

Henderson, Katie

From: Gilliam, Allen
Sent: Thursday, May 24, 2012 10:44 AM
To: Nancy Busen (NBusen@bentonvillear.com)
Cc: Henderson, Katie
Subject: AR0022403_Bentonvilles final Ordinance review and approval May 2012_20120524 AFIN 0400154
Attachments: Bentonville's ordinance mod revisions review #2 May 2012.doc

Nancy,

With four (4) minor recommendations, the final draft Pretreatment Ordinance (attached) is hereby approved and meets the minimum required "Streamlining" revisions to 40 CFR 403. The City should proceed with adoption of the Ordinance by the City Council. The adopted Ordinance (signed and dated) will be expected within ninety (90) days from the date on this correspondence. The rest of the Pretreatment Program narrative will be expected on that same date.

If there are any questions or concerns, please feel free to contact this office.

Please find attached the final (with recommended grammatical revisions for you to correct) Ordinance for your Council's adoption.

If there are any questions or concerns, please feel free to contact this office.

Sincerely,

Allen Gilliam
ADEQ State Pretreatment Coordinator
501.682.0625

ORDINANCE # 2003-59

THIS IS AN ORDINANCE REPEALING THE PRESENT SECTION 10.04 (SEWER REGULATIONS) OF THE BENTONVILLE MUNICIPAL CODE AND SUBSTITUTING AND ENACTING A NEW SECTION 10.04, AN ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR THE DISCHARGE OF WASTEWATER INTO THE TREATMENT SYSTEM OF THE CITY OF BENTONVILLE, ARKANSAS, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND DECLARING AN EMERGENCY.

WHEREAS, the Federal Water Pollution Control Act Amendments of 1972, PL. 92-500 and the Arkansas Water and Air Pollution Control Act, Act 472 of 1949, and EPA amendments of 40 CFR Parts 136 and 503 have resulted in an unprecedented program of cleaning up our Nation's waters; and

WHEREAS, the City of Bentonville has already made and will continue to make a substantial financial investment in its wastewater treatment system to achieve the goals of these Acts; and

WHEREAS, the City of Bentonville seeks to provide for the use of its wastewater treatment system without damage to the physical facilities, without impairment of their normal function of collection, treating and discharging wastewater, and without the discharge by the City of Bentonville Wastewater Treatment system of pollutants which would violate the discharge allowed under its National Pollutant Discharge Elimination System (NPDES) permit and the applicable rules of all governmental authorities with jurisdiction over such discharges.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS THAT SECTION 10.04 (SEWER REGULATIONS) OF THE BENTONVILLE MUNICIPAL CODE BE REPEALED IN FULL AND THERE IS HEREIN ENACTED A NEW SECTION 10.04 TO READ AS FOLLOWS:

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ARTICLE I.

PURPOSE AND POLICY

Section 1. Requirements and Standards

This Ordinance establishes requirements and standards for direct and indirect contribution into the wastewater collection and treatment systems for the City of Bentonville, Arkansas, for the protection of the public health, safety, and welfare.

The objectives of this Code are:

- (a) To enable the City to comply with and enforce all applicable State and Federal laws required by the Arkansas Water and Air Pollution Control Act, Act. 472 of 1949, as amended, and the Clean Water Act of 1977, (33 United States Code [U.S.C.] section 1251 et seq.) as amended, and the General Pretreatment Regulation (40 CFR Part 403) as promulgated by the United States Environmental Protection Agency;
- (b) To prevent the introduction of pollutants into the municipal wastewater system that may interfere with the operation of the system or contaminate the sludge;
- (c) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or will otherwise be incompatible with the system.

- (d) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (e) To provide for equitable distribution of the cost of the municipal wastewater system;
- (f) To prevent oil, grease or debris from reducing or restricting the flow in sewer lines and contributing to sanitary sewer overflows.
- (g) To create a permit system to regulate non-domestic users to the municipal wastewater system;
- (h) To enforce the provisions of this Ordinance by monitoring of waste from industrial users. Monitoring may include either self-monitoring and self-reporting or periodic sampling made by the industrial pretreatment personnel. The method of monitoring will be determined by the Control Authority.
- (i) To provide penalties for violations of the regulations established herein.
- (j) To encourage Pollution Prevention (P2) activities through waste minimization, source reduction, best management practices (BMPs), water and energy conservation.

To enable the City of Bentonville to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This Ordinance shall apply to all Users of the POTW. The ordinance authorizes the issuance of individual or general wastewater discharge permits; provides for the monitoring, compliance, and enforcement activities; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Section 2. Administration

Except as otherwise provided herein; the Wastewater Treatment Plant Manager shall administer, implement and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Wastewater Treatment Plant Manager may be delegated by the Wastewater Treatment Plant Manager to other City personnel.

Section 3. Abbreviations

The following abbreviations, when used in this document shall have the designated meanings:

AGRD	Automatic Grease Removal Device
ASC	Abnormal Sewage Concentration
BOD	Biochemical Oxygen Demand
BMP	Best Management Practices
BMR	Baseline Monitoring Report

CBOD	Carbonaceous Biochemical Oxygen Demand
CKP	Clean Kitchen Practices
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
gpd	gallons per day
GRD	Grease Removal Device
IU	Industrial User
IWD	Industrial Waste Discharge
L	Liter
MAHL	Maximum Allowable Headworks Loading
MAIL	Maximum Allowable Industrial Loading
mg	Milligrams
Mg/L	Milligrams per Liter
NSCIU	Non-Significant Categorical Industrial User
NPDES	National Pollutant Discharge Elimination System
P2	Pollution Prevention
POTW	Publically Owned Treatment Works
RCRA	Resource Conservation and Recovery
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
SWDA	Solid Waste Disposal Act
TBLL	Technically Based Local Limits
TSS	Total Suspended Solids
TTO	Total Toxic Organics
U.S.C.	United States Code

Section 4. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

"Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, [403.3 (b)] adopted by the Arkansas Water and Air Pollution Control Act, Act 472 of 1949, as amended.

"Abnormal Sewage" shall mean any waste discharged into the treatment system having a concentration in excess of typical domestic waste as defined by the Control Authority.

"ADH" shall mean Arkansas Department of Health.

"ADEQ" shall mean the Arkansas Department of Environmental Quality

"Approved" shall mean accepted as satisfactory under the terms of this ordinance and given formal and official sanction by the Control Authority.

"Approval Authority" shall mean the Director of the Arkansas Department of Environmental Quality (ADEQ).

"Authorized Representative of Industrial User" shall mean:

- (1) If the industrial user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
 - (b) The manager of one or more manufacturing, production, or operating 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.
- (2) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
- (3) If the industrial user is a Federal, State or local governmental 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 governmental facility, or his/her designee;
- (4) The individuals described in paragraphs 1-3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the industry, and the written authorization is submitted to the Control Authority.

"Best Management Practices" (BMP's) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 1., 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. BMP's may also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

"Biochemical Oxygen Demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty degrees Celsius (20 C) expressed as milligrams per liter (mg/L).

"Bypass" shall mean the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

"Carbonaceous Biochemical Oxygen Demand (CBOD)" shall mean the quantity of oxygen utilized by organisms requiring carbon as their nutrient source of BOD in five (5) days.

"Categorical Standard" shall mean any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water 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.

"CFR" shall mean the Code of Federal Regulations as published by the U.S. Government.

"City" shall mean the City of Bentonville, Arkansas, or where the context indicates, Mayor, Manager of the Wastewater Treatment Plant, or other authorized representative.

Clean Kitchen Practices (CKP) CKP are Best Management Practices that all food service and industry are required to follow to help prevent food particles, fats, oils and greases from entering the sanitary sewer system.

"Compatible Pollutant" shall mean BOD, TSS, pH, and fecal coliform bacteria; plus any additional pollutants that the publicly owned treatment works (POTW) is designed to treat, and in fact, does treat such pollutants to the degree required by the POTW's NPDES permit.

"Composite Sample" shall mean a sample of the wastewater discharged to the collection system which is composed of a series of not less than twelve (12) samples taken at regular intervals over a normal operating day and over a period of time not exceeding twenty-four (24) hours and calculated on a flow-proportional basis. (40 CFR 403 Appendix E).

"Cooling Water" shall mean the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

"Control Authority" shall mean the administrator of the City of Bentonville's industrial pretreatment program as designated by the Mayor, and who is charged with certain duties and responsibilities by this Ordinance.

