



Owned by the Citizens of Jonesboro

September 16, 2010

Arkansas Department of Environmental Quality
Water Division, NPDES Permits Section
Mr. Rufus Torrence, Pretreatment Engineer
5301 Northshore Drive
North Little Rock, AR 72218-5317

RETURN RECEIPT
CERTIFIED MAIL

RE: Jonesboro CWL (AFIN 16-00152 AR0043401) Draft Ordinance

Dear Mr. Torrence:

Enclosed please find the latest draft of the Jonesboro Sewer Use-Pretreatment Ordinance (SUO) reflecting revisions based in-part on the comments you provided March 13, 2009. The enclosed table provides City Water & Light's responses to your specific comments and the enclosed list reflects all changes made to the SUO since your review.

We look forward to working with you in the finalizing of the document. If you have any questions or more information is required, please contact my office at (870) 930-3387.

Sincerely,

A handwritten signature in cursive script that reads "Susan Merideth".

Susan Merideth, P.E.
Water & Wastewater Treatment Superintendent
Jonesboro City Water & Light

Enclosures

Response to ADEQ Specific Comments on Jonesboro's SUO

9/14/10 jnk

*SUO Page (as sent to ADEQ in Dec. 2007)	ADEQ Comment	CWL Decision
1 (& throughout)	rt1-5, rt28-30	Agree. "Jonesboro Municipal Code" changed to "this ordinance" throughout.
4	Definition (3)	Agree. Added the phrase "Director of the"
6	rt6 Definition (19)	Agree. Deleted the phrase "Under the provision of 40 CFR 403.12(a)."
6	rt7 Definition (19)	Agree. Added language to Control Authority definition.
6	rt8 Definitions (22 & 23)	Partially agree. Changed "Daily Maximum" term to "Daily Discharge" and compressed definition of "Daily Maximum Limit"
6	rt9 Definition (32)	Disagree. The phrase "regulated under Section 307 (b), (c), (d) of the Act." is directly from the 40 CFR 403.3 (i) definition for "Indirect Discharge or Discharge".
6	rt10 Definition (33)	Agree. Deleted "non-domestic".
8	rt11 Definition (44)	Disagree. CWL wishes to maintain the definition presented in the EPA Model SUO.
8	rt12 Definition (45)	Disagree. CWL wishes to maintain the definition presented in the EPA Model SUO.
8	Definition (48)	Agree. Included the word "New".
9	Definition (52)	Agree. Changed "United States" to "State".
9	rt13 Definition (53)	Neutral. Definition for Penalty changed.
9	rt14 Definition (59)	Agree. "Prohibitive" changed to "prohibited".
10	rt15 Definition (62)	Agree. While "State or" is derived from the 40 CFR 403.3 (q) all-encompassing definition for "Publicly Owned Treatment Works", CWL is specifically responsible for the POTWs in Jonesboro.
10	rt16 Definition (62)	Disagree. The sentence suggested to be struck is derived from the 40 CFR 403.3 (q) definition for "Publicly Owned Treatment Works": "This term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works."
11	rt17 Definitions (76) & (78)	Agree. "Wastewater" used in lieu of "pollutants".
11	rt18 Definition (79)	Agree. Reciprocal definition for "User or Industrial User" included.
14	rt19	Disagree. CWL feels this statement is intuitive.

18	rt20	Agree. CWL would like to simply add the phrase "if applicable" in lieu of numbered criteria.
18	rt21	Agree. Since the submission of the Draft SUO to ADEQ, CWL has agreed to include this paragraph.
20	rt22	See comment for rt21.
20	rt23	Agree. This paragraph has been removed.
21	rt24	Agree. Retained suggested phrase "from time to time" and also added "in its discretion" before phrase "as required by Part III..."
21	rt25	Agree. References to the Board have been removed.
21	Addition of TBLL sentence	Partially agree. Omitted the Appendix letter as this referenced Appendix letter may change in the future.
21	rt26	Agree. References to the Board and changing the ordinance have been removed.
21	rt27	Partially disagree. While it is agreed to remove reference to the "Board" from this paragraph, the "Right of Revision" language should remain. This language is derived from the EPA Model SUO: "The [City] reserves the right to establish, by ordinance or in individual wastewater discharge permits more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance."
24	rt31	Partially agree. While the paragraph for vandalism should be removed from the pretreatment section, CWL elects not to separate the general sewer use language from the pretreatment language and would like to maintain this language. It has been included as 10.04.05 (H) under "Use of Public Sewers".
25	rt32	Disagree. CWL wishes to keep this language. This paragraph could also apply to existing IUs discharging to the POTW which are identified at some point in time by CWL to have become an SIU as defined by 40 CFR 403.3 (v).
25	rt33	Agree. "Applicable" added in lieu of existing language.
26	rt34	Disagree. See comment to rt32.
29	rt35	Agree. "Development and implementation of" added.
29	rt36 & rt37	Agree. "Board" replaced by "Manager"
34	rt38	See comment for rt21.
35	Changes to section references	Agree.
35	rt39	Disagree. CWL wishes to maintain language for utmost clarity. Preceding paragraph "A" requires that the Manager be notified but does not define the failure as a separate ordinance violation. Paragraph "C" gives some clarification and a little more 'teeth'.
37	rt40	Agree. "EPA" replaced by "Approval Authority"
37	rt41	Agree. Language adopted.

