

## Henderson, Katie

---

**From:** Gilliam, Allen  
**Sent:** Friday, June 01, 2012 11:49 AM  
**To:** l.dunaway@nashar.org; nashville ed carlyle; pinson\_sheila@yahoo.com  
**Cc:** Henderson, Katie  
**Subject:** AR0021776\_Nashville Draft Pretreatment Ord first review\_20120601  
**Attachments:** Nashville's May 2012 draft Ord first review.docx

Larry, Ed and Sheila,

Find attached the MS Word version (10) of your draft Pretreatment Ord. w/this office's recommendations and comments (in color).

You'll soon receive a letter with it attached, but the recommendations and comments are only in grey. This correspondence will allow you sixty (60) days to make the appropriate revisions for a final submittal. A final review by this office will be necessary for approval, thence ready for adoption by your City council.

Thank you for your attention to this matter.

Sincerely,

Allen Gilliam  
ADEQ State Pretreatment Coordinator  
501.682.0625

ORDINANCE NO

AN ORDINANCE AMENDING CHAPTER 10.12 OF THE NASHVILLE MUNICIPAL CODE CONCERNING THE USE OF PUBLIC AND PRIVATE SEWERS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION, CONSTRUCTION, MAINTENANCE AND CONNECTION OF BUILDING SEWERS; THE DISHCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND FOR OTHER PURPOSES, ALL PERTAINING TO THE SEWER SYSTEM WITHIN THE JURISDICTION OF THE CITY OF NASHVILLE, ARKANSAS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NASHVILLE, ARKANSAS:

SECTION 1. That Chapter 10.12 – Use of Sewer of the Nashville Municipal Code is hereby amended to read as follows:

10.12.00 – SHORT TITLE

This Ordinance shall be known as the “Sewer Use – Pretreatment Ordinance.”

Sections:

- 10.12.01 Purpose and Policy
- 10.12.02 Administration
- 10.12.03 Definitions
- 10.12.04 Abbreviations
- 10.12.05 General Sewer Use Requirements
- 10.12.06 Regulations of Discharges
- 10.12.07 Pretreatment of Wastewater
- 10.12.08 Wastewater Discharge Permit Eligibility
- 10.12.09 Wastewater Discharge Permit Issuance Process
- 10.12.10 Reporting Requirements
- 10.12.11 Compliance Monitoring

10.12.12	Confidential Information
10.12.13	Publication of Industrial Users in Significant Noncompliance
10.12.14	Administrative Enforcement Remedies
10.12.15	Judicial Enforcement Remedies
10.12.16	Supplemental Enforcement Action
10.12.17	Affirmative Defenses to Discharge Violations
10.12.18	Surcharge Costs
10.12.19	Miscellaneous Provisions

#### 10.12.01 – PURPOSE AND POLICY

This ordinance sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (POTW) for the City of Nashville, Arkansas (the City) and enables the City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40CFR Part 403). The objectives of this ordinance are:

- 1) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW.
- 2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW.
- 3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations.
- 4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public.
- 5) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.
- 6) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW.

- 7) To enable the City of Nashville to comply with its NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the POTW is subject.
- 8) To encourage pollution prevention through waste minimization, source reduction, best management practices, water and energy conservation.

This ordinance shall apply to all ~~industrial~~ users of the POTW. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

#### 10.12.02 – ADMINISTRATION

- 1) The City Council shall establish such fees for sewer service and connection as are necessary to properly maintain and operate the POTW. The City Council shall, in compliance with Arkansas Code of 1987 Annotated, including 1995 supplement Volume 6A, 8-4-103 (g) et seq., authorize any judicial enforcement remedy taken by the City of Nashville against any industrial user in violation of the Nashville Municipal Code.
- 2) Except as otherwise provided herein, the Director of Public Works of the City of Nashville shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director of Public Works may be delegated by the Director of Public Works to other City of Nashville personnel.

#### 10.12.03 – DEFINITIONS

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

- 1) Accessible Public Sewer. Shall mean an existing public sewer located so that it may be reached either by a building sewer constructed at the minimum grade recommended by the Arkansas Department of Health, or by a combination of the extension of the existing public sewer and the construction of a building sewer, both of which are constructed at the minimum grade recommended by the Arkansas Department of Health.
- 2) 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.

- 3) Approval Authority. Currently the Arkansas Department of Environmental Quality (ADEQ).
- 4) Authorized Representative of the Industrial User.
  - A. If the industrial user is a corporation, authorized representative shall mean:
    - 1) 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;
    - 2) The manager of one or more manufacturing, production, or operation 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.
  - B. If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively.
  - C. If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.
  - D. The “Authorized Representatives” described 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 Director of Public Works.
- 5) Biochemical Oxygen Demand (BOD<sub>5</sub>). The quantity of oxygen utilized in the biochemical oxidation or organic matter under standard laboratory procedure, five (5) days at 20<sup>0</sup> centigrade expressed in terms of mass and concentration [milligrams per liter (mg/l)].
- 6) Best Management Practices (BMPs). Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 10.12.06 [40 CFR 403.5 (a) (1) and (b)]. BMPs include the treatment requirements, operating procedures, and practices to control plant 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.

**Comment [GA1]:** Require including.

- 7) Building Drain. Shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.
- 8) Building Sewer. Shall mean the extension from the building drain to the public sewer or other places of disposal.
- 9) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- 10) Categorical Industrial User. An Industrial user subject to a categorical Pretreatment Standard or categorical Standard.
- 11) Chemical Oxygen Demand (COD). A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- 12) City. The City of Nashville, County of Howard, in the State of Arkansas or the City Council of the City of Nashville.
- 13) Collector Building Sewer. Shall mean a sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termination, and with pipe having a diameter of at least six (6) inches and such sewers shall be located outside building walls and footings.
- 14) Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- 15) Combined Sewer. Shall mean a sewer receiving both surface runoff and sewage.
- 16) 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.
- 17) Control Authority. ~~Under the provisions of 40 CFR 403.12 (a)~~ The term “Control Authority” shall mean the Director of Public Works of the City of Nashville and who is charged with certain duties and responsibilities by this ordinance, or his duly appointed or authorized representative.
- 18) Control Manhole or Control Point. Shall mean a point of access to a building sewer mixes with other wastewater conveyed by the public sewer.
- 19) Council or City Council. Shall mean the duly elected or appointed governing body of the City of Nashville.

**Comment [GA2]:** Delete as 403.12(a) is now “Reserved”

- 20) Director of Public Works or Public Works Director. The person appointed by the City Council to manage and supervise the Water and Sewer Departments of the City of Nashville, Arkansas, and who is charged with certain duties, responsibilities by this ordinance, or the duly appointed or authorized representative of such person.
- 21) Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- 22) 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.
- 23) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.
- 24) Existing Source. Any source of discharge that is not a “New Source.”
- 25) Garbage. Shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- 26) Grab Sample. A sample which is taken from waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
- 27) Indirect Discharge or Discharge. The introduction of (nondomestic) pollutants into the POTW from any nondomestic source.
- 28) Industrial User or User. A source of indirect discharge.
- 29) Industrial Wastes. Shall mean the liquid wastes from ~~industrial~~ any non-domestic manufacturing processes, trade, or business as distinct from sanitary sewage.
- 30) Instantaneous Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- 31) Interference. A discharge which alone or in conjunction with a discharge from other sources:
- A. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
  - B. Therefore is a cause of a violation of Nashville’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the

**Comment [GA3]:** Recommend revising.

Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act. [40 CFR 403.3 (k)].