"Corrosive Waste" shall mean any and all liquid or waterborne waste or gaseous or solid substance which can cause actual physical damage or destruction to any public or sanitary sewer or which prevents or materially retards treatment of sewage in the sewage treatment

plant.

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

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

"Direct Discharge" shall mean the discharge of treated or untreated wastewater directly to the waters of the State of Arkansas.

"Disposal" shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or semi-solid grease trap waste, grit trap waste, and/or septage into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Disposal Site" shall mean a permitted site or part of a site at which grease trap waste, grit trap waste, or septage is processed, treated, and/or intentionally placed into or on any land and at which said waste will remain after closure.

"Disposer" shall mean a person who receives, stores, retains, processes, or disposes of liquid waste.

"Domestic Waste" shall mean any and all liquid or waterborne waste or gaseous or solid substances that result from household waste as is common to residential areas such as home laundry, bathing and kitchen waste.

"Entity" shall mean those cities, towns, commercial or industrial subdivisions, and water improvement districts that establish, operate, and maintain a sanitary sewer collection system within their jurisdictional boundary and contract with the City of Bentonville to connect that system to the City System in order that Bentonville can provide for the transportation and treatment of sewage generated by the entity.

"EPA" shall mean the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

“Existing Source” Any source of discharge that is not a “New Source.”

“Fats, oils and greases or (FOG)” are those components of wastewater amenable to measurement by methods described in Standard Methods for the Examination of Water and Wastewater, current edition. The term shall include polar & non-polar fats, oils, and grease

and other components extracted from wastewater by these methods.

“Food Service Establishment (FSE)” is any facility that packages or prepares food for sale or consumption, on or off site, with the exception of private residences; including but not limited to; food manufacturers, food packagers, restaurants, cafes, delis, grocery stores, bakeries, cafeterias, hospitals hotels, motels, nursing homes, churches, schools, caterers, or any other users that discharge applicable waste as determined by the Control Authority.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of product.

"Generator" shall mean a person who causes, creates, generates, or otherwise produces liquid or water borne solid waste that is discharged into the sewer system.

"Grab Sample" shall mean a sample which is taken from a wastewater flow on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

“Grease” shall mean fatty acids, soaps, fats, waxes, oils, and any other material extracted by solvent from acidified samples and not volatilized during evaporation of the solvent. Grease is composed primarily of (FOG) from animal or vegetable sources, and does not include petroleum based products.

“Grease Interceptor” is a watertight receptacle for commercial or industrial generators of liquid waste, used to intercept, collect, separate and restrict passage of FOG and grit particles to the POTW. This receptacle may be directly or indirectly connected while allowing the balance of the liquid waste to discharge into the sanitary sewer system.

“Grease Removal Device (GRD) or Automatic Grease Removal Device (AGRD)” is a plumbing apparatus installed in the sanitary drainage system to intercept free-floating fats, oils, and greases from wastewater discharge. An automatic device may be time or event controlled. GRD's and AGRD's require frequent manual disposal of accumulated grease.

"Grit Trap Waste" shall mean petroleum based oil, grease wastes, and solids from commercial automotive or heavy machinery repair and/or washing facilities.

"Hazardous Waste" shall mean any liquid, semi-liquid or solid waste or combination of wastes, which, because of its quantity, concentration, physical, chemical or infectious characteristics may exhibit, any of the following:

1. toxic, corrosive, irritant or strong sensitizer, flammable or combustible, explosive or otherwise capable of causing substantial personal injury or illness; or
2. Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Arkansas Solid Waste Disposal Act, or the Administrator, United States Environmental Protection Agency pursuant to the Federal "Solid Waste Disposal Act", as amended by the "Resource Conservation and Recovery Act of 1976" and as may be amended in the future.

"Holding Tank Waste" shall mean any liquid waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

"Incompatible Pollutant" shall mean all pollutants other than compatible pollutants as defined herein above.

"Indirect Discharge" shall mean the introduction of pollutants into the POTW from any nondomestic source.

"Industrial User or User" The term Industrial User or User means a source of Indirect Discharge.

"Industrial Waste" shall mean any and all liquid or waterborne waste or gaseous or solid substances that result from any process of industry, manufacturing, trade or business, or any mixture of the same with water or normal sewage, or distinct from normal sewage.

"Instantaneous Limit" The maximum concentration 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.

"Interference" shall mean a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City'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 any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, 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 Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

"Liquid Waste" shall mean water-borne solids, liquid, and gaseous substances derived from a grease trap, chemical/portable toilet and/or septage or municipal sludge.

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

"Manager" shall mean the person designated by the Mayor to supervise the operation and maintenance of the publicly owned treatment works (POTW).

"Manifest System" shall mean a system consisting of a multi-part trip ticket used to document the generation, transportation, and disposal of liquid, semi-liquid or solid waste. This could be part and partial of a Best Management Practice.

"Maximum Allowable Discharge Limit" shall mean the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

"May" is a discretionary term.

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

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

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

"National Pollutant Discharge Elimination System (NPDES)" shall mean a permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. 1342).

"The 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.

"New Source"

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

which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin as part of a continuous onsite construction program.
 - (i) Any placement, assembly, or installation of facilities or equipment, or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment, or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which 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.

"Non-contact Cooling Water" shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"Normal Sewage" also termed "Typical Domestic Wastewater" shall mean wastewater from domestic users, discharged by a person into a sanitary sewer.

"NPDES Permit" shall mean a permit issued to a POTW pursuant to Section 402 of the Act.

"Oil" is petroleum based products.

"Oil/Grease Dumpster" is a metal water-tight dumpster with a lid for the specific purpose of collecting liquid cooking grease from all forms of food preparation for re-cycling or reproduction.

"Owner" shall mean the person who owns a facility or part of a facility.

"Pass Through" shall mean the discharge that exits the POTW to waters of the United

States in quantities or concentrations which, alone or in conjunction with other discharges, causes a POTW NPDES permit violation, including an increase in the magnitude or duration of a violation.

"Person" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, governmental entity or any other legal entity, or their legal representatives, agents or designate. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

"pH" means the logarithm (base 10) of the reciprocal of the weight of hydrogen ions, expressed in standard units.

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

"Pollutant" shall mean any dredged spoil, soil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and/or industrial or agricultural waste discharged into water.

"Pollution" shall mean the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water below certain minimum desirable quality standards.

"Pollution Prevention" (P2) or "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.

"Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

"Pretreatment Requirement" shall mean any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

"Pretreatment Standard, or Standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(B) and (c) of the Act which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Section 403.5.

"Prohibited Discharge Standards" or "Prohibited Discharges" shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in Article II, Section 2 of this ordinance.

"Publicly Owned Treatment Works (POTW)" shall mean the city sanitary sewer system or treatment works as defined by Section 212 of the Act which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

"POTW Treatment Plant" shall mean that portion of the POTW designed to provide treatment of municipal sewage and industrial waste.

"Regional Administrator" shall mean the appropriate EPA Regional Administrator.

Sand, Soil and Oil Separator is an approved industry standard system specifically designed to separate sand, soil, and oil from wastewater.

"Sanitary Sewer" shall mean a public sewer that conveys domestic wastewater or industrial wastes or a combination thereof, and into which storm water, surface water, ground water, and other unpolluted water or wastes are not intentionally passed.

"Septage" shall mean wastes removed from a portable toilet, chemical toilet, or septic tank.

"Severe Property Damage" shall mean 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.

"Shall" is a mandatory term.

"Significant Industrial User" shall mean any industrial user of the City's wastewater treatment system who:

- (a) has a discharge flow of 25,000 gallons or more per average work day of process wastewater; excluding sanitary, noncontact cooling and boiler blow down wastewater; or
- (b) has a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
- (c) is subject to Categorical Pretreatment Standards; or
- (d) is designated as significant by the Control Authority 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 above criteria has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or

Requirement, the Control Authority 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.

“Significant Noncompliance” shall mean;

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit, the average limit, or Maximum Allowable Discharge Limit for the same pollutant parameter;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit, the average limit, or Maximum Allowable Discharge Limit multiplied by the applicable TRC (TRC = 1.4 for COD, TSS, SGT-HEM, Total Nitrogen and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average, instantaneous limit, or narrative Standard), that determines has caused, alone or in combination with other discharges, interference or pass-through, (including endangering the health of WWTP personnel or the general public);
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in exercise of emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (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;
- (6) Failure to provide, within thirty (30) days after the due date, required reports, such as baseline monitoring reports, ninety (90) day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which determines will adversely affect the operation or implementation of pretreatment program.