37	rt42	<p>Partially agree. CWL uses grab samples as a non-reportable operational tool, specifically as a means to spot check between regular compliance screenings and to determine the source of potential problems but understands this text creates confusion.</p> <p>Language from previously numbered 10.04.10 (12) has been moved to 10.04.05 (1) (I) for inclusion under General Sewer Use Requirements and reworded to read "The Manager of CWL may use a grab sample(s) as a screening tool for pollutants, including for the purpose of determining the source of pollutant discharge. When necessary, the Manager may resample using composite techniques."</p>
39-40	rt43	Partially agree. With the exception of the last suggested sentence, this language is already included as 10.04.07 (1). The last (non-strikethrough) sentence has been added to 10.04.07 (1).
41	rt44	Agree. Language has been changed.
41	rt45	Agree. CWL has indicated their desire for a more stringent time limit of 30 days.
42	rt46	Agree. Reference should not be gender biased.
43	rt47 & rt48	Agree. "Manager" added
44	rt49	Agree. Since the submission of the Draft SUO to ADEQ, CWL has agreed to include this paragraph.

** Please note that these page numbers will be different from the latest SUO submitted (revision date 9/14/10) as changes have been made to the document since initial submission.*

Changes to Jonesboro SUO Post Initial ADEQ Review

5/7/9 draft 1 – ADEQ comments

7/20/9 draft 2 – Legal comments

7/28/9 draft 3 – Follow-up CWL comments

2/2/10 – CWL comments

5/24/10 - MWY follow-up

7/27/10 – CWL/Legal comments

8/10/10 – Legal clarification

9/1/10 and 9/14/10 – CWL comments

1. “Administrative Fines, and Surcharges” and “Judicial Enforcement” added to introductory text after “the provision of penalties”
2. Throughout the document “Jonesboro Municipal Code” has been changed to “ordinance”
3. Throughout the document “City Water and Light” has been changed to “CWL”
4. Throughout the document, “of this ordinance” has been added to numbered Section references
5. Throughout the document, “of Jonesboro” and “of Jonesboro, Arkansas” has been removed
6. Throughout the document, “user” has been capitalized as “User” when in reference to an Industrial User or changed to “person”, as defined in the SUO. Lower case “user” has been deleted to avoid confusion.
7. Throughout the document, reference to “Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) *et seq.*” has been replaced with “A.C.A. 8-4-103 (g) *et seq.*, as may be amended from time to time”
8. Throughout the document, “Source” has been reverted to lower case “source”
9. Pg. 2, 10.04.01, delete “user” and replace with “persons utilizing”
10. Pg. 3, 10.04.02, (1) “User of” changed to “persons utilizing”
11. Pg. 4, 10.04.03, (3) added new definition for “Administrative Fine”
12. Pg. 4, 10.04.03 (renumbered 4), “Director of the” added to definition of Approval Authority
13. Pg. 4, 10.04.03 (5) (A) (i)
 - a. “or limited liability company” added after “corporation”
 - b. “member or manager” added after “vice president”, in reference to limited liability company organization
14. Pg. 4, 10.04.03, (5) (D), “Duly Authorized Representative” changed to “Duly Approved Representative” in first sentence for consistency of definition title.
15. Pg. 5, 10.04.03, (6)
 - a. added new definition for “Authorized Representation of the Manager”
 - b. phrase “Authorized Representative of the Manager shall mean such” deleted and replaced with “The” for consistency
16. Pg. 6, 10.04.03 (21)
 - a. “Under the provisions of 40 CFR 403.12 (a)” deleted.
 - b. “Manager’s authorized representative” replaced with “the Authorized Representative of the Manager”
 - c. “The Control Authority shall have jurisdiction over the POTW’s Industrial Users.” added as last sentence.
 - d. “designated” deleted in reference to Manager
17. Pg. 6, 10.04.03 (24), definition title “Daily Maximum” changed to “Daily Discharge”
18. Pg. 7, 10.04.03 (34)
 - a. first “non-domestic” deleted

- b. the phrase “regulated under Section 307 (b), (c), or (d) of the Act” shall remain, as this language is directly from the definition for Indirect Discharge set forth by 40 CFR 403.3 (i)
19. Pg. 7, 10.04.03 (35)
 - a. Term “non-domestic” deleted
 - b. phrase “defined by ADEQ as a discharge to” deleted and replaced with “through”
 20. Pg. 7, 10.04.03 (39) (B), “Jonesboro’s” changed to “CWL’s”
 21. Pg. 7, 10.04.03 (42)
 - a. Authorized Representative capitalized
 - b. “duly appointed or” deleted
 22. Pg. 8, 10.04.03 (46), definition shall remain as taken directly from the EPA Model SUO
 23. Pg. 8, 10.04.03 (47), definition shall remain as taken directly from the EPA Model SUO
 24. Pg. 8, 10.04.03 (50) (C) (ii), “New” added to clarify “Source”
 25. Pg. 9, 10.04.03 (52), “by a person” deleted from definition
 26. Pg. 9, 10.04.03 (53) “possess” changed to “own”
 27. Pg. 9, 10.04.03 (54), “United States” replaced with “State”
 28. Pg. 9, 10.04.03 (55), definition for ‘penalty’ struck and replaced with “A monetary fine for violations of this ordinance, as set forth in Section 10.04.15.” Use of the word “penalty” throughout document modified to “fine” if not in reference to Section 10.04.15 civil or criminal penalties.
 29. Pg. 9, 10.04.03 (61), “prohibitive” changed to “prohibited”
 30. Pg. 10, 10.04.03 (64)
 - a. Although derived directly from the definition for POTW in 40 CFR 403.3 (q) “State or” deleted and “(CWL)” added.
 - b. The sentence “The term shall also mean the public entity having jurisdiction over Industrial Users discharging to the POTW and responsibility for the operation and maintenance of the treatment works.” to remain as derived from 40 CFR 403.3 (q).
 - c. “the persons and” added to definition
 - d. “the State or municipality” changed to “CWL”
 31. Pg. 11, 10.04.03 (72) and (73), “Standard Methods” and “Storm Water” definitions reversed for alphabetization
 32. Pg. 11, 10.04.03 (74) “Other than unpolluted cooling water” removed
 33. Pg. 11, 10.04.03 (75), definition modified by changing “charge above” to “fee, as set forth in Section 10.04.18, charged in addition to”, deleting “exceeding the BOD, FOG, or TSS concentrations typical of normal domestic wastewater, defined herein”.
 34. Pg. 11, 10.04.03 (78), phrase “of wastewater” added
 35. Pg. 11, 10.04.03 (80), “pollutants” replaced with “wastewater”
 36. Pg. 11, 10.04.03 (81)
 - a. definition for “User or Industrial User (IU)” added for clarity
 - b. “water of the State” changed to “waters of the State”
 - c. Deleted “non-domestic”
 37. Pg. 13, 10.04.05 (1)
 - a. (A) “or discharge” added after “deposit”
 - b. (D) phrase “provided that said accessible public sewer is within three hundred (300) feet of the property line” moved from the end of the second sentence to the first for clarity.
 - c. (H) “sanctions set out in” replaced with “provisions of”