- 32) Local Limit. Specific discharge limits developed and enforced by the City of Nashville upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5 (a) (1) and (b).
- 33) Mayor. Shall mean the Mayor of the City of Nashville, Arkansas.
- 34) Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiological agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.
- 35) Monthly Average. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
- 36) Monthly Average Limit. The highest allowable average of “daily discharges” over a calendar month divided by the number of daily discharges measured during that month.
- 37) Milligrams per Liter (mg/l). The same as parts per million and is a weight-to-volume ratio; the milligrams per liter value multiplied by a factor of 8.34 shall be equivalent to pounds per million gallons of water.
- 38) National Pollution Discharge Elimination System or NPDES Permit. Shall mean a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- 39) Natural Outlet. Shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.
- 40) New Source
  - A. Any building, structure, facility or installation from which there is or may be discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment stands under Section 307 (c) of the Act which will be applicable to such source is such standards are thereafter promulgated in accordance with that section, provided that:
    1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
    2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge or pollutants at an existing source; or
    3. 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.

- B. 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 Section 10.12.03, (32), (A), (2), or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - 1. Begun, or caused to begin as part of a continuous on-site construction program:
    - a) Any placement, assembly, or installation of facilities or equipment, or
    - b) Significant site preparation work including clearing, excavation, or removal of existing building, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - c) Entered into a binding contractual obligation for the purchase of facilities or equipment which is 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.

- 41) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.
- 42) Normal Domestic Wastewater. Means wastewater, excluding that from non-residential uses, discharged by a person into the POTW in which the average concentration of BOD<sub>5</sub> is not more than 300 mg/l and TSS is not more than 300 mg/l.
- 43) 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 Classification (SIC) system.
- 44) Pass-Through. A discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other surfaces, is a cause of a violation of any requirement of Nashville's NPDES permit (including an increase in the magnitude or duration of a violation).

Comment [GA4]: Recommend including

- 45) 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 representative, agents or assigns. This definition includes all Federal, State or local governmental entities.
- 46) pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.
- 47) 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.
- 48) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor).
- 49) Pollution Prevention (P2) shall mean 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.
- 50) 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 in to the POTW. 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.
- 51) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.
- 52) Pretreatment Standards or Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, narrative BMPs and technically based local limits.
- 53) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 10.12.06 of this ordinance.
- 54) Properly Shredded Garbage. Shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- 55) Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of Act (33 U.S.C. 1292), which is owned by the State or municipality. This

**Comment [GA5]:** Recommend including.

**Comment [GA6]:** Recommend including.

**Comment [GA7]:** Require including.

definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

- 56) Public Sewer. Shall mean a sewer in which all owners of abutting properties have equal rights, and in controlled by the City of Nashville.
- 57) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- 58) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- 59) Sewer Surcharge or Surcharge. Shall a sewer service charge above the normal monthly sewer rate which may be assessed to those non-residential sewer users who discharge into the POTW wastewater having BOD<sub>5</sub> in excess of 300 mg/l or suspended solids content in excess of 300 mg/l.
- 60) Significant Industrial User. Shall apply to: a) industrial users subject to categorical pretreatment standards; and b) any other industrial user that discharges an average of 25,000 gpd or more of process wastewater, contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, is designated as significant by the City of Nashville on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a User meeting the criteria in Subsection (b) of this part has no reasonable potential for adversely affecting the POTW's operation, the City of Nashville may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

**Comment [GA8]:** Recommend including this EPA model Ord. language.

- 61) Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 10.12.06 of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- 62) Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.
- 63) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
- 64) Surface Water. Shall mean any watercourse, pond, stream, ditch, lake, or other body of water occurring on the earth's surface.

**Comment [GA9]:** Recommend including EPA's model Ord. language.

- 65) 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.
- 66) To Discharge. Includes depositing, conducting, draining, emitting, throwing, running, allowing to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.
- 67) Toxic Pollutant. One of 126 pollutants, or combinations of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- 68) Trap. Means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.
- 69) Treatment Plant Effluent. Any discharge of pollutants from the POTW into waters of the State.
- 70) Unusual BOD. Is defined as BOD<sub>5</sub> in excess of 300 mg/l.
- 71) Unusual Suspended Solids. Is defined as total suspended solids in excess of 300 mg/l.
- 72) User. A source of indirect discharge.
- 73) Wastewater. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial building, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- 74) Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial wastes.
- 75) Watercourse. Shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

#### 10.12.04 - ABBREVIATIONS

The following abbreviations shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report
- CIU - Categorical Industrial User
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand

**Comment [GA10]:** Recommend including per EPA's model Ord.

**Comment [GA11]:** Recommend including per EPA's model Ord.

**Comment [GA12]:** Recommend including per EPA's model Ord.

- EPA - U.S. Environmental Protection Agency
- IU - Industrial User
- gpd - Gallons per Day
- l - Liter
- mg - Milligrams
- mg/l - Milligrams per Liter
- NAICS - North American Industrial Classification System
- NPDES - National Pollutant Discharge Elimination System
- OSHA - Occupational Safety and Health Administration (Title 29, Chapter XVII CFR)
- O&M - Operation and Maintenance
- P2 - Pollution Prevention
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classifications
- SWDA - Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)
- TSS - Total Suspended Solids
- USC - United States Code

**Comment [GA13]:** Recommend including per EPA's model Ord.

**Comment [GA14]:** Recommend including.

**Comment [GA15]:** Recommend including.

#### 10.12.05 – GENERAL SEWER USE REQUIREMENTS

##### 1) Use of Public Sewers

- A. ~~It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City of Nashville, Arkansas, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable wastes.~~
- B. It shall be unlawful to discharge to any natural outlet within the City of Nashville, Arkansas, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance. The issuance of a valid National Pollutant Discharge Elimination System permit authorizing such discharges into a natural outlet shall be considered as meeting all the requirements of this section.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.
- D. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and located within three hundred (300) feet of an accessible public sewer shall, at his expense, install suitable toilet facilities therein, and connect said facilities to such accessible public sewer. The requirements of this section shall not apply to owner discharging such sewage under the provisions of a valid National Pollutant Discharge Elimination System permit.
- E. Other than building sewers and collector buildings sewers, all sewer constructed by owners to connect the building drains of structures to an existing public sewer shall be located within public easements or right of ways and shall be constructed by such

**Comment [GA16]:** Recommend deleting as it has nothing to do with the City's sewer use or Pretreatment.

owner to the standards required by the City for public sewers. No sewer shall be constructed within any public easement or right of way or connected to an existing public sewer without approval by the Director of Public Works.

- F. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff or subsurface drainage to the POTW.
- G. Storm water and all other surface runoff shall be discharged to such sewers specifically designated as storm sewers, or to a natural outlet.

2) Private Sewage Disposal

- A. Where a public sanitary sewer is not available under the provisions of Section 10.12.03 (1) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
- B. Before commencement of construction of a private wastewater disposal system within the City of Nashville, Arkansas, or any area under the jurisdiction of said City, all persons shall first obtain a permit for such construction from the City of Nashville. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by plans, specifications, and construction, permits approved by the Arkansas Department of Health and/or the Arkansas Department of Environmental Quality.
- C. The type, capacities, locations and layout of private sewage disposal systems shall comply with all applicable requirements of the Arkansas Department of Health and/or the Arkansas Department of Environmental Quality.
- D. Within twelve (12) months from the date on which a public sewer becomes available as defined in Section 10.12.03 (1) above, in those areas where service is not now available, all persons owning property on which structures are located having a point of water usage within three hundred (300) feet of an accessible public sewer shall connect the building sewer to the public sewer pursuant to the provisions of Section 10.12.03 (1) above. The requirements of this section shall not apply to persons discharging such sewage under the provisions of a valid National Pollution Discharge Elimination System permit.