"Slug Discharge" shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Article II, Section 2 of this ordinance. A Slug Discharge is 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.

"Standard Industrial Classification (SIC)" shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended and revised.

"Standard Methods" shall mean the examination and analytical procedures set forth in the latest edition at the time of analysis of Standard Methods for the Examination of Water and Wastewater as prepared by the American Water Works Association, or any approved analytical procedure published by the U.S. EPA in 40 CFR Part 136.

"State" shall mean the State of Arkansas.

"Storm Sewer" shall mean a public sewer which carries storm and surface water drainage and into which domestic wastewater or industrial wastes are not to be discharged.

"Storm Water" shall mean any flow occurring during or following any form of natural precipitation.

"Surcharge" shall mean a service charge in addition to the normal monthly rate which shall be assessed to those non-domestic users who discharge into the Bentonville system wastewater pollutant levels exceeding those found in typical domestic waste.

"Total Phosphorus" shall mean all of the phosphorus present including all orthophosphates and condensed phosphates both, dissolved and particulate, organic, and inorganic.

"Total Suspended Solids (TSS)" shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removed by laboratory filtering using a method which is approved by the EPA in 40 CFR 136.

"Toxic Pollutant" shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of the Federal Water Pollution Control Act (Clean Water Act), Section 307(a), or other federal law.

"Transporter" shall mean a person who operates a vehicle for the purpose of carrying or conveying liquid waste.

"Trip Ticket" shall mean the shipping document originated and signed by the transporter which contains the information required by the Control Authority.

"User or Industrial User" shall mean a source of indirect discharge.

"Vehicle" shall mean a mobile device in which or by which liquid waste may be transported upon a public street or highway.

"Wastewater" shall mean the water, whether treated or untreated, that has been used by and discharged from any industry, commercial enterprise, household or other water consumer.

“Wastewater Treatment Plant or Treatment Plant” Shall mean that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

"Water Management Division Director" shall mean one of the directors of the Water Management Divisions within the Regional office of the Environmental Protection Agency or delegated representative.

"Watercourse" shall mean a material or man-made channel in which a flow of water occurs, either continuously or intermittently.

Section 5. Applicability

- (a) This Ordinance shall apply to all persons within the corporate limits of the City of Bentonville, Arkansas, and its terms shall, by contract, apply to all persons outside the City who are users of the City Publicly Owned Treatment Works (POTW). The City shall not provide sanitary sewer service to any person outside its corporate boundaries without a contractual agreement setting forth the terms and conditions of such service. All such contracts shall include a provision incorporating the provisions of this Ordinance and no such contract shall be valid unless the provisions of this Ordinance are so incorporated.
- (b) Food service entities shall be required to have properly sized and functioning grease interceptors or grease removal devices; restaurants; cafeterias; hotels; motels; cafes; schools; hospitals; nursing homes; grocery stores; bakeries; churches; caterers; and any other facility that discharges applicable wastewater as determined by the Control Authority.
- (c) The following facilities shall be required to have properly sized and functioning sand, soil and oil interceptors; oil/water separators; and or oil interceptors: Car and/or Truck Washes, garages, service stations and truck maintenance facilities, automotive/motorcycle dealerships, utility equipment shops, fabricators and other facilities as determined by the Control Authority to have sources of sand, soil and oil that may be discharged to the POTW.
- (d) Liquid hauled waste introduced to the City Publicly Owned Treatment Works by truck must be in compliance with this Ordinance to regulate the transportation and disposal of liquid waste within the jurisdiction of the City of Bentonville.
- (e) Liquid hauled waste generated within the limits of the City must be removed by a waste hauler with a current waste hauler's permit from the Control Authority.

Section 6. General Provisions

- (a) The City Council shall establish such fees for sewer service and connection as are necessary to properly maintain and operate the Sewage Works. The City Council shall also establish such regulations for private sewage disposal systems as to insure their operation in a sanitary manner at all times.

- (c) No Person shall connect to or contribute to a sanitary sewer without first obtaining a Plumbing Permit from the City.
- (d) Owners or agents of commercial or industrial establishments proposing to connect to or contribute to a sanitary sewer shall submit an application for a Wastewater Discharge Permit before connecting to or contributing to the sewer. Owners or agents of existing establishments discharging wastewater into the Bentonville sewage works shall submit an application for a Wastewater Discharge Permit for continued operation within thirty (30) days after receipt of notification in writing that such a permit is required for continued operation.

Section 7. Pretreatment Facilities

- (a) Industrial Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all Pretreatment Standards and Requirements within the limitations as specified by the Federal Pretreatment Regulations as adopted into Section 6.104 of the Arkansas Pollution Control and Ecology Commission Regulation No. 6; Regulations for State Administration of the National Pollutant Discharge Elimination System.
- (b) It shall be the responsibility of any person, owner, or occupant discharging waste into the sanitary sewer system of the City to furnish the Control Authority with drawings or plans and specifications in such detail as it may require, to determine if the pretreatment structure planned by such person is adequate to provide necessary pretreatment and makes sufficient allowances for emergency operation. Detailed plans showing the pretreatment facilities and an outline of the pretreatment facility operating procedures shall be prepared by a Registered Professional Engineer and submitted to the Control Authority for review. All plans shall be approved by the Control Authority prior to the facility construction. The user shall insure that construction of said treatment facility is accomplished within the time period specified by the City. However, the providing of such plans to the Control Authority will in no way release such person of the responsibility for modifying the structure once constructed as necessary to provide an effluent acceptable under the terms of this Ordinance.
- (c) A person operating a commercial or institutional food preparation business, including, but not limited to, a bakery, restaurant, club, school, hospital, retirement home, assisted living center, grocery store, or other commercial or institutional food preparation operation shall document operation, maintenance of the facilities grease interceptor and shall keep said documentation on the premises at all times. The Control Authority may at any time ask for proof of proper hauling and maintenance.
 - (e) Any facilities required to pre-treat wastewater to a level acceptable under the terms of this Ordinance, shall be provided, operated and maintained at the user's expense.

ARTICLE II.

DISCHARGE REGULATIONS

Section 1. General Discharge Prohibitions

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 another National, State, or local pretreatment standards or requirements.

Section 2. Specific Prohibitions

No person shall discharge or cause to be discharged into the POTW or other water course within the City any of the following described substances, materials, waters or wastes:

- (a) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C. (104° F.)
- (b) Any pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° Fahrenheit or 60° C. using the test methods specified in 40 CFR 261.21.
- (c) Any solid or viscous substance in quantities capable of causing obstruction in the sewer flow or other interference with proper operation of the POTW, such as, but not limited to: ashes, cinders, egg shells, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair, hides or fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, bulk solids, garbage with particles greater than one-half inch (½") and any water or waste which contains gas, grease or oil, plastic, or other substance that will solidify or become discernibly viscous at temperatures at or below 0° Centigrade.
- (d) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludge, or scum, to be unsuitable for normal landfill/land application, reclamation, or reuse, or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal development pursuant to the Solid Waste Disposal Act, the Toxic Substance Control Act, the Resource Conservation and Recovery Act, or State criteria applicable to sludge management disposal method being used.
- (e) A noxious or malodorous substance which can form a gas which either singularly or by interacting with other waste is capable of causing objectionable odors or hazards to life or which can create any other condition deleterious to structures or processes, or requiring unusual provisions, attentions, or expense to handle.

- (f) Any material which may cause excessive discoloration, such as but not limited to, dye wastes and vegetable tanning solutions where the discoloration will not be removed by the sewage treatment processes.
- (g) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts exceeding one hundred milligrams per liter (100 mg/L) unless expressly authorized differently by the Control Authority upon written request by a User.
- (h) Any concentration of free or emulsified oil and/or grease of free or emulsified animal or vegetable origin that, in a particular case can: (a) deposit grease or oil in sewer lines in such a manner as to clog the sewers; (b) overload skimming and grease-handling equipment; or (c) have deleterious effects on the treatment process due to the excessive quantities.
- (i) Any wastewater having a pH less than 5.0 or greater than 12.0, or wastewater having any other corrosive or acidic property capable of causing damage or hazard to structures, equipment, or personnel of the POTW.
- (j) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause pass through or interference with the POTW, or cause toxicity in the POTW effluent. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- (k) Any trucked or hauled pollutants, except permitted by the Control Authority and discharged at points designated by the POTW.
- (l) Medical Waste; except as specifically authorized by the Control Authority, including unused or expired medications, whether prescribed or purchased over the counter.
- (m) Wastewater that contains contaminants which, alone or in conjunction with other contaminants, causes the POTW to fail a whole effluent toxicity test.
- (n) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in quantity that may cause acute health and/or safety problems to POTW employees or others.
- (o) Pharmaceutical drugs from any commercial for-profit entity.
- (p) Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

ARTICLE III.