38. Pg. 13, Vandalism language previously from 10.04.07 paragraph (6) moved to 10.04.05 (1) (H) for inclusion under General Sewer Use Requirements
39. Pg. 13, Determination of Non-Compliance (via Grab Samples) paragraph
 - a. Language previously from 10.04.10 paragraph (12) moved to 10.04.05 (1) (I) for inclusion under General Sewer Use Requirements
 - b. Reworded "The Manager of CWL may use a grab sample(s) as a screening tool for pollutants, including for the purpose of determining the source of pollutant discharge. When necessary, the Manager may resample using composite techniques." **Missing period at end of sentence in SUO corrected.**
 - c. Subsequent paragraphs have been renumbered and numeric references adjusted
40. Pg. 14-15, 10.04.05 (2)
 - a. (B) "private wastewater disposal" changed to "private sewage disposal" for clarity
 - b. (C) "forty-eight (48) hours" changed to "two (2) business days"
 - c. (D) "septic tank or cesspool" changed to "private sewage disposal" for clarity
 - d. (G) "or similar officer" added
41. Pg. 15, 10.04.05 (3) (C)
 - a. Section paragraph numbers "(4-6)" added
 - b. "customers" changed to "Users"
42. Pg. 15, 10.04.05 (3) (D), Section paragraph number "(7)" added
43. Pg. 16, 10.04.05 (3). (H), "applicable" added in reference to "code provisions"
44. Pg. 16, 10.04.05 (3) (K), Added "building drain and" before the word "connection" and added "including all intermediate appurtenances" clause after the phrase "to the public sewer"
45. Pg. 16, 10.04.05 (3) (N) – combine with paragraph (O)
 - a. phrase "and hold" added after "indemnify"
 - b. "harmless" added after "CWL"
 - c. replaced "loss or damage" with "damage, loss, cost, obligations, claims, demands, and all expenses"
 - d. added "or indirectly be caused by or arising" after the word "directly"
 - e. deleted the phrase "occasioned by"
46. Pg. 16, 10.04.05 (3) (O) deleted
47. Pg. 17, 10.04.06 (1) (B) (v), "the influent temperature of the WWTP" changed to "at the introduction into the WWTP" to reflect model language
48. Pg. 18, 10.04.06 (1) (B) (xvii), FOG exception phrase revised to read "except as specifically authorized by the Manager in an individual industrial wastewater discharge permit"
49. Pg. 18, 10.04.06 (1) (B), "if applicable" added to last sentence
50. Pg. 18, 10.04.06 (2) (B) paragraph has already been added since submission to ADEQ
51. Pg. 20, 10.04.06 (2) (G) "Standards" clarified as "Categorical Pretreatment Standards" in second sentence
52. Pg. 20, 10.04.06 (2) (H) paragraph has already been added since submission to ADEQ
53. Pg. 20, 10.04.06 (3) deleted, reference to subsequent paragraphs corrected
54. Pg. 20, 10.04.06 (3)
 - a. "from time to time" clause added to first sentence, third line of text
 - b. "in his or her discretion" clause added to first sentence, fourth line of text
 - c. "CWL's" in fourth line of text changed to "CWL Plant of the City of Jonesboro" to reflect actual language used for permittee in NPDES permit.
 - d. References to "Board" and "by ordinance" removed
 - e. Seventh text line, "Arkansas Department of Environmental Quality" replaced with "Approval Authority"