3) Building Sewers and Connections

- A. Non unauthorized person shall uncover, make any connection with or opening into, use alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit for such connection from the City of Nashville. No permit shall be issued for a sewer connection until the then current tie-on fee prescribed by Section 10.04.03 of the Nashville Municipal Code has been paid.
- B. There shall be two (2) classes of building sewer permits:
  - I. For service to residential establishments; and
  - II. For service to establishments producing industrial wastes.

In either case, the person shall make application on special forms furnished by the City. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent by the Director of Public Works.

- C. Prior to the initiation of sewer service to potential new customers who will discharge industrial process wastes to the POTW, the potential customer shall complete an Industrial User Survey no less than one hundred and twenty (120) days prior to date on which they plan to discharge wastewater to the POTW. If the potential customer will be a Significant Industrial User, the potential customer shall, pursuant to Section 10.12.08 of the Nashville Municipal Code, complete an application for an Industrial Waste Discharge Permit no less than ninety (90) days prior to date on which they plan to discharge wastewater.
- D. The Director of Public Works will evaluate applications for Industrial Waste Discharge Permits and determine, pursuant to Section 10.12.09 of the Nashville Municipal Code, whether or not to issue the applicant an Industrial Waste Discharge Permit.
- E. A separate and independent building sewer shall be provided for each individual building except:
  - I. Where multiple buildings are constructed in an apartment complex or condominium on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels, the individual building may be connected to a common building sewer provided that only one person is responsible for maintenance of the building sewer; or
  - II. Temporary building, mobile homes, or similar portable structures may be connected to a building sewer installed to serve a previously constructed permanent building provide that both the permanent and temporary building are located on a lot or tract and maintained in common ownership.
- F. Pipe for building sewers for service to the City of Nashville public sewer may be of any approved material listed in the State of Arkansas Plumbing Code.

The Director of Public Works shall approve:

- I. Type of material and size of pipe to be used in the construction of building sewers; and
  - II. Methods of installation of building sewer pipe prior to and/or during construction of building sewers.
- G. Persons possessing building sewer permits shall notify the Director of Public Works when the building sewer is ready for inspection and connection to the POTW. The connection shall be accomplished only by the City of Nashville Sewer Department personnel.
  - H. Persons possessing building sewer permits shall indemnify the City of Nashville from any loss or damage that may directly be occasioned by the installation and/or operation of the building sewer.

- I. Persons possessing building sewer permits shall hold the City of Nashville harmless from any loss or damage that may directly be occasioned by the installation and/or operation of the building sewer.

10.12.06 – REGULATIONS OF DISHCARGES

**Comment [GA17]:** Correct typo

1) Prohibited Discharge Standards

No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:

**Comment [GA18]:** Recommend deleting per EPA's model Ord.

**Comment [GA19]:** Recommend deleting per EPA's model Ord.

- A. Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140<sup>0</sup>F (60<sup>0</sup>C) using the test methods specified in 40 CFR 261.21.
- B. Any wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering City personnel.
- C. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than on half (1/2) inch (1.27 centimeters) in any dimension.
- D. Any wastewater containing 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 either the POTW; or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- E. Any wastewater having a temperature greater than 150<sup>0</sup>F (65<sup>0</sup>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<sup>0</sup>F (40<sup>0</sup>C).
- F. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
- G. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.



- H. Any trucked or hauled pollutants, except at discharge points designated by the City of Nashville in accordance with Section 10.12.07 (5) of the Nashville Municipal Code.
- I. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- J. Any 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 Nashville's NPDES permit.
- K. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director of Public Works in an Industrial Waste Discharge Permit in compliance with applicable State or Federal regulations.
- L. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Director of Public Works in an Industrial Waste Discharge Permit.
- M. Any sludge, screenings, or other residues from the pretreatment of industrial wastes.
- N. Any medical wastes, except as specifically authorized by the Director of Public works in an Industrial Waste Discharge Permit.
- O. Any wastewater causing the treatment plant's effluent to fail a toxicity test.
- P. Any wastes containing detergents, surface active agents, surfactants, or other substances which may cause excessive foaming or scum in the POTW.
- Q. Any discharge of fats, oils, or greases of animal, vegetable or mineral origin is limited to one hundred (100) mg/l.
- R. **Pharmaceutical drugs from any commercial, for-profit entity.**

**Comment [GA20]:** Recommend including this prohibition.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or material storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

2) Federal Categorical Pretreatment Standards

~~The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 40-471 are hereby incorporated.~~

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Public Works may impose equivalent concentration or mass limits in accord with 40 CFR 403.6 (c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Public Works may impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provision in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standards.
- D. A user may obtain a net gross adjustment to a categorical standard in accord with 40 CFR 403.15.
- E. Combined waste stream formula. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Control Authority, as defined in §403.12 (a), or by the Industrial User with the written concurrence of the Control Authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the Control Authority or Industrial User shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical Pretreatment Standard(s). The Industrial User shall comply with the alternative daily maximum and monthly average limits fixed by the Control Authority until the Control Authority modifies the limits or approves an Industrial User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An Industrial User must immediately report any such material or significant change to the Control Authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.
- F. The term *Requester* means an Industrial User or a POTW or other interested person seeking a variance from the limits specified in a categorical Pretreatment Standard. In establishing categorical Pretreatment Standards for existing sources, the EPA will take into account all the information it can collect, develop and solicit regarding factors relevant to pretreatment standards under Section 307 (b). In some cases, information which may affect these Pretreatment Standards will not be available or, for other reasons, will not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust

**Comment [GA21]:** Recommend using EPA's model Ord. language.

**Comment [GA22]:** See below: These two Fed. allowances that have rarely been sought by any SIUs nationwide. Consider removing as: 1) You'll probably never see a request for either and 2) There is A LOT of admin. time and paperwork that has to be submitted to approve either.

the limits in categorical Pretreatment Standards, making them either more or less stringent, as they apply to a certain Industrial User within an industrial category or subcategory. This will only be done if data specific to that Industrial User indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to an Industrial User are fundamentally different from the factors considered during the development of a categorical Pretreatment Standard applicable to the User and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical Pretreatment Standard, may request a fundamentally different factor variance under this section or such variance request may be initiated by the EPA. A request for a variance based upon fundamentally different factors shall be approved only if: there is an applicable categorical Pretreatment Standard which specifically controls the pollutant for which alternative limits have been requested; and Factors relating to the discharge controlled by the categorical Pretreatment Standard are fundamentally different from the factors considered by the EPA in establishing the Standards; and the request for a variance is made in accordance with the procedural requirements in paragraphs (g) and (h) of 40 CFR 403.13. A variance request for the establishment of limits less stringent than required by the Standard shall be approved only if: The alternative limit requested is no less stringent than justified by the fundamental difference; The alternative limit will not result in a violation of prohibitive discharge standards prescribed by or established under §403.5; The alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Pretreatment Standards; and Compliance with the Standards (either by using technologies upon which the Standards are based or by using other control alternatives) would result in either: A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the Standards; or A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during the development of the Standards. A variance request for the establishment of the limits more stringent than required by the Standards shall be approved only if: the alternative limit request is no more stringent than justified by the fundamental difference; and Compliance with the alternative limit would not result in either: A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the Standards; or A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during the development of the Standards.