PRETREATMENT STANDARDS AND REGULATIONS

Section 1. Federal Categorical Pretreatment Standards

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

When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the City shall impose an alternate limit in accordance with 40 CFR 403.6(e).

Section 2. Technically Based Local Limits

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 (TBLL's) developed from time to time by the City pretreatment and wastewater staff as required in City's NPDES permit, 40 CFR 403.5 (c) and approved by ADEQ. TBLL's (if necessary) based on calculated site specific Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program. At the discretion of the City pretreatment and wastewater authority, TBLL's 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 indicated. At the discretion of the City pretreatment and wastewater authority, mass limitations may be imposed in addition to or in place of concentration based TBLL's. The City pretreatment and wastewater authority 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 City pretreatment and wastewater authority, 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.

The City pretreatment and wastewater authority may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits to implement Local Limits and the requirements of Article II.

Section 3. State Pretreatment Standards

In the event State, Local or Federal requirements on discharge limitations differ, the most stringent limits shall apply.

Section 4. Right of Revision

The City of Bentonville 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 this ordinance or the general

and specific prohibitions of this ordinance.

Section 5. Best Management Practices and Pollution Prevention

The City of Bentonville may develop and require implementation of Best Management Practices and Pollution Prevention procedures by un-permitted as well as permitted industrial users to allow compliance by the POTW with the Maximum Allowable Headworks Loadings established in the City's Pretreatment Ordinance. The City of Bentonville may also allow implementation of Best Management Practices and Pollution Prevention to be on a voluntary basis if it is determined that this is the most appropriate approach. Best Management Practices will be specific procedures developed by the Control Authority to be implemented by the individual businesses designed to reduce the loading of a particular pollutant. Pollution Prevention is defined in Article I, Section 4 of this Ordinance. SIU's and IU's operating under BMP's must submit to the control Authority reports indicating the nature, concentration of pollutants in the discharge limited by Pretreatment Standards and measured or estimated average daily flows for the reporting period, no less than twice per year unless expressly stated differently in 40 CFR 403 or a Categorical Pretreatment Standard. The required documentation must be sufficient to determine the compliance status of the IU.

Clean Kitchen Practices (CKP) CKP are Best Management Practices that all food service and industry are required to follow to help prevent fats, oils and greases from entering the sanitary sewer system. These include:

1. NEVER pour oil and/or grease down any drain or into toilets;
2. Use smaller quantities of liquid oil;
3. Do not use solid grease or lard;
4. Scrape food scraps into a trash receptacle instead of garbage disposal;
5. Use Baskets or screens in all kitchen drains to prevent food debris from entering the drains;
6. Wipe greasy pots, pans dishes & utensils before placing them in hot water or a dishwasher;
7. Collect, recycle or dispose of used oil through an approved grease hauler;
8. Properly screen or seal floor drains;
9. Capture oil and grease from ventilation and exhaust hoods through proper cleaning;
10. Keep grease interceptors well maintained and working properly;
11. Clean grease interceptors on a regular basis;
12. Maintain records of grease interceptor cleaning;
13. Use good housekeeping techniques at oil and grease dumpsters; avoid spilling grease on dirt or pavement;
14. Keep oil/grease dumpsters covered to prevent rainwater from causing overflows.

Section 6. 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 Control Authority 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.

Section 7. Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Article II, Section 2 of this ordinance within the time limitations specified by EPA, the State, or the Control Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Control Authority for review, and shall be acceptable to the Control Authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Control Authority under the provisions of this ordinance.

Additional Pretreatment Measures

- a. Whenever deemed necessary, the Control Authority may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- b. The Control Authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An individual wastewater discharge permit ~~for a general permit~~ may be issued solely for flow equalization.
- c. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

ARTICLE IV.

ACCIDENTAL DISCHARGES

Section 1. Accidental Discharge/Slug Control Plans

The Control Authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Control Authority may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Pretreatment supervisor may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, 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 Article 2 Section 2 of this ordinance.
- (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.
- (f) The SIU shall notify the Control Authority immediately of changes that occur at the facility affecting the potential for a slug discharge. The Control Authority may deny or impose restrictions due to changes in content or increased flow.
- (g) Evaluation of a slug discharge plan must be made within one year of identifying a SIU.

Section 2. Written Reports

- (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 Article 2 Section 2 of this ordinance), it is the responsibility of the industrial user to immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- (b) Within five (5) days following an accidental discharge, the user shall submit to the Control Authority a detailed written report describing the nature and cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, the environment, or any other damage to persons or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by this Ordinance or other applicable law.
- (c) Failure to notify the Control Authority of an accidental discharge may result in legal action or discontinuation of service.

Section 3. Notice to Employees

As a part of the accidental spill prevention plan, a notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of

an accidental discharge. Employers shall insure that all appropriate employees be advised of the emergency notification procedures to be used in the event of an accidental discharge.

ARTICLE V.

INDUSTRIAL WASTEWATER DISCHARGE PERMITS

Section 1. Wastewater Survey

When requested by the Control Authority all users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Control Authority is authorized to prepare a 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 ordinance.

Section 2. Wastewater Discharge Permit Requirement

- (a) It shall be unlawful for any significant industrial user to discharge wastewater into the Control Authority's POTW without first obtaining a wastewater discharge permit from the Control Authority. 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 enforcement provisions 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.
- (b) The Control Authority may require other users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- (c) Liquid waste haulers may discharge loads only at locations designated by the Control Authority. No load may be discharged without prior consent of the Control Authority. The Control Authority may collect samples of each hauled load to ensure compliance with applicable Standards. The Control Authority may require the liquid waste hauler to provide a waste analysis of any load prior to discharge.

Section 3. Wastewater Discharge Permitting of Existing Connections

Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the Control Authority for a wastewater discharge permit, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Control Authority.

Section 4. Wastewater Discharge Permitting of 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 filed at least 90 days prior to the date upon which any discharge will begin.

Section 5. Wastewater Discharge Permitting of Extra Jurisdictional Industrial Users

Any new or existing significant industrial user located beyond the City of Bentonville limits, which is connected to the City's wastewater collection system, shall submit a wastewater discharge permit application within 90 days of the effective date of this ordinance. Alternately, the Control Authority may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

Section 6. Application

Users required to obtain an industrial wastewater discharge permit shall complete and file with the city an application in the form prescribed by the City. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information as applicable:

- (a) Name, address and location of facility;
- (b) Name, address of duly authorized representative to receive and transmit all correspondence;
- (c) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - a. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended and NAICS number, North American Industry Classification System developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997.
 - b. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - c. Wastewater constituents and characteristics, including but not limited to those mentioned in ARTICLE II, as determined by an ADEQ certified analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Federal Water Pollution Control Act and contained in 40 CFR, Part 136 as amended. The sample(s) shall be representative of daily operations. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as

required by the Control Authority or the applicable Standards to determine compliance with the Standard.

- (d) Time and duration of contribution;
- (e) Average daily and peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (f) Comprehensive site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, floor drains and appurtenances by size, location and elevation;
- (g) The location for monitoring all wastes covered by the permit;
- (h) Comprehensive narrative description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;
- (i) Nature and concentration of any pollutants in the discharge which is limited by any City, State or Federal Pretreatment Standard, and a statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether or not the pretreatment standard is being met on a consistent basis and if not, whether additional Operation and Maintenance (O & M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standard.
- (j) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule possible will be used;
- (k) Each product produced by type, amount, process and rate of production;
- (l) Type and amount of raw materials processed (average and maximum per day);
- (m) Number of employees, hours of plant operation, and proposed or actual hours of operation of pretreatment system;
- (n) Pollution Prevention (P2) activities such as source reduction, waste minimization, environmental management systems, water and energy conservation;
- (o) Any relevant information as may be deemed by the City to be necessary to evaluate the permit application; and
- (p) Signature of authorized representative of the user.

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 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."