- f. Second sentence added: "TBLLs based on the calculated Maximum Allowable Industrial Loadings shall be included in CWL's Pretreatment Program and accompanying Appendices."
 - g. Unnecessary word "pollutants" in fourth sentence deleted
 - h. Unnecessary possession of the word "Manager" in sixth sentence.
 - i. As option of revision by ordinance is deleted, last sentence has been deleted.
55. Pg. 21, 10.04.06 (4), paragraph to remain with references to Board deleted. This language is derived from the EPA Model SUO.
 56. Pg. 21, 10.04.06 (5), "Jonesboro Municipal Code" changed to "local"
 57. Pg. 21, 10.04.06 (6), unnecessary word "will" has already been deleted since submission to ADEQ
 58. Pg. 22, 10.04.07 (1), last sentence added: "Any subsequent changes in pretreatment facilities or method of operation shall be reported to and accepted by the Manager prior to the User's initiation of said changes."
 59. Pg. 22, 10.04.07 (2) (C) specific references to the anticipated FOG Management Ordinance removed and replaced with the phrase "all applicable Federal, State, and local Pretreatment Standards or Requirements, including local ordinances promulgated under the Jonesboro Municipal Code or as otherwise specified by the Manager or the Manager's approved designee"
 60. Pg. 22-23, 10.04.07 (2) (C) "and policies adopted by CWL" added to last sentence
 61. Pg. 23, 10.04.07 (3) (C), "POTW" changed to "CWL"
 62. Pg. 23, 10.04.07 (5)
 - a. (A&B) "sole" added in reference to the word "discretion"
 - b. (A&B) phrase "in the Manager's sole discretion" added
 - c. (B), Extra period at end of second line removed.
 - d. (D) "truck" changed to "vehicle"
 - e. (E) "Industrial User fee" changed to "Pretreatment fee" for continuity
 63. Pg. 24, 10.04.07 (5) (B), "this ordinance" changed back to "Jonesboro Municipal Code"
 64. Pg. 24, 10.04.07 (5) (E), "Board" changed to "Manager", as fees are established by the Manager not the Board.
 65. Pg. 24, Cross-reference - Vandalism paragraph from 10.04.07, (6) moved to 10.04.05 (1) (H) on pg. 13
 66. Pg. 25, 10.04.08 (1) "or update the information as required" added to last sentence
 67. Pg. 25, 10.04.08 (2) (A)
 - a. Language in first sentence "...with the exception that an SIU that has filed a timely application pursuant to Section 10.04.08 (3) of this ordinance may continue to discharge for the time period specified therein." to remain.
 - b. Phrase "and with any other requirements of Federal, State, and local law" replaced with inclusion of word "applicable" before "Federal and State".
 - c. "sanctions set out" replaced with "provisions"
 68. Pg. 25, 10.04.08 (3)
 - a. Paragraph to remain. It is felt (along with point (a) above) that this language also applies to existing users of the system who may at some point in the survey process be identified as an SIU. These provisions would then apply.
 - b. "prior to the effective date of the ordinance" deleted
 69. Pg. 26, 10.04.08 (5)
 - a. "some" changed to "part" in last sentence of first paragraph
 - b. (C) (iii) unnecessary repeated phrase "hours of operation" deleted
 - c. (G)(i) "Categorically" in second line reverted to lower case

70. Pg. 27, 10.04.08 (6) (B), "company" changed to "User"
71. Pg. 28, 10.04.09 (1) "sole" added in reference to "discretion"
72. Pg. 28, 10.04.09 (2) (A) (v), "civil, criminal, and administrative penalties" changed to "civil and criminal penalties and administrative fines" for consistent use of the defined term 'penalty'
73. Pg. 29, 10.04.09 (2) (B) (ix), "Development and implementation of" added
74. Pg. 29, 10.04.09 (3) (A)
 - a. "Board" replaced with "Manager" in first paragraph
 - b. (iv), "Board" replaced with "Manager"
 - c. (ii), "objection" replaced with "provision objected to"
75. Pg. 29, 10.04.09 (4) (A) "at any time" added to first paragraph
76. Pg. 30, 10.04.09 (5)
 - a. (C) "acknowledges" changed to "assumes"
 - b. "voidable" changed to "void" in last paragraph
77. Pg. 30-31, 10.04.09 (6)
 - a. (I) "including any surcharges or capacity charges" added
 - b. (K) "or failure to update such information as required by this ordinance" added
 - c. "voidable" changed to "void" in last paragraph
 - d. "business" changed to "facility" in last paragraph
 - e. "at the facility" added to the end of the first sentence in the last paragraph
 - f. "are void upon" changed to "shall be superseded by" in the last paragraph
78. Pg. 32, 10.04.10 (1)
 - a. (A) "paragraph B, below" changed to "Section 10.04.10 (1) (B) of this ordinance" for clarity
 - b. (B) (v) (a) "Categorically" changed to lower case
 - c. (B) (v) (e) "requirement of this paragraph" changed to "requirements of this Section"
79. Pg. 34, 10.04.10 (2) (D)
 - a. "such" changed to "each"
 - b. "reports" changed to "report"
80. Pg. 34, 10.04.10 (3) associated language reference in Section 10.04.06 (2) already added after ADEQ submission
81. Pg. 34, 10.04.10 (4)
 - a. (A) "User" changed to "SIU" for clarity
 - b. (C) "Industrial User's" changed to "SIU" for clarity
 - c. (D), references to "below" changed to "of this ordinance".
82. Pg. 35, 10.04.10 (5) (A-B), references to "above" changed to "of this ordinance".
83. Pg. 35, 10.04.10 (5) (B), Section reference updated
84. Pg. 35, 10.04.10 (5) (D), word "changes" added to end of sentence
85. Pg. 35, 10.04.10 (6) (A), Section reference updated
86. Pg. 35, 10.04.10 (6) (C)
 - a. Paragraph to remain
 - b. "of potential problem discharges" changed to "in accordance with the provisions of Section 10.04.10 (6) (A)"
87. Pg. 35, 10.04.10 (7) "by the Manager" added at the end of the sentence
88. Pg. 36, 10.04.10 (8)
 - a. "must" changed to "will" in third sentence
 - b. "Resampling" changed to "repeat sampling" fourth sentence
89. Pg. 36, 10.04.10 (9)
 - a. (A) "or causes the commencement of" added after "commences" in the first sentence