- G. Categorical Pretreatment standards may be adjusted to reflect the presence of pollutant in the Industrial User's intake water in accordance to this section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e. adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraphs (b) and (c) of this section are met. The Industrial User must demonstrate that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should

not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s) up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Control Authority may waive this requirement if it finds that no environmental degradation will result. The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis.

### 3) State Requirements

~~The Arkansas Department of Environmental Quality may from time to time promulgate new pretreatment requirements, and in the event that a particular pretreatment requirement may be more stringent than that imposed by Federal Law or by the Nashville Municipal Code, such State requirement shall immediately supersede the others and shall then become the applicable pretreatment requirement of pretreatment standard.~~

[RESERVED]

### 4) Specific Pollutant Limitations

~~To protect against pass-through interference, no Significant Industrial User may discharge or cause to be discharged into the POTW wastewater having concentrations of pollutants exceeding Technically Based Local Limits developed by the Director of Public Works as required by Part III (b) of the City of Nashville's NPDES Permit No. AR 0034321 and adopted by Ordinance by the Nashville City Council if it reasonably appears to the Director of Public Works that such wastes can harm either the sewers, wastewater treatment processes or equipment, have an adverse effect on the receiving stream, overload the capacity of the treatment processes and or facilities or can otherwise endanger life, limb, public property, or constitute a nuisance. In determining whether~~

**Comment [GA23]:** These two Fed. allowances that have rarely been sought by any SIUs nationwide. Consider removing as: 1) You'll probably never see a request for either and 2) There is A LOT of admin. time and paperwork that has to be submitted to approve either.

**Comment [GA24]:** Recommend "Reserving" this section and striking above language as ADEQ has and probably will not promulgate Pretreatment Standards.

such wastes reasonable appear harmful to the facilities, processes or receiving stream above mentioned, the Director of Public Works will give consideration to such factors as quantities of wastewater discharged by the IU, flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment processes, capacity of the sewage treatment plant, and other pertinent factors. The following are technically based local limits which are developed as required by Nashville's NPDES permit issued with an effective date of February 1, 2009 and have been approved by the Arkansas Department of Environmental Quality:

30 Days	Average
Pollutant Parameter	mg/l
XXXX	X.XX

The above technically based local concentration limits shall apply at the "monitoring point" described in individual Industrial Wastewater Discharge Permits. All concentrations for metals pollutants are for "total" metals unless otherwise indicated. At his discretion, the Director of Public Works may impose mass limitations in addition to or in place of the concentration based limitations above.

**Comment [GA25]:** Recommend deleting in lieu of language below.

Local Limits are developed, implemented and enforced to protect against pass through and interference. No Industrial User shall discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Director of Public Works as required in City's NPDES permit, 40 CFR 403.5 (c) and approved by ADEQ. TBLLs (if necessary) based on calculated site specific Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Section [x]. At the discretion of the Director of Public Works, TBLLs shall be allocated, 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

**Comment [GA26]:** Will need to identify the correct Pret. Program Section.

indicated. At the discretion of the Director of Public Works, mass limitations may be imposed in addition to or in place of concentration based TBLLs.

The Director of Public Works 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 Director of Public Works will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3). This requirement of notice also applies when Local Limits are set on a case-by-case basis.

**Comment [GA27]:** Recommend using ADEQ's "standardized" language striking current language above.

5) City's Right of Revision

The City of Nashville reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 10.12.01 of the Nashville Municipal Code or the general or specific prohibitions in Section 10.12.06 of the Nashville Municipal Code.

6) Special Agreement

The City of Nashville reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement.

7) Dilution

No industrial 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 Director of Public Works may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment

standards or requirements or in other cases when the imposition of mass limitations is appropriate.

#### 10.12.07 – PRETREATMENT OF WASTEWATER

##### 1) Pretreatment Facilities

Industrial Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 10.12.06 above within the time limitations specified by the EPA, the State, or the Director of Public Works – whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the City of Nashville shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director of Public Works for review, and shall be acceptable to the Director of Public Works before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City of Nashville under the provision of this ordinance.

##### 2) Additional Pretreatment Measures

- A. Whenever deemed reasonably necessary for proper operation of the POTW, the Director of Public Works may require industrial users to restrict their discharge of wastewater during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial wastes streams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this ordinance.
- B. Whenever deemed reasonably necessary for proper operation of the POTW the Director of Public Works may require industrial users to install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow over a twenty-four (24) hour period. The Director of Public Works may require that such flow equalization control facility be equipped with alarms and a rate of discharge controller, the regulation of which

may be directed only by the Director of Public Works. A wastewater discharge permit may be issued solely for flow equalization.

- C. Grease, oil and sand interceptor shall be provided when, in the opinion of the Director of Public Works, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, flammable wastes, sand, or other objectionable wastes; except that such interceptors shall not be required for private living quarters or dwelling units.

All interceptors shall be of type approved by the Director of Public Works, provide a minimum detention time of 12 minutes, have a minimum capacity of 500 gallons and shall be so located to be easily accessible for cleaning and inspection.

All interceptors shall be continuously maintained in satisfactory and effective operation by the owner at his expense. Storage, handling, transportation, and disposal of all wastes generated from interceptors shall be performed in accordance with all applicable Federal, State, and local regulations that pertain to that type and/or class of waste.

- D. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

### 3) Accidental Discharge/Slug Control Plans

The Director of Public Works may require any industrial user to develop and implement an accidental discharge/slug control plan **or other action to control Slug Discharges.** ~~At least once every two years the Director of Public Works shall evaluate whether each significant industrial user needs such a plan.~~ Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Sections 10.12.06 of the Nashville Municipal code; and
- D. 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 run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

### 4) Tenant Responsibility

**Comment [GA28]:** Recommend using EPA's model Ord. language.

**Comment [GA29]:** Recommend deleting this sentence per the Streamlining Rule revisions. Otherwise, the City will have to conduct slug potential evaluations every 2 yrs/SIU.



Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

5) Hauled Wastewater

- A. ~~Only normal domestic~~ Septic tank waste may be accepted into the POTW at a receiving structure designated by the Director of Public Works, and at such times as are established by the Director of Public Works, provided such wastes do not violate Section 10.12.06 of the Nashville Municipal Code or any other requirements established or adopted by the City of Nashville. Wastewater discharge permits for individual vehicles to use such facilities may be issued by the Director of Public Works. The Director of Public Works shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation.
- B. ~~The discharge hauled industrial wastes as "industrial septage" requires prior approval and a wastewater discharge permit from the City of Nashville. The Director of Public Works shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all other applicable sections of the Nashville Municipal Code.~~
- C. Fees for dumping septage will be established by the City of Nashville as part of the industrial user fee system as authorized in Section 10.12.19 (1).
- D. ~~Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard(s) applies may, at its discretion and subject to the conditions of this section, grant removal credits to reflect removal by the POTW of pollutants specified in the categorical Pretreatment Standard(s). The POTW may grant a removal credit to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected Industrial Users shall calculate its revised discharge limits in accordance with paragraph (a) (4) of 40 CFR 403.7. Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.~~

**Comment [GA30]:** Recommend including domestic septage ONLY.

**Comment [GA31]:** Caution allowing industrial septage even though the Streamlining revisions include it. If the "septage" has any, say metal finishing w.w. in it, it must meet the metal finishing standards in CFR 433 AND you should TCLP test the septage to ensure it's not haz waste. This office's recommendation would be to strike this paragraph.

**Comment [GA32]:** Recommend deleting per the recommendation above.

6) Vandalism

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structures, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sections 10.12.14 through 10.12.16 of the Nashville Municipal Code.