- (q) 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 Control Authority prior to or together with any reports to be signed by an Authorized Representative.
- (r) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

Individual Wastewater Discharge Permit Decisions: The Control Authority will evaluate the data furnished by the User and may require additional information. Within 90 days of receipt of a complete permit application, the Control Authority will determine whether to issue an individual wastewater discharge permit. The Control Authority may deny any application for an individual wastewater discharge permit.

Section 7. Individual Wastewater Discharge Permit Issuance

Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Control Authority 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, and protect against damage to the POTW.

Individual wastewater discharge permits must contain:

- (a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- (b) A statement that the wastewater discharge permit is nontransferable without prior notification to the Control Authority in accordance with Article V., Section 10 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (c) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

- (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- (e) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (f) Requirements to control Slug Discharge, if determined by the Control Authority to be necessary. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
 - a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - d. 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;
 - e. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 - g. A statement that compliance with the individual 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 individual wastewater discharge permit; and
 - h. Other conditions as deemed appropriate by the Control Authority to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Section 8. Individual Wastewater Discharge Permit Duration

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Control Authority. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

Section 9. Permit Modifications

The Control Authority may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (b) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual 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 City's POTW, City personnel, or the receiving waters;
- (e) Threats to the POTW's beneficial sludge use;
- (f) Violation of any terms or conditions of the individual wastewater discharge permit;
- (g) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (h) To correct typographical or other errors in the individual wastewater discharge permit; or
- (i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with this ordinance.

Section 10. Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least sixty (60) days advance notice to the Control Authority and the Control Authority approves the wastewater discharge permit transfer. The notice to the Control Authority must include a written certification by the new owner and/or operator which:

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

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

Section 11. Revocation

Wastewater discharge permits may be revoked for the following reasons:

- (a) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge
- (b) Failure to provide prior notification to the Control Authority of any planned significant changes in operation
- (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 Control Authority 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 permit 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 this ordinance

Wastewater discharge permits shall be null and void 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.

Section 12. Wastewater Discharge Permit Appeals

Any person, including the industrial user, may petition the City to reconsider the terms of a wastewater discharge permit within 60 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.

ARTICLE VI.

REPORTING PROCEDURES

Section 1. Baseline Monitoring Reports

- (a) Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6 (a) (4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in paragraph (b) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraph (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 estimates of its anticipated flow and quantity of pollutants discharged. All sampling and analysis used for this report shall be performed in accordance with 40 CFR Parts 136 and amendments thereto. A complete chain of custody record shall be submitted along with any report of sample analysis.
- (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.

Wastewater Discharge Permits; a list of any environmental control wastewater discharge permits held by or for the facility.
 - (2) Description of Operations
 - a. A comprehensive description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

- d. Type and amount of raw materials processed (average and maximum per day);
 - e. Comprehensive 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;
- (3) Time and duration of discharges;
 - (4) The location for monitoring all wastes covered by the permit;
 - (5) 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 waste stream formula set out in 40 CFR 403.6 (e).
 - (6) Measurement of Pollutants.
 - a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by [the Superintendent], of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article VI, Section 10 and Section 11a of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Control Authority of the applicable Standards to determine compliance with the Standard.
 - e. Sampling must be performed in accordance with procedures set out in Article VI, Section 9 of this ordinance.
 - f. The Control Authority 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;
 - g. 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.
 - (7) 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.

- (8) 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 2 below.
- (9) Signature: the following certification statement must be contained in the baseline monitoring report and 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 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."

Section 2. Compliance Schedule Progress Reports

Compliance Schedules (for categorical or non-categorical IUs) 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 Control Authority 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, (if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

Section 3. Report on Compliance with Categorical Pretreatment Standard Deadline

Within 90 days following the date for final compliance with applicable categorical pretreatment standards; or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any Industrial User subject to

pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in Sec.1 (b) (4)-(6) of Article VI. Industrial Users subject to equivalent mass or concentration limits established by the Control Authority, [See 40CFR 403.6(c)] this report shall contain reasonable measure of the 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 User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6 (o) of Article VI, of this document. All Sampling will be done in conformance with Section 8 (a)(b) Of Article VI, of this document and all applicable 40 CFR 136 (and amendments thereto) sampling requirements.

Section 4. Periodic Reports on Continued Compliance

All Significant Industrial Users must, at a frequency determined by the Control Authority submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User.

All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

If any Industrial User subject to reporting requirements monitors more frequently than required by the Control Authority, the results shall be included in the report. A complete chain of custody record shall be submitted along with any report of sample analysis.

All periodic compliance reports must be signed and certified in accordance with ARTICLE VI, Section 1(b)(9) of this ordinance.

Section 5. Notification of Changed Discharge

All Industrial Users shall notify the POTW sixty (60) days in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under 40 CFR 403.12 (p).

- (a) The Control Authority 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.
- (b) The Control Authority may issue a wastewater discharge permit or modify an existing wastewater discharge permit.
- (c) No industrial user shall implement the planned changed condition(s) until or unless the Control Authority has responded to the industrial user's notice.
- (c) For purposes of this requirement, flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

Section 6. Reports of Potential Problems

In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility affecting the potential for a Slug Discharge.

Section 7. Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Control Authority as the Control Authority may require.

Section 8. Notification of the Discharge of Hazardous Waste

- a) Any User who commences the discharge of hazardous waste shall notify the Control Authority, 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 a 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 User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place

no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Article VI., Section 5 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of this ordinance.

- b) 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 User must notify the Control Authority, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- c) In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- d) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

Section 9. Repeat Sampling and Reporting

If sampling performed by an Industrial User indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The 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, except the Industrial User is not required to resample if:

- (a) The Control Authority performs sampling at the Industrial User at a frequency of at least once per month, or
- (b) The Control Authority performs sampling at the User between the time when the User performs its initial sampling and the time when the User receives the results of this sampling.

Section 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 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable

sampling and analytical procedures, including procedures suggested by the Control Authority or other parties approved by EPA.

Section 11. Sample Collection

- (a) Except as indicated in section (b), below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Control Authority may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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.

- (b) For sampling required in support of baseline monitoring and 90 day compliance reports required in Article VI., 1 and 3 [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 do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by paragraphs Article VI., Section 4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Section 12. Record-keeping Requirements

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 established under Article I., Section 4. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Control Authority.

- (a) Any Industrial User and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
 - (2) The dates analyses were performed;
 - (3) Who performed the analyses;
 - (4) The analytical techniques/methods used; and
 - (5) The results of such analyses.
- (b) Any Industrial User or POTW subject to the reporting requirements established in this section shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Control Authority and/or the Approval Authority. This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or POTW or when requested by the Approval Authority or the U.S. EPA Regional Administrator.

Section 13. Certification Statements

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 Article IV., Section 6, (s); Users submitting baseline monitoring reports under Article VI., Section 2. (9); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Article VI., Section 2 and 3; Users submitting periodic compliance reports required by Article VI., Section 4. The following certification statement must be signed by an Authorized Representative as defined in Article VI of this ordinance

"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."

Section 14. Provisions Governing Fraud and False Statements

The reports and other documents required to be submitted or maintained under this section shall be subject to:

- (a) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;

- (b) The provisions of sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and
- (c) The provisions of section 309 (c)(6) regarding responsible corporate officers.

ARTICLE VII.

COMPLIANCE MONITORING

Section1. Right of Entry; Inspection and Sampling

The Control Authority shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Control Authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Control Authority shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- b) The Control Authority shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- c) The Control Authority may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense
- d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be born by the User.
- e) Unreasonable delays in allowing the Control Authority access to the User's premises shall be a violation of this ordinance.

Section 2. Monitoring Facilities

- (a) Each industrial user shall provide and operate at the user's own expense, monitoring facilities and monitoring equipment to allow observation, inspection, sampling and

flow measurement of all waste created and/or discharged by the user. Each such monitoring facility shall be constructed in a manner approved by the City on the user's premises downstream from any treatment or storage tanks or other approved works utilized by the user for pretreatment; provided, however, that where such on-premises location would be important or cause undue hardship on the user, the City may allow the facility to be constructed in the public street or other area as long as such location provides ease of entrance and will remain readily accessible and unobstructed with ample room in or near such sampling manhole or facility to allow accurate sampling and proportion of samples for analysis. All sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

- (b) In the event it is determined by the Control Authority that no special manhole or other facility is required to accurately determine the quality and quantity of waste being discharged, the downstream public sewer manhole nearest to the point at which the serviced premises is connected shall be used for all monitoring purposes.

