalties.*

(1) A user which has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the ~~control authority~~City for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.

(2) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) *Criminal penalties.*

(1) A user who willfully or negligently violates any

provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day.

(2) A user who willfully or negligently introduces any substance into the WRRF which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty not more than one thousand dollars (\$1,000.00) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(D) *Cost recovery.* The ~~control authority~~City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages or fines incurred by the ~~control authority~~City.

(E) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The ~~control authority~~City may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the ~~control authority~~City's ~~enforcement response~~ Plan within the City's Pretreatment Program. However, the ~~control authority~~City may ~~take~~ take other action against any user, including but not limiting to, misdemeanor and felony fines and imprisonment when the circumstances warrant.

(Code 1991, §51.084; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.085 Affirmative Defenses ~~To~~

Commented [GA96]: Recommend highlighting the City's ERP so it will be known where to find it (within the City's Pretreatment Program).

Commented [GD97R96]: USES THIS

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

Discharge Violations

occurrence of an upset shall have the burden of proof.

(A) *Upset.*

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (a) ~~an~~An upset occurred and the user can identify the cause(s) of the upset;
- (b) ~~the~~The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (c) The user has submitted the following information to the ~~control authority~~City as soon as possible but no later than 24 hours after becoming aware of the upset. If this information is provided orally, a written submission must be provided within five business days:
 - (i) ~~a~~A description of the indirect discharge and cause of noncompliance;
 - (ii) ~~the~~The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (iii) ~~steps~~Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
 - (iv) ~~in~~In any enforcement proceeding, the user seeking to establish the

(4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(B) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in §51.075(B)(1) of this article or the specific prohibitions in §51.075(B)(2)(c) through (r), except for §51.075(B)(2)(h), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the ~~control authority~~City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable ~~sludge~~biosolids use or disposal requirements.

(C) *Bypass.*

- (1) For the purposes of this section:
 - (a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

does not mean economic loss caused by delays in production.

- (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

- (3) Notice.

- (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the ~~control authority~~City, at least ten business days before the date of the bypass, if possible.

- (b) A user shall submit oral notice to the ~~control authority~~City of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five business days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The ~~control authority~~City may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (4) Bypass Prohibited; Exceptions

- (a) Bypass is prohibited, and the ~~control authority~~City may take an enforcement action against a user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been

installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (iii) The user submitted notices as required under paragraph (3) of this section.

- (b) The ~~control authority~~City may approve an anticipated bypass, after considering its adverse effects, if the ~~control authority~~City determines that it will meet the three conditions listed in paragraph (4)(a) of this section.

(Code 1991, §51.085; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96; Ord. No. 4088, §7, 4-7-98)

51.086 Miscellaneous Provisions

- (A) *Pretreatment charges and fees.* The ~~control authority~~City may adopt reasonable fees for reimbursement of the costs of development and administration of the ~~control authority~~City's pretreatment program which may include:

(1) Fees for wastewater discharge permit applications including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the ~~control authority~~City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties, chargeable by the ~~control authority~~City.

- (B) *Severability.* If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

- (C) *Conflicts.* All other ordinances and parts of other ordinances inconsistent or conflicting with any

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

part of this article, are hereby repealed to the extent of the inconsistency or conflict.

(Code 1991, §51.086; Ord. No. 3965, §§2, 3 (Exh. A), 5-7-96)

51.087 Surcharge

(A) Any significant industrial user generating discharge which exhibits none of the characteristics of wastes prohibited in §51.075 but which has an average concentration of total suspended solids (TSS) or biochemical oxygen demand (BOD) surcharge parameters in 51.137(E) in excess of 300 mg/l the allowed strengths in 51.137(E) during a 24-hour period, may be required to obtain a discharge permit. Such discharge may, however, be accepted by the POTW/WRRF for treatment in accordance with Extra Strength Surcharge requirements in 51.137(E).if:

(1) The user agrees to payment of a surcharge over and above published sewer rates, as provided herein; and

(2) The discharge is amendable to treatment such that when it leaves the sewage treatment plant to be discharged, the discharge does not exceed or cause the total discharge to exceed the standards set by federal and state agencies having jurisdiction.