- b. (B) "Dischargers" changed to "Industrial Users discharging or causing the discharge of hazardous waste" in first sentence
90. Pg. 37, 10.04.10 (10)
- a. "other parties" deleted in the last sentence
 - b. "EPA" changed to "Approval Authority" in the last sentence
 - c. "suggested by the Manager" changed to "approved by the Manager" in the last sentence
91. Pg. 37, 10.04.10 (11) (A), "effluent being discharged" replaced with "discharge"
92. Pg. 38, 10.04.10 (old 12) Determination of Non-Compliance paragraph moved to Section 10.04.05 (1) as paragraph (I). For rewording see item 26.
93. Pg. 38, 10.04.10 (12) "the date of receipt of the report shall govern" changed to "the date of submission shall be deemed the date of receipt of the report"
94. Pg. 38, 10.04.10 (13) "litigation" changed to "enforcement action" in last sentence
95. Pg. 39, 10.04.11 (1)
- a. (A) "guards" changed to "personnel"
 - b. (B) "set up" changed to "locate"
 - c. (C), "and in accordance with Section 10.04.11 (3) below" added
 - d. (E) "the City of" deleted
96. Pg. 39, 10.04.11 (2)
- a. first sentence, eighth line, "Municipal Court of the City" changed to "applicable Court of the City or of the State"
 - b. "and shall contain any other information require by applicable law" added to end of second sentence
 - c. "or as otherwise allowed or required by applicable law" added to end of third sentence
 - d. last line "and sampling" added
 - e. last line, "the Manager may authorize" added and "may be made" deleted
97. Pg. 39, ADEQ's proposed insertion of 10.04.11 (3) "Pretreatment" paragraph is already included in the SUO as 10.04.07 (1) on pg. 22
98. Pg. 41, 10.04.12 "Subject to the provisions of the Arkansas Freedom of Information Act" added to beginning of second sentence
99. Pg. 42, 10.04.13 (1)
- a. The word "here" in first line reincluded
 - b. "for the same pollutant" added
 - c. "as determined by EPA Region 6 criteria" deleted
 - d. "by any magnitude" added
 - e. "as defined by 40 CFR 403.3 (1)" deleted
100. Pg. 42, 10.04.13 (2), phrase "as defined by 40 CFR 403.3 (1)" deleted
101. Pg. 42, 10.04.13 (3), phrase "as defined by 40 CFR 403.3 (1)" deleted
102. Pg. 42, 10.04.13 (6), 30 days SNC report enforcement deadline changed back to 45 days
103. Sections 10.04.14 (Administrative Enforcement Remedies), 10.04.15 (Judicial Enforcement Remedies), 10.04.16 (Supplemental Enforcement Action): applicable references to "User" changed to "person or User"
104. Pg. 43, 10.04.14 "Manager's approved agent" changed to "Authorized Representative of the Manager" and clarification on the role of the Manager and Authorized Representative of the Manager throughout section
105. Pg. 43, 10.04.14 (1)
- a. "Industrial User" changed to "User"

- b. 10 calendar day notice of NOV revised back to 20 days
106. Pg. 43, 10.04.14 (3)
- a. "Industrial User" changed to "User"
 - b. sentence four deleted and incorporated in sentence three for clarity concerning proper notice delivery methods. Changed "of by certified mail" to "or by certified mail".
 - c. sentence three, "working days" changed to "business days"
 - d. "Board of Directors of CWL Plant or a hearing panel designated by the Board" replaced with "Manager or Authorized Representative of the Manager" in first sentence.
 - e. "Or most recent sewer bill" added to clarify address used for persons not permitted
 - f. last line "A show cause hearing shall not be a prerequisite for taking any other action against the User." deleted and replaced with "Nothing in this Section shall limit the authority of the Manager or Authorized Representative of the Manager to take any action, including emergency or other enforcement actions, without a show cause hearing."
107. Pg. 44, 10.04.14 (4), original text "he" replaced with "the Manager"
108. Pg. 44, 10.04.14 (6), Administrative Fines section included after submission to ADEQ
- a. Paragraph (A)
 - i. Phrase "in an amount not to exceed five hundred dollars (\$500) for each day the violation continues" added
 - ii. "In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation." deleted
 - iii. Last sentence added: "The Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine."
 - b. Paragraph (B)
 - i. Percent interest to accrue changed to "5% above the federal primary credit rate in effect as of the date of the fine."
 - ii. Language for additional penalty for unpaid balance removed from text.
 - iii. "may" changed to "shall" in last sentence
 - c. Paragraph (C) pertaining to appeals deleted. New language added as paragraphs (9) and (10).
109. Pg. 45, 10.04.14 (7) (A) "Board" changed to "Manager"
110. Pg. 45, 10.04.14 (8)
- a. "such as" changed to "including but not limited to" in first paragraph
 - b. "below" changed to "in this Section" in first paragraph
111. Pg. 45-46, 10.04.14 (9-10) Appeals language paragraphs (9) & (10) added as per CWL attorney
112. Pg. 48, 10.04.15 (4), "noncompliance" changed to "noncompliant"
113. Pg. 48, 10.04.15 (3) (D), "the foregoing subparagraphs (A) and (B) above" changed to exact reference "Section 10.04.15 (3) (A) and (B)"
114. Pg. 49, 10.04.16 (2) "submits proof that it has obtained financial assurances sufficient" changed to "satisfactorily demonstrates to the Manager the sufficient financial ability"
115. Pg. 49, 10.04.16 (4) "including but not limited to attorney's fees and costs." added to end.
116. Pg. 49, 10.04.16 (5)
- a. "up to" added before dollar figure
 - b. "Penalties for Late Reports" heading changed to "Fines for Late Reports" for consistent use of the defined term 'penalty'
 - c. 10 calendar day notice of NOV revised back to 20 days
 - d. 30 days report enforcement deadline changed back to 45 days