10.12.08 – INDIVIDUAL WASTEWATER DISCHARGE PERMITS ELIGIBILITY

**Comment [GA33]:** Recommend revising.

1) Wastewater /Analysis Survey

When requested by the Director of Public Works all industrial, a users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. Surveys are to be completed and returned within thirty (30) days of the request. The Director of Public Works is authorized to prepare a discharge permit application form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the Nashville Municipal Code.

**Comment [GA34]:** Typical period of time required to return completed surveys.

**Comment [GA35]:** Recommend revising this paragraph.

2) Individual Wastewater Discharge Permits Requirement

**Comment [GA36]:** Recommend revising.

- A. It shall be unlawful for any significant industrial user to discharge wastewater into the Nashville POTW without first obtaining a wastewater discharge permit from the Director of Public Works. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of the Nashville Municipal Code and subjects the wastewater discharge permittee to the sanctions set out in Sections 10.12.13 through 10.12.16 of the Code. 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.
- B. The Director of Public Works may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10.12.14 and 10.12.15 of this ordinance. 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.

**Comment [GA37]:** CHECK ALL SECTION CITATION REFERENCES THROUGHOUT THIS DOCUMENT.

**Comment [GA38]:** Recommend including EPA's model Ord. language.

3) Wastewater Discharge Permitting Existing Connections

The City of Nashville may, within 30 days of determining that an existing industrial user is a significant industrial user as defined by Section 10.12.03 (49) of the Nashville

Municipal Code, notify the significant industrial user of its status as a significant industrial user and of the requirement to obtain a wastewater discharge permit. The Director of Public Works will furnish the existing significant industrial user an appropriate permit application package. Any industrial user who, after notification of the requirement to obtain a wastewater discharge permit, wishes to continue such discharges in the future, shall within ninety (90) days after notification, apply to the City of Nashville for a wastewater discharge permit in accordance with Section 10.12.06 (6) below. Existing significant industrial users shall not cause or allow discharges to the POTW to continue after on hundred eighty (180) days after notification of the requirement to obtain a wastewater discharge permit except in accordance with a wastewater discharge permit issued by the Director of Public Works.

4) Wastewater Discharge Permitting New Connections

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filled at least ninety (90) days prior to the date upon which any discharge will begin.

5) Wastewater Discharge Permitting Extra Jurisdictional Industrial Users (Industrial Users Outside Corporate Limits of the City of Nashville)

A. Any existing significant industrial user located beyond the City of Nashville corporate limits shall submit a wastewater discharge permit application, in accordance with Section 10.12.08 (6) below, to the Director of Public Works within ninety (90) days of notification of the requirement. Such extra jurisdictional industrial users shall be subject to all the provisions of Section 10.12.03 (3) above. New (potential) significant industrial users located beyond the City of Nashville corporate limits shall submit such applications to the Director of Public Works ninety (90) days prior to any proposed discharge into the POTW.

B. Alternately, the City of Nashville may enter into an agreement with a neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of the Nashville Industrial Pretreatment Program requirements against said industrial user.

**Comment [GA39]:** Is this a realistic scenario where a City near Nashville might petition Nashville to accept their entire effluent? If not, this office would recommend deleting this entire Section B.

- a. An intermunicipal agreement, as required by paragraph B, above, shall contain the following conditions:
- i. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to Nashville’s ordinance or Local Limits;
  - ii. A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
  - iii. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director of Public Works; and which of these activities will be conducted jointly by the contributing municipality and the Director of Public Works;
  - iv. A requirement for the contributing municipality to provide the Director of Public Works with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  - v. Limits on the nature, quality, and volume of the contributing municipality’s wastewater at the point where it discharges to the POTW;
  - vi. Requirements for monitoring the contributing municipality’s discharge;
  - vii. A provision ensuring the Director of Public Works access to the facilities of Users located within the contributing municipality’s jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director of Public Works; and
  - viii. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.
  - ix. Violation of the terms and conditions of the municipal user’s wastewater discharge permit subjects the municipal user to the sanctions set out in Sections 10.12.13 through 10.12.16 of the Nashville Municipal Code.

**Comment [GA40]:** CHECK ALL SECTION CITATION REFERENCES THROUGHOUT THIS DOCUMENT.

**Comment [GA41]:** If the City believes there’s a remote chance another City near Nashville might connect its effluent into Nashville’s, it would be recommended to include EPA’s model Ord. language.

**Comment [GA42]:** If the City sees this as a realistic scenario, recommend “bringing” this language up from Section 10.12.19 8) where this (almost verbatim) issue is discussed again.

C. Nothing in the foregoing Sections 10.12.08 (A) and (B), or any provisions of the Nashville Municipal Code shall be construed as requiring the City of Nashville to accept wastewater into the POTW from any industrial user or significant industrial user located outside the City of Nashville corporate limits.

6) Wastewater Discharge Permit Application Contents

In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by Section 10.12.10 (1) (B) of the Nashville Municipal Code on an Industrial Wastewater Discharge Permit Application form provided by the Director of Public Works. In addition, the following information may be requested:

**Comment [GA43]:** Recommend deleting.

A. Identifying Information.

1. The name and address of the facility, including the name of the operator and owner.

2. Contact information, description of activities, facilities, and plant production processes on the premises;

B. Environmental Permits. A list of any environmental control permits held by or for the facility.

**Comment [GA44]:** Recommend including per EPA's model Ord.

C. A comprehensive description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals (not trade names) used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

**Comment [GA45]:** Recommend including.

**Comment [GA46]:** Recommend including.

D. Number and type of employees hours of production and operation of pretreatment facilities, and proposed or actual hours of discharge to the POTW.

E. Each product produced by type, amount, process or processes, and rate of production.

F. Type and amount of raw materials processed (average and maximum per day).

G. Comprehensive ~~The~~ site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

**Comment [GA47]:** Recommend including.

H. Time and duration of the discharges.

I. The location for monitoring all wastes covered by the permit;

J. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process

streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

K. Measurement of Pollutants.

1. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director of Public Works, of regulated pollutants in the discharge from each regulated process.
3. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
4. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by Director of Public Works or the applicable Standards to determine compliance with the Standard.
5. Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.

**Comment [GA48]:** CHECK ALL SECTION CITATION REFERENCES THROUGHOUT THIS DOCUMENT.

L. Pollution Prevention (P2) activities such as source reduction, waste minimization, environmental management systems, water and energy conservation.

**Comment [GA49]:** CHECK ALL SECTION CITATION REFERENCES THROUGHOUT THIS DOCUMENT.

**Comment [GA50]:** Recommend including EPA's model Ord. language.

**Comment [GA51]:** Recommend including.

M. Any other information as may be deemed necessary by the Director of Public Works to evaluate the wastewater discharge permit application.

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

7) Application Signatories and Certification

- A. All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

*"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 gathered and evaluated 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."*

- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall

operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director of Public Works prior to or together with any reports to be signed by an Authorized Representative.

**Comment [GA52]:** Recommend including per EPA's model Ord. language.

8) Wastewater Discharge Permit Decisions

The Director of Public Works will evaluate the data furnished by the industrial user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Director of Public Works will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The Director of Public Works may deny any application for a wastewater discharge permit where it reasonably appears that the applicant's proposed wastewater, if discharged into the POTW, would interfere with the operation of the POTW, would otherwise be incompatible with the POTW, would interfere with reuse of sludge from the POTW, or would pass through the POTW, inadequately treated, into the receiving waters of the State.

10.12.09 – WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

1) Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director of Public Works. Each wastewater discharge permit will indicate a specific date upon which it will expire.