(B) Prior to imposition of a surcharge, the user shall be notified in writing that the discharge exceeds the maximum limits as established in this article.

(C) If, after 60 days have elapsed from the date of notice, the quality of the waste has not been brought within the maximum allowable limits, the user must enter into a surcharge agreement with the city.

(D) The surcharge will be adjusted on billings for the month following submission of new data but not less frequently than quarterly.

(E) Biochemical oxygen demand (BOD) and total suspended solids (TSS) values will be determined for standard values established by the control authority for various industries having normal pretreatment facilities for that industry. The control authority shall sample the discharge from a user to determine accurate values of BOD and TSS being discharged for the purpose of determining a surcharge. Analysis performed by a user shall be under the direction of the control authority and performed by an approved qualified laboratory. Reports submitted to the control authority shall contain a statement that the samples collected and values determined are based on a 24-hour composite representative of

the user's flow.

(F) All sampling and analyses of the waste characteristics shall be performed in accordance with 40 C.F.R. pt. 136 approved methods.

(G) The volume of flow used in computing surcharge shall be based upon metered water consumption as shown in the records of meter readings maintained by the city's business office. In the event that a person discharging waste into the city sanitary sewer system produces evidence to the control authority demonstrating that a portion of the total amount of water used for all purposes is not discharged into the POTW, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon his request, to measure only that portion of the total flow being discharged into the city sewer system. If a surcharge is assessed by the city, it shall be shown separately on the monthly billing.

(H) Any person discharging industrial waste into the sanitary sewers of the city who procures any part or all of the user's water supply from sources other than the city, all or part of which is discharged into the sanitary sewer, shall install and maintain at the user's expense water meters of the type approved by the city for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meter will be read monthly and tested for accuracy when deemed necessary by the city. Where it can be shown that a portion of the water measured by the aforesaid meter or meters does not enter the sanitary sewer system of the city, then the user may install additional approved meters at user's expense in such a manner as to measure the quantity of water actually entering the sanitary sewer system from the premises of such user, and the quantity of water used to determine the sewer service charge and surcharge shall be the quantity of water actually entering the sewage system as so determined.

(I) Computation of surcharge shall be based on the following:

$$S = V * 8.34 * [X * (BOD - 300) + Y * (TSS - 300)]$$

Where:

S = Surcharge in dollars for the billing period;

V = Water consumption in millions of gallons during the billing period;

8.34 = Weight of water in pounds per

Formatted: Indent: Left: 0.25", Hanging: 0.25"

Formatted: Indent: Left: 0", Hanging: 0.25", Tab stops: 0.25", Left

FAYETTEVILLE CODE OF ORDINANCES
TITLE V PUBLIC WORKS

gallon;

X — Unit charge in dollars per pound for
BOD in effect at the time of the
billing;

Y — Unit charge in dollars per pound for
TSS in effect at the time of the
billing;

BOD — Concentration of biochemical
oxygen demand in milligrams per
liter;

TSS — Concentration of total suspended
solids in milligrams per liter;

300 — Normal BOD and TSS in milligrams
per liter

(E.J) The control authorityCity reserves the right to review and approve any waters or industrial waste entering the city's sewer system or proposed to be discharged into the system having an average daily flow greater than 10% of the design flow capacity of the plant which will treat the waste. In the event the city's measurement discloses such flow in excess of such capacity, the city shall be under no obligation to receive such flow in excess of 10% of designed capacity and the city's published rate shall not apply to such excess. An owner affected hereby shall be promptly notified of such determination by the control authorityCity. A special contract, at the city's option, may be made with the user to accommodate such excess flow.

(Code 1991, §51.087)

51.088-51.109 Reserved

Formatted: Indent: Left: 0.5", Hanging: 0.56", Tab stops: 0.81", Left + 1.06", Left