117. Pg. 49, 10.04.16 (6), changed "Payment of Outstanding Fees and Penalties" heading to "Payment of Outstanding Fees, Fines, and Penalties" for consistent use of the term 'fine' and to match language in paragraph
118. Pg. 52-53, Section 10.04.18
- a. surcharge language and equation updated to include FOG as a surcharge.
 - b. Paragraph (1), "content" removed from FOG definition
 - c. Paragraph (2), "content" removed from TSS definition
 - d. Paragraph (2), "surcharge" changed to "capacity charge" in 250 definition
 - e. Paragraph (3) FOG penalty language deleted
 - f. New paragraph (3) added, "The payment of a surcharge or capacity charge by the User shall be in addition to and not in lieu of any reporting required under Sections 10.04.13 and 10.04.14."
 - g. references to "normal metered charge" changed to "standard metered charge"

Draft 09_14_10

SEWER USE--PRETREATMENT ORDINANCE DOCUMENT

AN ORDINANCE AMENDING CHAPTER 10.04 OF THE JONESBORO MUNICIPAL CODE CONCERNING THE USE OF PUBLIC AND PRIVATE SEWERS; PRIVATE SEWAGE DISPOSAL; THE INSTALLATION, CONSTRUCTION, MAINTENANCE, AND CONNECTION OF BUILDING SEWERS; THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING THE PROVISION OF PENALTIES, ADMINISTRATIVE FINES, SURCHARGES AND JUDICIAL ENFORCEMENT FOR THE VIOLATION THEREOF; REPEALING THE REPEALMENT OF ALL ORDINANCES IN CONFLICT THEREWITH; AND FOR ALL OTHER PURPOSES ~~ALL~~ PERTAINING TO THE SEWER SYSTEM WITHIN THE JURISDICTION OF THE CITY OF JONESBORO, ARKANSAS.

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

SECTION 1.

That Title 10, Chapter 10.04 – Sewer Use – Pretreatment Ordinance of the Jonesboro Municipal Code is hereby amended to read as follows:

10.04.00 – TABLE OF CONTENTS

This ordinance shall be known as the "Sewer Use—Pretreatment Ordinance."

Sections:

10.04.01	Purpose and Policy
10.04.02	Administration
10.04.03	Definitions
10.04.04	Abbreviations
10.04.05	General Sewer Use Requirements
10.04.06	Regulation of Discharges
10.04.07	Pretreatment of Wastewater
10.04.08	Wastewater Discharge Permit Eligibility
10.04.09	Wastewater Discharge Permit Issuance
10.04.10	Process Reporting Requirements
10.04.11	Compliance Monitoring
10.04.12	Confidential Information
10.04.13	Publication of Industrial Users in Significant Noncompliance
10.04.14	Administrative Enforcement Remedies
10.04.15	Judicial Enforcement Remedies
10.04.16	Supplemental Enforcement Action
10.04.17	Affirmative Defenses to Discharge Violations
10.04.18	Excessive Pollutant Rates
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10.04.01 - PURPOSE AND POLICY

This ordinance sets forth uniform requirements for persons utilizing users of the wastewater collection and Publicly Owned Treatment Works (POTW) ~~for~~ of the City Water and Light Plant of the City of Jonesboro (CWL), herein also known as the POTW, and enables CWL City Water and Light Plant (CWL) to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code (U.S.C.) 1251 et seq.) and General Pretreatment Regulations set forth in 40 CFR 403. The objectives of this ordinance are:

- (1) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- (2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- (7) To enable CWL City Water and Light Plant (CWL) to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject; and
- (8) To encourage waste minimization, recycling, reuse, and Best Management Practices (BMPs) through pollution prevention activities.

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

10.04.02 – ADMINISTRATION

- (1) ~~The City Water and Light Plant CWL Board of Directors (Board) shall establish such fees for sewer service, connections, monitoring, inspections, permits, and surveillance as are necessary to properly administer the Industrial Pretreatment Program for Jonesboro, Arkansas, and to maintain and operate the POTW. The City Water and Light Plant CWL Board of Directors (Board) may, in compliance with Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) et seq., A.C.A. 8-4-103 (g) et seq., as may be amended from time to time, authorize any judicial enforcement remedy to be taken by City Water and Light Plant CWL against any Industrial User persons utilizing the system in violation of the Jonesboro Municipal Code this ordinance.~~
- (2) Except as otherwise provided herein, the ~~City Water and Light Plant CWL Board of Directors (Board)~~, through its designated Manager, shall administer, implement, and enforce the provisions of ~~Title 10, Chapter 10.04 (Sewer Use Pretreatment Ordinance) of the Jonesboro Municipal Code this ordinance.~~ Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other ~~City Water and Light Plant (CWL) CWL~~ personnel.