Section 3. Search Warrants

If the Control Authority has been refused access to a building, structure or property or any part thereof, and if the Control Authority has demonstrated 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 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 upon application by the City Attorney, the Municipal Court Judge of the City of Bentonville shall 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 Control Authority in the company of a uniformed police officer of the City of Bentonville. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

Section 4. Confidential Information

- (a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public and other governmental agencies without restriction unless the user specifically requests otherwise and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information about processes or methods of production entitled to protection as trade secrets of the user.
- (b) When such request by the person furnishing a report is accepted and approved by the Control Authority the portion 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 to governmental agencies and only for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit,

State Water Pollution Control Permit, and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or 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.

- (c) Information accepted by the Control Authority as confidential shall not be transmitted to any governmental agency or to the general public by the Control Authority until or unless a ten (10) day notification is given to the user.

Section 5. Publication of Industrial Users in Significant Noncompliance

The Control Authority 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 measurements taken during a 6-month period exceed the daily maximum limit, average monthly limit or Instantaneous limit for the same pollutant parameter by any amount;
- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the daily maximum limit, the average monthly limit or Instantaneous limit multiplied by the applicable criteria {1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH};
- (c) Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long term average, Instantaneous Limit, or narrative standard) that the Control Authority 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;
- (d) Any discharge of pollutants that have caused imminent endangerment to the public or to the environment, or have resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining a 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;
- (h) Any other violation(s), which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

ARTICLE VIII.

LIQUID WASTE TRANSPORTATION

Section 1. Permit - Required

- (a) It shall be unlawful for any person to pick up and transport liquid waste generated within the City of Bentonville to any wastewater treatment plant or disposal facility without first obtaining a waste hauler permit from the City of Bentonville Control Authority. The permit shall designate the liquid waste authorized for transportation in each vehicle.
- (b) A person who desires a permit must make application on a form provided by the Control Authority.
- (c) A person who desires a permit must submit with his application a photocopy of the transporter's driver's license. A permittee shall notify the Control Authority of employment changes during the permit period and shall provide the Control Authority a copy of the new transporter's driver's license.
- (d) The Control Authority shall not issue a permit without a certificate of inspection for each vehicle from the ADH. The inspection must verify that each vehicle is in compliance with the provisions of this ordinance.
- (e) The permit is not transferable.

Section 2. Insurance - Required

As a prerequisite to the issuance of any permit required by this article that the permittee shall file with the Control Authority, and shall thereafter keep in full force and effect at all times (1) a policy of comprehensive general liability insurance, with a company authorized to do business in the state of Arkansas, in minimum amounts of one-hundred thousand dollars (\$100,000.00) per occurrence for bodily injury, and fifty-thousand dollars (\$50,000.00) per occurrence for property damage, and (2) a policy of automobile liability insurance, covering the operation of each vehicle used in such business, in minimum amounts of one-hundred thousand dollars (\$100,000.00) per person for bodily injury, three-hundred thousand dollars (\$300,000.00) per occurrence for bodily injury, and fifty-thousand dollars (\$50,000.00) per occurrence for property damage. The City shall be named as an additional insured in all insurance policies required by this article. Each insurance policy shall require notice from the insured and/or insurer to the Industrial Monitor at least thirty (30) days prior to cancellation by the insurer or the insured.

Section 3. Fee and Display of Permit

- (a) Each permittee shall pay a permit fee specified by the Control Authority. An additional fee, specified by the Control Authority, will be charged for each permitted vehicle. Each permit must be renewed annually between 60 and 30 days before the permit expiration date for the coming year.
- (b) The Control Authority shall number permits consecutively. Each permit holder shall display on both sides of each vehicle (in a color contrasting with the background; (using letters a minimum of three inches in height) the ADH license number, and the following:

BVL (City permit No.)

The permit holder shall place business name, ADH license number, and the vehicle permit number on each vehicle. The permit holder shall keep the permit receipt, or a copy, in the vehicle at all times.

Section 4. Liquid Waste Vehicles: Maintenance

- (a) A liquid waste transporter shall:
 - (1) Maintain tanks, pumps, valve hoses, racks, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good repair and free from leaks;
 - (2) Provide a safety plug or cap for each valve of a tank; and
 - (3) Cause the vehicle exterior to be clean and the vehicle odor-free at the beginning of each work day.
- (b) The Control Authority may cause any vehicle operated in violation of this article to be impounded or immobilized until the violation is corrected. The Control Authority may also revoke the permit for an improperly operated vehicle.

Section 5. Liquid Waste Vehicles: Inspection

- (a) To qualify for a permit, a vehicle must comply with the following requirements:
 - (1) The sample tank shall be an integral part of a vehicle to transport liquid waste; portable tanks or other containers temporarily installed in vehicles are prohibited;
 - (2) Piping, valves, and connectors shall be securely attached to tank and/or vehicle;
 - (3) Truck tank must be liquid tight;

- (4) Truck tanks to be constructed so that every interior and exterior portion can be easily cleaned;
- (5) Piping, valves, and connectors shall be accessible and easy to clean;
- (6) Opening of a tank to be constructed so that collected waste will not spill during filling, transfer or during transport;
- (7) Outlet connections to be constructed so that no liquid waste will leak, run, or spill out from the vehicle;
- (8) Outlets to be of a design and type suitable for the liquid waste handled and capable of controlling flow or discharge without spillage and undue spray on or flooding of immediate surroundings while in use; and
- (9) Pumps, and valves, cylinders, diaphragms, and other appurtenances to be of a design and type suitable for the type of waste handled, capable of operation without spillage, spray, or leakage, and capable of being easily disassembled for cleaning.

Section 6. Responsibilities of Liquid Waste Transporter

- (a) Before accepting a load of liquid waste for transportation, a liquid waste transporter shall determine (1) the nature of the material to be transported, and (2) that his equipment is sufficient to properly handle the job without spillage, leaks, or release of toxic or harmful gases, fumes, liquids, or other substances. Upon delivery of the waste to the disposer, the transporter shall inform the disposer of the nature of the waste.
- (b) A transporter with a City of Bentonville liquid waste transporter permit shall not transport hazardous materials, in vehicles permitted by the City for transporting liquid waste.
- (c) A transporter holding a City of Bentonville permit must use a disposal site permitted and approved by the Arkansas Department of Environmental Quality (if land applied) or the environmental control authority in any adjoining state.
- (d) The following described manifest system, consisting of a multi-part manifest ticket, shall be used to document the generation, transportation, and disposal of all applicable liquid waste generated in the City of Bentonville, shall be used:
 - (1) Manifest books shall be purchased by the transporter from the City of Bentonville, for an established fee;
 - (2) A transporter shall complete one manifest for each location serviced, with the exception of chemical/portable toilet companies servicing their own units. Chemicals of portable toilet companies servicing their own units shall be

exempt from trip ticket requirements but shall be required to submit a monthly total of volumes disposed and the location of disposal to the Control Authority;

- (3) A copy of the grease trap manifest shall be signed by the generator/ responsible party or manager and the transporter at the time of waste collection; a copy thereof shall be maintained by the generator for a period of three (3) years
- (4) A copy of the manifest shall be signed by the transporter and disposer at the time of disposal and; a copy thereof shall be maintained by the disposer
- (5) A copy of the manifest shall be maintained by the transporter and; a completed copy of each manifest generated in the city shall be presented on the first of each month to the Control Authority
- (6) A copy of all completed manifests shall be maintained by the Control Authority for a period of three (3) years.
- (7) All pertinent sections of the manifest must be completed prior to signing.
- (9) Liquid waste haulers of *septic waste only* may note on the manifest if the generator is not available to sign the document provided all other information for the generator including the phone number is listed; a responsible party for grease interceptor generators must be onsite to observe interceptor cleaning.

Section 7. Accumulation of Liquid Waste

It shall be unlawful for any person to allow liquid waste that emits noxious or offensive odors or is unsanitary or injurious to public health to accumulate upon property under his control.

Section 8. Disposal of Liquid Waste

- a. It is unlawful for any person to unload or offer for sale or exchange liquid waste anywhere except at a place permitted by the City, the State, or the Federal government.
- b. It is unlawful for any person to deposit or discharge liquid waste onto a street or into a storm or sanitary sewer or an area that drains into the storm sewer system.