2) Wastewater Discharge Permit Contents

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director of Public Works to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect

worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

A. Wastewater discharge permits ~~shall~~ **must** contain the following conditions:

**Comment [GA53]:** 40 CFR 403 requirements

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
2. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the City of Nashville, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

~~3. Effluent limits applicable to the user based on applicable standards in Federal, State, and local law;~~

**Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;**

**Comment [GA54]:** Required Streamlining Rule change. Delete previous statement

4. 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
5. Statement of applicable civil, criminal, and administrative 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.

**Comment [GA55]:** Recommend using EPA's model Ord. language.

**6. Requirements to control Slug Discharge, if determined by the Directory of Public Works to be necessary.**

**Comment [GA56]:** Required Streamlining Rule change.

~~7. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedure, and other management practices to implement the prohibitions listed in 40 CFR 403.5 (a) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.~~

**Comment [GA57]:** Recommend moving this possible permit requirement to the below "B. ...permits may contain..." section unless you want to require BMPs in ALL permits.

B. Wastewater discharge permits may contain, but need not be limited to the following:



1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
3. Requirements for the installation 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;
4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
5. Development and implementation of **Pollution Prevention (P2) activities such as source reduction and** waste minimization plans to reduce the amount of pollutants discharged to the POTW;
6. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW;
7. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
8. 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
9. Other conditions as deemed appropriate by the Directory of Public Works to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
10. **Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedure, and other management practices to implement the prohibitions listed in 40 CFR 403.5 (a) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.**

**Comment [GA58]:** Recommend including.

**Comment [GA59]:** Recommend including this language here per recommendation above.

### 3) Wastewater Discharge Permit Appeals

Any person, including the industrial user, may petition the City of Nashville to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. 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.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the City of Nashville fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint within a court of competent jurisdiction.

4) Wastewater Discharge Permit Modification

The Director of Public Works may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
- B. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters **or threatens the POTW's beneficial sludge use.**
- E. Violation of any terms or conditions of the wastewater discharge permit.
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit applications or in any required reporting.
- G. Revision of categorical pretreatment standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the wastewater discharge permit.

**Comment [GA60]:** Recommend including.

- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any existing wastewater discharge permit condition.

5) Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Director of Public Works and the Director of Public Works approves the wastewater discharge permit transfer. The notice to the Director of Public Works must include a written certification by the new owner and/or operator which:

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

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.

6) Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify the City of Nashville of significant changes to the wastewater prior to the changed discharge.
- B. Failure to provide prior notification to the City of Nashville of changed condition pursuant to Section 10.12.10 (5) of the Nashville Municipal Code.
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsifying self-monitoring reports.
- E. Tampering with monitoring equipment.
- F. Refusing to allow the City of Nashville timely access to the facility premises and records.

- G. Failure to meet effluent limitations.
- H. Failure to pay fines.
- I. Failure to pay sewer charges.
- J. Failure to meet compliance schedules.
- K. Failure to complete a wastewater survey or the wastewater discharge permits application.
- L. Failure to provide advance notice of the transfer of a permitted facility.
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

7) Wastewater Discharge Permit Reissuance

A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, acceptable by the Director of Public Works, in accordance with Section 10.12.08 (6) of the Nashville Municipal Code a minimum of sixty (60) days prior to the expiration of the industrial user's existing wastewater discharge permit.

8) Municipal Wastewater Discharge Permits

~~In the event another municipality contributes all or a portion of its wastewater to the POTW, the POTW may require such municipality or User to apply for and obtain a municipal wastewater discharge permit.~~

~~A. A municipal wastewater discharge permit application shall include:~~

- ~~1. A description of the quality and volume of the wastewater at the point(s) where it enters the POTW;~~
- ~~2. An inventory of all industrial users discharging to the municipality; and~~
- ~~3. Such other information as may be required by the Director of Public Works.~~

~~B. A municipal wastewater discharge permit shall contain the following conditions:~~

- ~~1. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 10.12.07 (4) of the Nashville Municipal Code;~~
- ~~2. A requirement for the municipal user to submit a revised industrial user inventory on at least an annual basis;~~
- ~~3. A requirement for the municipal user to a) conduct pretreatment implementation activities including industrial user permit issuance, inspection and sampling, and enforcement; or b) authorize the POTW to take or conduct such activities on its behalf;~~
- ~~4. A requirement for the municipal user to provide the City of Nashville with access to all information that the municipal user obtains as part of its pretreatment activities;~~
- ~~5. Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the POTW; and~~
- ~~6. Requirements for monitoring the municipal user's discharge.~~
  - ~~A. Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Sections 10.12.13 through 10.12.16 of the Nashville Municipal Code.~~

**Comment [GA61]:** Please delete. This condition is already addressed in 10.12.08 5) above.

10.12.10 – REPORTING REQUIREMENTS

1) Baseline Monitoring Reports

- A. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the City of Nashville a report which contains the information listed in paragraph B, below at least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City of Nashville a report which contains the information listed in Section xx.xx.10 (1)(B) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimate of its anticipated flow and quantity of pollutants discharged.
- B. The industrial user shall submit the information required by this section including:
  1. Identifying Information. The name and address of the facility including the name of the operator and owners.

**Comment [GA62]:** Yes, these reporting requirements are almost identical to what's required in your permit applications.

**Comment [GA63]:** Fill in proper Ord. citation.

2. Wastewater Discharge Permits. A list of any environmental control wastewater discharge permits held by or for the facility.
3. Description of Operations. A brief **comprehensive** description of the nature, average rate of production, ~~and~~ standard industrial classifications **and NAICS code(s)** of the operation(s) carried out by such industrial user. This description should include a **comprehensive** schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
4. Flow ~~Management~~ Measurement. Information showing the measured **(actual or estimated)** average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6 (e).
5. Measurement of Pollutants.
  - a) Identify the categorical pretreatment standards applicable to each regulated process.
  - b) Submit the results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the City of Nashville 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 Section 10.12.10 (10) below.
  - c) **The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.**
  - d) **Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the City.**
  - e) Sampling must be performed in accordance with procedures set out in Section 10.12.10 (11) below.
  - f) **The baseline monitoring report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the City.**

**Comment [GA64]:** Recommend including.

**Comment [GA65]:** Recommend including.

**Comment [GA66]:** Recommend including.

**Comment [GA67]:** Correct title.

**Comment [GA68]:** Recommend including.

**Comment [GA69]:** Recommend including EPA's model Ord. language and yes, "d)" is just an expanded version of "4." above.

- g) The Director of Public Works may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- h) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

**Comment [GA70]:** Recommend using EPA's model Ord. language

- 6. Certification. A statement reviewed by the industrial user's authorized representative 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.
- 7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial 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 Section 10.12.08 (6) of the Nashville Municipal Code.
- 8. User certification. All baseline monitoring reports must be signed and certified in accordance with Section 10.12.08 (7) of the Nashville Municipal Code.

2) Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by Section 10.12.10 (1) (B) (7) above. 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 hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Director of Public Works no 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, the steps being taken by the

significant industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director of Public Works.

3) Report on Compliance with categorical Pretreatment Standard Deadline.

Within ninety (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, any industrial user subject to such pretreatment standards and requirements shall submit to the City of Nashville a report containing the information described in Section 10.12.10 (1) (B) (4-6) above. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial 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 industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 10.12.08 (7) above. **All sampling will be done in conformance with Section 6.11.**

**Comment [GA71]:** Recommend including per EPA's model Ord. AND CHECK ALL SECTION CITATIONS FOR CORRECTNESS WITH YOURS (as this one is EPA's).