10.04.03 - DEFINITIONS

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

- (1) Accessible Public Sewer. ~~Shall mean~~ An existing public sewer located so that it may be reached either by a building sewer constructed at the minimum grade recommended by the Arkansas Department of Health or by a combination of the extension of the existing public sewer and the construction of a building sewer, both of which are constructed at the minimum grade recommended by the Arkansas Department of Health.
- (2) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*
- (3) Administrative Fine. A monetary fine for violations of this ordinance as set forth in Section 10.04.14.
- (4) Approval Authority. ~~Currently~~ The Director of the Arkansas Department of Environmental Quality (ADEQ).
- (5) Authorized or Duly Approved Representative of the Industrial User
 - (A) If the Industrial User is a corporation or limited liability company, the Authorized Representative shall ~~mean~~ be as follows:
 - i) The president, secretary, treasurer, ~~or a vice-president, member, or manager~~ of the corporation or company in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation or company; or
 - ii) The manager of one or more manufacturing, production, or operating facilities, ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if provided the manager is authorized to make management decisions which govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where~~ authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (B) If the Industrial User is a partnership or sole proprietorship, an Authorized Representative shall ~~mean~~ be a general partner or proprietor, respectively.
 - (C) If the Industrial User is a Federal, State, or local governmental facility, an Authorized Representative shall ~~mean~~ be a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or ~~his/her~~ the Authorized Representative's designee.
 - (D) The Authorized Representatives described above may designate a Duly Authorized Approved Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Manager of CWL.

- (6) Authorized Representative of the Manager. ~~Authorized Representative of the Manager shall mean such~~ The person appointed or authorized by the Manager to carry out designated responsibilities or functions of the Manager.
- (7) Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions set forth in 40 CFR 403.5 (a) (1) and listed in Section 10.04.06 (1-3) of this ordinance. BMPs may include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw materials storage.
- (8) Biochemical Oxygen Demand (BOD₅). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20° centigrade, typically expressed in terms of mass and concentration [milligrams per liter (mg/L)] or an equivalent mass loading based on flow [pounds per day (lb/day)].
- (9) Board of Directors (Board). Shall mean The duly elected or appointed Board of Directors (Board) of City Water and Light Plant (CWL) of Jonesboro, Arkansas CWL.
- (10) Building Drain. Shall mean That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it these wastes to the building sewer, beginning five (5) feet outside the inner face of the building wall.
- (11) Building Sewer. Shall mean The extension from the building drain to the public sewer or other places of disposal.
- (12) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U. S. Environmental Protection Agency (EPA) in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Industrial Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (13) Categorical Industrial User (CIU). An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.
- (14) City. The City of Jonesboro, in the County of Craighead, within the State of Arkansas; or the City Council of the City of Jonesboro.
- (15) City Water and Light Plant of the City of Jonesboro, Arkansas (CWL). Shall mean The Municipal Improvement District (District), a Publicly Owned Entity, organized and existing under the provisions of Arkansas Code Annotated (A.C.A.) A.C.A. 14-218-101 *et. seq.*, as may be amended from time to time, as a consolidated Municipal Improvement District to own and operate the electric power, water, and wastewater utilities in the City. ~~of Jonesboro, Arkansas.~~
- (16) Chemical Oxygen Demand (COD). shall mean The measure of the oxygen-consuming capacity of inorganic and organic matter present in a water or wastewater, typically expressed in terms of concentration (mg/L) or an equivalent mass loading (lb/day). The amount of oxygen consumed from a chemical oxidant in a specific test is not differentiated between stable and unstable organic matter and thus does not necessarily directly correlate with biochemical oxygen demand (BOD₅).
- (17) Collector Building Sewer. Shall mean A sewer on private property which is privately maintained and serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment, and at termini, with pipe having a diameter of at least six (6) inches. Such sewers shall be located outside building walls and footings.

- (18) Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- (19) Combined Sewer. ~~Shall mean~~ A sewer receiving both surface runoff and sewage.
- (20) Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- (21) Control Authority. ~~Under the provisions of 40 CFR 403.12 (a), the term "Control Authority" shall mean~~ The Board of Directors of City Water and Light Plant of Jonesboro, Arkansas, CWL acting through its designated Manager, who is charged with certain duties and responsibilities by this ordinance, or his a duly appointed or the Authorized Representative of the Manager's authorized representative. The Control Authority shall have jurisdiction over the POTW's Industrial Users.
- (22) Control Manhole or Control Point. ~~Shall mean~~ A point of access to a building sewer at a point before the wastewater that is conveyed by the building sewer mixes with other wastewater conveyed by the public sewer.
- (23) Council or City Council. ~~Shall mean~~ The duly elected or appointed governing body of the City of Jonesboro.
- (24) Daily Discharge. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- (25) 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.
- (26) District. ~~Shall mean~~ City Water and Light Plant of Jonesboro, Arkansas (CWL).
- (27) Environmental Protection Agency or EPA. The U. S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director, the Regional Administration, or ~~other~~ duly authorized official of said agency.
- (28) Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act; any source of discharge that is not a "New Source."
- (29) Excessive Biochemical Oxygen Demand (BOD₅). ~~Is defined as~~ A BOD₅ concentration in excess of 250 mg/L.
- (30) Excessive fats, oils, and grease (FOG). A FOG concentration in excess of 100 mg/L.
- (31) Excessive Total Suspended Solids. ~~Is defined as~~ A total suspended solids in excess of 250 mg/L.
- (32) Garbage. ~~Shall mean~~ Domestic and commercial solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
- (33) Grab Sample. A sample that is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and ~~without consideration of time~~ over a period of time not to exceed fifteen (15) minutes.