Section 9. Responsibilities of Liquid Waste Generator

A generator of liquid wastes shall not have hazardous wastes or liquid waste in combination with hazardous waste removed from his premises by a liquid waste transporter operating under a City permit.

- a. It shall be the responsibility of the grease generator to assure the manifests are complete, accurate and include;
 - Business name
 - Business address
 - Telephone number
 - Waste capacity of the interceptor
 - Date of delivery to transporter
 - Name and signature of the manager or owner
- b. The generator shall ensure that all water, floating grease, and sludge is removed from the interceptor
- c. The generator shall use only waste haulers permitted by the city
- d. Report spills, and accidents involving collection device to the proper local authorities within 24 hours;
- e. Clean up spills and accidents immediately and have all waste material disposed of by a permitted waste hauler.

Section 10. Responsibilities of Liquid Waste Disposers

- (a) It shall be unlawful for a liquid waste disposer to allow accumulation of liquid waste on his premises so that rainfall could carry the material to storm sewers or create a noxious odor or health hazard.
- (b) A liquid waste disposer shall:
 - (1) Obtain and maintain compliance with all licenses and/or permits required by local, state, or federal law;
 - (2) Accept waste only from permitted transporters;
 - (3) Maintain trip ticket copies for a period of two years;
 - (4) Accept only those classes of waste authorized by ordinance or permit; and
 - (5) Make available all records required to be kept for inspection by the Control Authority during normal business hours.

Section 11. Rules and Regulations

The Control Authority may promulgate rules and regulations necessary to carry out the provisions of this article and to protect the public from health and safety hazards. The Control Authority may amend any permit issued hereunder to ensure compliance with applicable laws and regulations.

Section 12. Denial, Suspension, and Revocation of Permit

- (a) The Control Authority may deny a permit if it is determined that an applicant is not qualified under Article II of this ordinance and may suspend or revoke a permit if it is determined that a permittee:
 - (1) Is not qualified under Article II of this ordinance;
 - (2) Has violated a provision of this article;
 - (3) Has failed to pay a required fee;
 - (4) Has failed to comply with maintenance or inspection requirements; or
 - (5) Has failed to deliver completed manifests to the Control Authority.
- (b) After suspension under this section, a permittee may file a request for reinstatement of the permit. When the Control Authority determines that the permittee is again qualified, all violations have been corrected, precautions have been taken to prevent future violations, and all required fees have been paid, the permit may be reinstated at the option of the Control Authority.
- (c) The Control Authority may revoke for a period of one year or less all permits held by a liquid waste transporter if the transporter or an employee of the transporter violated any of the provisions of this article, any rule or regulation promulgated by the Control Authority, or any applicable City ordinance or State law.
- (d) It shall be unlawful for a permittee whose permit is suspended or revoked to collect, transport, or dispose of any waste materials within the jurisdiction of the Control Authority.

Section 13. Penalties

- (a) Any person, operator, or owner who shall violate any provision of this article, or who shall fail to comply with any provision hereof, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than one thousand dollars (\$1000.00) or double that sum for each repetition of such offense. Each violation and each day a violation continues shall constitute a separate offense.
- (b) Any person found guilty of violating any provision of this article shall be liable to the City for any expense, loss, fines or damage occasioned by the City for proper clean-up and proper disposal of said waste materials.

ARTICLE IX.

ABNORMAL SEWAGE

- (a) Any user generating abnormal sewage which exhibits none of the characteristics of wastes prohibited in Article II of this Ordinance, but which has an average concentration in excess of normal sewage during a twenty-four (24) hour period, may be required to pre-treat such abnormal sewage to meet the parameters of normal sewage or such other levels in excess of normal sewage parameters as the City may determine is acceptable in a particular case. Such wastes may, however, be accepted by the POTW for treatment if all of the following requirements are met.
- (1) The waste will not cause damage to the collection system;
 - (2) The wastes will not impair the treatment processes;
 - (3) The user agrees to payment of a surcharge over and above published sewer rates, as provided herein; and
 - (4) The waste is amenable to treatment such that when is discharged to the City's sewage collection system, the waste does not cause the City POTW's effluent to exceed the Water Quality Standards set by Federal and/or State agencies having jurisdiction or cause the City's POTW effluent to fail whole effluent toxicity tests.
- (b) Surcharge will be adjusted on billings for the month following submission of new data.
- (c) Typical domestic waste values for conventional pollutants and pollutants of concern will be established by the Control Authority for use in surcharge calculations. The methods of sampling, data collection, and reporting for surcharge calculation will be defined in the Industrial Discharge Permit as assigned to each user as required.
- (d) All measurements, tests and analyses of the waste characteristics shall be determined in accordance with the latest approved methods in 40 CFR Part 136.
- (e) The volume of flow used in computing abnormal sewage surcharges shall be based upon metered water consumption as shown in the records of meter readings maintained by the City's Business Office. In the event that a person discharging waste into the City sanitary sewer system produces evidence to the City demonstrating that a portion of the total amount of water used for all purposes is not discharged into the POTW, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon his request, to measure only that portion of the total flow being discharged into the City sewer system. If a surcharge is assessed by the City, it shall be shown separately on the monthly billing.
- (f) Any person discharging industrial waste into the sanitary sewers of the City who procures any part or all of the user's water supply from sources other than the City of Bentonville, all or part of which is discharged into the sanitary sewer, shall install and maintain at the user's expense water meters of the type approved by the City for the purpose of determining the proper volume of flow to be used in computing sewer

service charges. Such meter will be read and tested for accuracy when deemed necessary by the City. Where it can be shown that a portion of water measured by the aforesaid meter or meters does not enter the sanitary sewer system of the City, then the user may install additional approved meters at the user's expense in such a manner as to measure the quantity of water actually entering the said sanitary sewer system from the premises of such user, and the quantity of water used to determine the sewer service charge and abnormal sewage surcharge shall be the quantity of water actually entering the sewage system as so determined.

(g) Computation of each abnormal sewage surcharge, as applicable, shall be based on the following:

$$S = V \times 8.34 \times (ASC - TDW) \times \text{charge per lb.}$$

S = Surcharge in dollars for the billing period

V = Water discharged to wastewater system in millions of gallons during the billing period

8.34 = Weight of water in pounds per gallon

ASC = Abnormal sewage concentration

TDW = Typical Domestic Waste

Charge per lb. is a variable based on the cost per lb. to treat waste. This cost is calculated by the Control Authority as needed.

(h) The City reserves the right to review and to reject any waters or industrial waste entering the sewer system or proposed to be discharged into the system having an average daily flow greater than ten percent (10%) of the design flow capacity of the plant which will treat the waste. In the event the City's measurement discloses such flow in excess of ten percent (10%) of said capacity the City shall be under no obligation to receive such flow in excess ten percent (10%). An owner affected hereby shall be promptly notified of such determination by the City. A special contract, at the City's option, may be made with the user to accommodate such excess flow.

ARTICLE X.

ENFORCEMENT

Section. 1 Emergency Suspension of Service

The Control Authority may unilaterally order the suspension of wastewater service to any user when such action is necessary in order to prevent or eliminate an indirect discharge,

which, in the opinion of the Control Authority, presents or may present an imminent or serious endangerment to the health or safety of persons or the environment, causes significant interference to the POTW, or causes the City to violate any condition of the NPDES Permit. Upon notification of a suspension of its discharge, the user shall immediately stop its contribution to the system. In the event of a failure of the user to voluntarily comply with suspension order, the Control Authority shall take such steps as deemed necessary, in the City's Pretreatment Program Enforcement Response Plan, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individual.

Subsequent to ordering such a suspension, the Control Authority shall issue a written report containing information and investigative data upon which the Control Authority relied in ordering the suspension of service. A copy of this report will be forwarded to the affected user. A detailed written statement describing the cause of the harmful discharge and the measures taken to prevent any further occurrence shall be submitted by the user to the Control Authority within fifteen (15) days of the date of occurrence of the discharge. The statement must be signed by the owner or his designate and certified by a registered engineer. The report to the Control Authority, the statement of the user, and compliance and cost reimbursement schedules approved by the Control Authority shall be condensed into an Administrative Order to be issued by the Control Authority to the user whose compliance with the terms and conditions shall be the vacation of the suspension order. The Control Authority may also assess civil penalties as provided in Section 3 of this Article.