4) Periodic Compliance Reports

A. Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Director of Public Works but in no case less than twice per year [in June and December, as required by 40 CFR 403.12 (e) (1) **or on dates specified**], submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 10.12.08 (7) above. 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 Director of Public Works, or the Pretreatment Standard necessary to determine the compliance status of the User.

**Comment [GA72]:** Recommend using EPA's model Ord. language.



B. All periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance.

C. All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

D. If an industrial user subject to the reporting requirement in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in Section 10.12.10 (11) below, the results of this monitoring shall be included in the report.

5) Report of Changed Conditions

Each industrial user is required to notify the Director of Public Works of any planned significant changes to the industrial user's operations of system which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change.

A. The Director of Public Works may require the industrial 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 Section 10.12.08 (6) above.

B. The Director of Public Works may issue a wastewater discharge permit under Section 10.12.08 (8) above, or modify an existing wastewater discharge permit under Section 10.12.09 (4) above.

C. No industrial user shall implement the planned changed condition(s) until and unless the Director of Public Works has responded to the industrial user's notice.

D. For purposes of this requirement flows in excess of the limitations set forth in the significant user's industrial wastes discharge permit, and/or the discharge of any previously unreported pollutants, shall be deemed significant.

6) Reports of Potential Problems

A. 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 which may cause potential problems for the POTW [including a violation of the prohibited discharge standards in Section 10.12.07 (1) and (4) of the Nashville Municipal Code], it is the responsibility of the industrial user to immediately telephone and notify the City of Nashville of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

B. Within five (5) days following such discharge, the industrial user shall, unless waived by the Director of Public Works, submit a detailed written report

**Comment [GA73]:** Recommend including per EPA's model Ord. AND CHECK ALL SECTION CITATIONS FOR CORRECTNESS WITH YOURS (as this one is EPA's).

describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

- C. Failure to notify the City of Nashville of potential problem discharges shall be deemed a separate violation of this ordinance.
- D. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Section 10.12.10 (6) (A) above. Employers shall ensure that all employees, who may cause or suffer such discharge to occur, are advised of the emergency notification procedure.
- E. Significant Industrial Users are required to notify the Director of Public Works immediately of any changes at its facility affecting the potential for a Slug Discharge.

**Comment [GA74]:** If intended to enforce, next audit will confirm implementation.

**Comment [GA75]:** Required streamlining mod.

7) ~~Reports from Non-significant Industrial Users~~ **Reports from Unpermitted Users**

~~All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the City of Nashville as the Director of Public Works may require.~~ **All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director of Public Works as the Director of Public Works may require.**

**Comment [GA76]:** Recommend using EPA's model Ord. language since you've already addressed "Non-significant Industrial Users" reports above.

**Reports/information which may be requested include, but are not limited to, the nature and characteristic of the User's wastewater. Failure to complete the requested reports or provide information shall be considered a violation of this Ordinance and considered reasonable grounds for legal action as provided in this Ordinance.**

**Comment [GA77]:** Recommend including.

8) Notice of Violation/Repeat Sampling and Reporting

If sampling performed by an industrial user indicates a violation, the industrial user shall notify the Control Authority (The City of Nashville) within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and

submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. The **industrial** user is not required to re-sample if the POTW performs compliance monitoring of the **industrial** user's wastewater discharge at least once a month, or if the POTW performs compliance monitoring which indicates compliance, between the **industrial** user's initial sampling and when the **industrial** user receives the results of initial sampling indicating a permit violation.

9) Notification of the Discharge of Hazardous Waste

- A. Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 10 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 industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during the calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications shall take place no later than 180 days the discharge commences. Any notification under this paragraph need to submitted only once for each hazardous waste discharge. However, notification of changed discharges shall be submitted under Section 10.12.10 (1), (3) and (4) above.
- B. Discharges are exempt from the requirements of paragraph (A) of this section 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 (e). Discharge of more than fifteen (15) kilograms of non-acute 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 (e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, 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.

D. In the case of any notification made under this section, the industrial 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.

10) Analytical Requirements

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 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 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.

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 Director of Public Works reserves the right to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.

**Comment [GA78]:** Recommend including this regarding ADEQ certified labs (State law).

11) Sample Collection

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.

**Comment [GA79]:** Recommend using EPA's model Ord. language.

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Public Works. Where time-proportional composite sampling or grab sampling is authorized by [The City of Nashville], the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance,

multiple grab samples collected during a 24-hour period may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City of Nashville, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90-day compliance reports in [40 CFR 403.12 (b) and (d)], 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 are available, the Director of Public Works may authorize a lower minimum. For the reports required by paragraphs 40 CFR 403.12 (e) and 403.12 (h), the Industrial User is required to collect the number of grab samples necessary to access and assure compliance by with applicable Pretreatment Standards and Requirements.

12) Determination of Noncompliance

The Director of Public Works may use a grab sample(s) as a compliance screening tool.

Where grab sample(s) suggest noncompliance, the Director of Public Works and/or the Industrial User should re-sample the user's effluent using composite techniques until consistent compliance is again demonstrated.

13) Timing Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

**Comment [GA80]:** Recommend using EPA model Ord. language.

14) Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, 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. Records shall include 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 (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City of Nashville or where the User has been specifically notified of a longer retention period by the Director of Public Works.

- 15) 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; Users submitting baseline monitoring reports under Section 6.1 B (5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; and Users submitting periodic compliance reports required by Section 6.4 A–D. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

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.

**Comment [GA81]:** Recommend including EPA's model Ord. language although seemingly redundant.

#### 10.12.11 – COMPLIANCE MONITOURNG

**Comment [GA82]:** Correct typo

- 1) Inspection and Sampling

The City of Nashville shall have the right to enter the facilities of any ~~industrial~~ user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. ~~Industrial u~~Users shall allow the Director of Public Works or his representatives ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where an ~~an industrial~~ user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City of Nashville, State, and EPA will be permitted to enter without delay, for the purposes of performing their specific requirements.
- B. The City of Nashville, State, and EPA shall have the right to set up on the ~~industrial~~ user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The City of Nashville may require the ~~industrial~~ 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 ~~industrial~~ user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the ~~industrial~~ facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the ~~industrial~~ user.
- E. Unreasonable delays in allowing authorized City of Nashville personnel access to the ~~industrial~~ user's premises shall be a violation of this ordinance.

**Comment [GA83]:** Recommend deleting "industrial" per EPA's model Ord. language.

2) Search Warrants

If the Director of Public Works has been refused access to a building, structure or property or any part thereof, and if the Director of Public Works is able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program of the City of Nashville designed to verify compliance with this ordinance or any permit or order issued hereunder, or to

protect the overall public health, safety and welfare of the community, then the Director of Public Works may, through the Nashville City Attorney, seek issuance of a search warrant from the Municipal court of the city of Nashville. The Municipal Court of the City of Nashville may issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director of Public Works in the company of a uniformed police officer of the City of Nashville. In the event of an emergency effecting public health and safety, inspections may be made without the issuance of a warrant.

**Comment [GA84]:** Correct typo.

#### 10.12.12 – CONFIDENTIAL INFORMATION

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City of Nashville inspection and sampling activities, shall be available to the public without restriction – unless the industrial user specifically request, and is able to demonstrate to the satisfaction of the City of Nashville, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable law. When requested and demonstrated by the industrial 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 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.



10.12.13 – PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

The City of Nashville shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the ~~industrial~~ users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- A. ~~Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent (66%) or more of wastewater pollutant measurements taken during a six month period, as determined by EPA Region 6 criteria, exceed their Industrial User Permit daily maximum limit or average limit for the same pollutant parameter by any amount;~~

~~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 taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 10.12.03;~~

**Comment [GA85]:** Require using EPA's model Ord. language deleting the above.

- 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 Industrial User Permit daily maximum limit or the average limit multiplied by the applicable criteria [1.4 for BOD's, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];~~

~~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 (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 10.12.03 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);~~

**Comment [GA86]:** Require using EPA's model Ord. language deleting the above.

- C. ~~Any other discharge violation that the City of Nashville believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);~~

~~Any other violation of a Pretreatment Standard or Requirement as defined by Section 10.12.03 (Daily Maximum, long term average, Instantaneous Limit, or narrative standard) that the City of Nashville determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;~~

**Comment [GA87]:** Require using EPA's model Ord. language deleting the above.

- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City of Nashville exercising 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 30 days after the due date, any required reports, including baseline monitoring reports, 90 day compliance reports, 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 City of Nashville determines will adversely affect the operation or implementation of the local pretreatment program.

**Comment [GA88]:** Require including per EPA's model Ord. language.

10.12.14 – ADMINISTRATIVE ENFORCEMENT REMEDIES

**The City of Nashville includes these remedies per its Pretreatment Program's Enforcement Response Plan.**

**Comment [GA89]:** Recommend including this caveat.

1) Notification of Violation

Whenever the Director of Public Works finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the Director of Public Works or the duly appointed or authorized representative may serve upon said user a written Notice of Violation. Within twenty (20) calendar days of the receipt of this notice, 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 **industrial** user to the Director of Public Works.

**Nothing in this Section shall limit the authority of [the Superintendent] to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.**

**Comment [GA90]:** Recommend including per EPA's model Ord. language.

2) Consent Orders

The Director of Public Works is hereby empowered to enter into Consent Order, assurances of voluntary compliance, or other similar documents establishing an

agreement with any user responsible for noncompliance. Such orders may include specific action(s) to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to Sections 10.12.14 (4) and (5) below and shall be judicially enforceable.

3) Show Cause Hearing

The Director of Public Works may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the Nashville City Council and show cause why a proposed enforcement action should not be taken. Notice shall be served on the ~~industrial~~ user specifying the time and place for the show cause hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) working days prior to the hearing. Such notice may be served in any method or manner permitted under Arkansas Law, or Arkansas Rules of Civil Procedure. Service of notice shall be sufficient when served by certified mail, return receipt requested, and delivered to the addressee only, at the address of the user shown on any wastewater discharge permit issued to it by the City of Nashville. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

4) Compliance Orders

When the Director of Public Works finds that a user has violated or continues to violate the ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for

the discharge directing that the user come into compliance. If the user does not come into compliance within the time specified in the Director of Public Works' compliance order, water and/or sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violations, including any containing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

5) Cease and Desist Orders

When the Director of Public Works find that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director of Public Works may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements.
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

6) Emergency Suspensions

The Director of Public Works may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order 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 Director of Public Works may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. 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 Director of Public Works shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director of Public Works shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Nashville that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.12.14 (7) below are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director of Public Works, prior to the date of any show cause or termination hearing under Section 10.12.14 (3) above and 10.12.14 (7) below.

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

#### 7) Termination of Discharge

In addition to those provisions in Section 10.12.09 (6) above, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

- A. Violation of wastewater discharge permit conditions.
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge.
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- E. Violation of the pretreatment standards in Section 10.12.06 (1) above.

F. **Falsifying Pretreatment documents or tampering with sampling equipment in an attempt to alter representative sampling.**

**Comment [GA91]:** Recommend including.

Such user will be notified by the Director of Public Works of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.12.14 (3) of this ordinance why the proposed action should not be taken.

10.12.15 – JUDICIAL ENFORCEMENT REMEDIES

**The City of Nashville includes these remedies per its Pretreatment Program’s Enforcement Response Plan.**

**Comment [GA92]:** Recommend including this caveat.

1) Injunctive Relief

Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the Director of Public Works may petition a Court of competent jurisdiction through the Nashville city 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 Chapter 10.12 of the Nashville Municipal Code on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the City of Nashville. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against an industrial user.

2) Civil Penalties

- A. Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement may be liable to the City of Nashville. A maximum civil penalty of One Thousand Dollars (\$1,000.00) per violation per day, as provided by Acts of Arkansas No. 884 of 1991 Legislature may be accessed. In the case of violation of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. Such civil penalties shall be recoverable in a Court of competent jurisdiction; but, as provided by Acts of Arkansas No. 884 of 1991 Legislature, such civil

proceeding may be initiated only after a majority vote of the Nashville City Council resolving to pursue such civil penalties.

- C. The City of Nashville 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 incurred by the City of Nashville.
- D. 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 ~~(such economic benefit shall minimally be that determined in accord with EPA Guidance Manual for POTWs to Calculate the Economic Benefit of Noncompliance dated September 5, 1980)~~, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- E. Filing a suit seeking civil penalties shall not be a prerequisite for taking any other action against an industrial user.

**Comment [GA93]:** Recommend deleting as this EPA “guidance” for calculating “economic benefit” as it’s not being used, it’s onerous and outdated.

3) Criminal Prosecution

- A. Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other pretreatment 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, as provided by Acts of Arkansas No. 884 of 1991 Legislature.
- B. Any user that 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 ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation per day, as provided by Acts of Arkansas no. 884 of 1991 Legislature.
- C. As provided by Act of Arkansas No. 884 of 1991 Legislature, no criminal prosecution under the foregoing subparagraphs, (A) and (B) above, may be initiated except upon a majority vote of the Nashville City Council resolving to pursue such criminal prosecution.
- D. The criminal penalties provided in the foregoing subparagraphs, (A) and (B) above, shall be in addition to any other cause of action for personal injury or property damage available under State law, and shall be in addition to civil penalties which may be assessed under Section ~~xx.xx~~ 15 (2) above.

**Comment [GA94]:** Complete with correct citation.

4) Remedies Nonexclusive

The provisions in Section 10.12.13, 10.12.14, 10.12.15, and 10.12.16 of the Nashville Municipal Code are not exclusive remedies. The City of Nashville reserves the right to take any, all, or any combination of these actions against a noncompliant user.

Enforcement of pretreatment violations will generally be in accordance with the City of Nashville's enforcement response plan. However, the City of Nashville reserves the right to take other action against any user when the circumstances warrant. Further, the City of Nashville is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

#### 10.12.16 – SUPPLEMENTAL ENFORCEMENT ACTION

1) Performance Bonds

The Director of Public Works may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the City of Nashville, in a sum not to exceed a value determined by the Director of Public Works to be necessary to achieve consistent compliance.

2) Liability Insurance

The Director of Public Works may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

3) Water Supply Severance

Whenever a user has violated or continues to violate the provisions of this ordinance, orders, or wastewater discharge permits issued hereunder, water service to the user may



be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

**Comment [GA95]:** Recommend corresponding with your local fire chief to see if this provision is legal.

#### 10.12.17 Bypass

##### A. For the purposes of this Section,

- 1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.
- 2) 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 does not mean economic loss caused by delays in production.

B. 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.

##### C. Bypass Notifications

- 1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director of Public Works, at least ten (10) days before the date of the bypass, if possible.
- 2) A User shall submit oral notice to the Director of Public Works of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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 Superintendent] may waive the written report on a case by case basis if the oral report has been received within twenty four (24) hours.

#### D. Bypass

1) Bypass is prohibited, and [the Superintendent] may take an enforcement action against a User for a bypass, unless

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. 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

c. The User submitted notices as required under paragraph (C) of this section.

**Comment [GA96]:** Recommend including this bypass provision per EPA's model Ord. language.