Pursuant to the Administrative Order, all costs incurred by the City in detecting, investigating, monitoring, measuring and eliminating the harmful discharge, any NPDES fines or penalties assessed upon the City, along with any disconnect and reconnect fees, shall be reimbursed to the City by the user responsible for the harmful discharge. Any property damage to the POTW or its appurtenant structures which results from the harmful discharge shall also be borne by the user responsible for the harmful discharge. The Control Authority shall approve the time period for reimbursement.

No sanitary sewer service or water service disconnection hereunder shall be reconnected until the condition causing the disconnection has been corrected. The Control Authority may reconnect the service upon receipt of a statement, properly executed by the owner and certified by a registered engineer, which sets forth that the cause of the violation has been eliminated. Reconnection shall be at the owner's expense.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

Section. 2 Administrative Enforcement Remedies

1) Notice of Violation and Response

- (1) whenever the Control Authority finds that any user has violated or is violating provisions of this Ordinance, or the industrial wastewater discharge permit, or any prohibition, BMP, limitation, or requirement promulgated by a State or

Federal agency and applicable to such user, the Control Authority shall serve upon such person a written notice stating the nature of the violation.

(2) The user responding to receipt of an alleged violation shall reply within fifteen (15) days of the date of the notice in one of the following forms:

(a) A user admitting responsibility for the alleged violation shall submit a written report to the Control Authority. If the nature of the violation either of the permit or the Ordinance, involves an indirect discharge of industrial waste that is prohibited, or exceeds quantity, quality, or concentration limitations, the written report shall contain information setting forth the time, date, location, cause, source, quantity, quality, and concentration of the discharge, and the corrective measures actually taken or to be taken by the user to prevent any similar recurrent discharges. If the nature of the violation of either the permit or this Ordinance involves an administrative or procedural noncompliance, the written report shall contain the corrective measures and time schedule the user has adopted to insure expeditious compliance. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

(b) Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(c) A user denying responsibility for the alleged violation shall submit a written report to the Control Authority setting forth the basis for the denial and requesting a Show Cause Hearing.

2) If a written response from the user is not submitted to the Control Authority within fifteen (15) days of the date of notice, the Control Authority may issue an Administrative Order or institute civil and/or criminal proceedings against the user for violations.

3) Consent Orders

The Control Authority may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to any applicable section(s) of this ordinance and shall be judicially enforceable.

4) Show Cause Hearing

- (1) The Control Authority 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 Control Authority and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice shall 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.
- (2) The Control Authority may conduct the Hearing and take the evidence, or may designate a hearing officer to:
 - (A) Issue, in the name of the City, notice of hearing requesting the attendance and testimony of witnesses, and evidence relevant to any matter involved in such hearings;
 - (B) take the evidence; and/or,
 - (C) transmit a report of the evidence and hearing including transcripts or other evidence, together with recommendations to the City of action thereon.
- (3) At any hearing held pursuant to this Ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
- (4) After the Control Authority has reviewed the evidence, a finding of no responsibility or an issue of an Administrative Order may be issued to the user responsible for the discharge. This Order may direct that the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed, by a specified date, or that existing treatment facilities, devices, or other related appurtenances are properly operated. Such order shall provide a compliance and cost reimbursement schedule, assessment of administrative penalties and such further orders and directions as are necessary and appropriate.

5) Compliance Orders

When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, [or a general permit {optional}] or order issued hereunder, or any other Pretreatment Standard or Requirement, the Control Authority may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.

Compliance orders also may 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 Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

6) Cease and Desist Orders

When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, an order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Control Authority 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; and
- 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 bar against, or a prerequisite for, taking any other action against the User.

Administrative Orders

Definitions:

- (1) Consent Order - The consent order is an agreement between the Control Authority and the industrial user normally containing three elements: (1) compliance schedules; (2) stipulated fines or remedial actions; and (3) signatures of Control Authority and industry representatives.
- (2) Show Cause Order - An order to show cause directs the user to appear before the Control Authority, explain its noncompliance, and show cause why more severe enforcement actions against the user should not go forward.

- (3) Compliance Order - A compliance order directs the user to achieve or restore compliance by a date specified in the order. It is issued unilaterally and its terms need not be discussed with the industry in advance.
- (4) Cease and Desist Order - A cease and desist order directs a noncompliant user to cease illegal or authorized discharges immediately or to terminate its discharge altogether.

The Control Authority is hereby empowered to enter into Consent Orders, Show Cause Orders, Compliance Orders, or Cease and Desist Orders at any time as deemed appropriate by the Control Authority. Administrative Orders will be the first formal response to significant noncompliance (unless judicial proceedings are more appropriate), and may incorporate compliance schedules, administrative penalties, and termination of service orders. If a Show Cause Hearing requested by the industrial user results in findings of responsibility on the part of the industrial user, an Administrative Order will be issued. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order.

Section. 3 Judicial Enforcement Remedies

Injunctive Relief

When the Control Authority finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Control Authority may petition the Benton County Circuit Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

Civil Penalties

The City of Bentonville has the authority, by promulgation of this ordinance, to collect in a court of competent jurisdiction civil or criminal penalties in an amount not to exceed one thousand dollars (\$ 1,000) per violation per day by industrial users of pretreatment standards or requirements. Such criminal or civil action may be initiated only after a majority vote of the City's governing body resolves to pursue such action. Each day of a continuing violation may be deemed a separate violation. The Control Authority 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 Bentonville.

Where a user has repeatedly violated the wastewater discharge permit during any 90 day period, the Control Authority may require the user to post a cash or surety bond payable to the City in a sum determined by the Control Authority, to be necessary to achieve consistent compliance. The bond shall not exceed double the total amount of costs assessed the user as a result of all of its violations within such 90 day period. The costs shall be those as set forth in Section 1 of this Article. Such bond shall be subject to forfeiture to the City under the same procedure as set forth in paragraph 2 of this Section for penalties in the event of a repeat violation within 1 year of the date of placement of the bond. Failure or refusal to place such bond or to replace a forfeited bond within 72 hours of notification may result in failure of reconnection (if user has been disconnected) or disconnection as set forth in Section 1 of this Article.

In addition to any remedies provided above, the City reserves the right to seek legal and/or equitable remedies, including injunction, against any person violating this Ordinance, the provisions of an industrial wastewater discharge permit, and/or Federal or State laws governing water quality and industrial wastewater pretreatment. A legal or equitable proceeding prosecuted under this Ordinance does not constitute a waiver by the City of Bentonville of any right the City may have to join in or commence in a legal action originating from some alternative source of law or equity.

The Office of the City Attorney may commence such action for appropriate legal and/or equitable relief in courts having proper jurisdiction upon authorization by the City Council.

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

Section 4. Criminal Prosecution

A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day.

A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a [misdemeanor] and be subject to a penalty of at least \$1,000. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, 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 \$1,000 per violation, per day.

The Control Authority 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 Control Authority's enforcement response plan. However, the Control Authority reserves the right to take other action against any user when the circumstances warrant. Further, the Control Authority is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

Section. 5. Affirmative Defenses to Discharge Violations

(a) Upset

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.
- (3) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (A) An upset occurred and the industrial user can identify the cause(s) of the upset;
 - (B) The facility was at the time being operated in a prudent and professional manner and in compliance with applicable operation and maintenance procedures;
 - (C) The industrial user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five days]:
 - (i) A description of the indirect discharge and cause of noncompliance
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue

- (iii) Steps being taken and/or planned to reduce or eliminate and prevent recurrence of the noncompliance.
 - (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (5) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - (6) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards.
 - (7) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (b) Bypass
- (1) An industrial 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.
 - (2) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass if possible.
 - (3) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A 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 POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
 - (4) Bypass is prohibited, and the POTW may take enforcement action against an industrial 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 industrial user submitted notices as required under paragraph (3) of this section.
- (5) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (4) of this section.

ARTICLE XI.

SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable. If for any reason any section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other phrase, word, or provision of this Ordinance.

ARTICLE XII.

CONFLICTS

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of the inconsistency or conflict.

ARTICLE XIII.

APPROVAL

This Ordinance shall be effective upon receipt by the City of notice of Approval by the Arkansas Department of Pollution Control and Ecology and of Publication of such notice in a newspaper of general circulation.

ARTICLE XIV.

EMERGENCY

This Ordinance is necessary for the immediate health, safety and welfare of the citizens of Bentonville, Arkansas, an emergency is declared to exist, and the same shall be in full force and effect from and after the date of its passage.

PASSED and **APPROVED** this _____ day of _____, _____

APPROVED _____

MAYOR

ATTEST _____

CLERK

Draft