- (34) Indirect Discharge or Discharge. The introduction of ~~non-domestic~~ pollutants into the POTW from any non-domestic source regulated under Section 307 (b), (c), or (d) of the Act.
- (35) Industrial User (IU) or User. A ~~non-domestic~~ source of indirect discharge to the waters of the State, ~~defined by ADEQ as a discharge to~~ through a POTW.
- (36) Industrial Wastes. ~~Shall mean~~ The liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.
- (37) Instantaneous ~~Maximum Allowable~~ Discharge Limit. The maximum concentration or equivalent 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.
- (38) Interceptor. Means A device designed to skim, settle, or otherwise remove fats, oils, grease, sand, flammable wastes, or other harmful substances.
- (39) Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources:
- (A) Inhibits or disrupts the POTW; its treatment processes or operations; or its sludge processes, use or disposal; and
 - (B) Therefore is a cause of a violation of CWL's Jonesboro's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory and/or regulatory provisions or permits issued thereunder or more stringent State or local regulations:
 - i) Section 405 of the Clean Water Act;
 - ii) The Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA);
 - iii) Any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA;
 - iv) The Clean Air Act;
 - v) The Toxic Substances Control Act; and
 - vi) The Marine Protection, Research, and Sanctuaries Act.
- (40) Lower Explosive Limit The minimum concentration in air at which a gas or vapor will flame with an ignition source.
- (41) Local Limit or Technically Based Local Limit (TBLL). Specific discharge limits developed and enforced by CWL upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5 (a) (1) and (b).
- (42) Manager. The person appointed by the Board of Directors of ~~City Water and Light Plant of the City of Jonesboro, Arkansas, CWL~~ to manage and supervise the electric, water, and wastewater utilities of the District and ~~who is charged with certain duties and responsibilities by this ordinance, or the duly appointed or the Authorized Representative of such person~~ the Manager.
- (43) Mayor. ~~Shall mean~~ The Mayor of the City of Jonesboro, Arkansas.
- (44) Medical Waste. Wastes generated by the medical industry, including but not limited to isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts,

any object or substance that is capable of transmitting infectious organisms ~~fomites~~, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

- (45) Milligrams per Liter (mg/L). The equivalent amount as same parts per million (ppm) and is a weight-to-volume ratio. A milligram per liter value multiplied by a factor of 8.34 ~~shall be~~ is equivalent to pounds per million gallons of water.
- (46) Monthly Average. The sum of all "daily discharges" measured during the calendar month divided by the number of "daily discharges" measured during that month.
- (47) Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during the calendar month divided by the number of "daily discharges" measured during that month.
- (48) National Pollutant Discharge Elimination System or (NPDES) Permit. ~~Shall mean~~ A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- (49) Natural Outlet. ~~Shall mean~~ Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.
- (50) New Source
- (A) 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 thereafter promulgated in accordance with that section, provided that:
- i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered
- (B) Construction on a site at which an Existing Source is located results in a modification of the Existing Source rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section 10.04.03 (50) (A) (ii) or (iii) above of this ordinance but otherwise alters, replaces, or adds to the existing process or production equipment.
- (C) Construction of a New Source as defined under this paragraph ~~has~~ shall be considered to have commenced if the owner or operator has:
- i) Begun or caused to begin as part of a continuous on-site construction program:
 - a) Any placement, assembly, or installation of facilities or equipment; or
 - b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities ~~which is~~ necessary for the placement, assembly, or installation of New Source facilities or

equipment; or

- ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in ~~it's~~ the New Source's operation within a reasonable time. Options to purchase or contracts which ~~can~~ may be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies ~~do~~ shall not constitute a contractual obligation under this paragraph.
- (51) Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (52) Normal Domestic Wastewater. Means Wastewater generated from excluding that from non-residential uses or discharged by a person into the POTW. in which the Such wastewater shall be defined as to contain an average concentration of BOD₅ is not more than 250 mg/L; TSS is not more than 250 mg/L; and fats, oils, and grease not more than 100 mg/L.
- (53) Owner. ~~Shall mean~~ The person or persons who own ~~possess~~ any interest in the structure or property to which such ownership relates.
- (54) Pass Through. A discharge which exits the POTW into waters of the ~~United States~~ State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of ~~Jonesboro's~~ CWL's NPDES permit, including an increase in the magnitude or duration of a violation.
- (55) Penalty. ~~A sewer service charge above the normal monthly sewer rate which may be assessed to those non-residential sewer Users who discharge wastewater with excessive FOG, defined herein, into the POTW. A monetary fine for violations of this ordinance, as set forth in Section 10.04.15.~~
- (56) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (57) pH. A measure of the acidity or alkalinity of a substance, expressed in standard units (S.U.).
- (58) Pollutant. Including but not limited to any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, agricultural industrial wastes, and ~~the~~ certain characteristics and constituents of wastewater including but not limited to pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor.
- (59) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration ~~can~~ may be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless specifically allowed by an applicable Pretreatment Standard.
- (60) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an Industrial User, other than a Pretreatment Standard.
- (61) Pretreatment Standards and Requirements or Standards and Requirements. ~~Pretreatment Standards shall mean~~ The prohibitive prohibited discharge standards, Categorical Pretreatment Standards, and Technically Based Local Limits (TBLs).

- (62) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances, ~~these prohibitions appear as set forth~~ in Section 10.04.06 (1) of the ~~Jonesboro Municipal Code~~ this ordinance.
- (63) Properly Shredded Garbage. ~~Shall mean~~ The wastes from preparing, cooking, and dispensing of food ~~that have been~~ shredded to such a degree that all particles ~~will~~ shall be carried freely under the flow conditions which normally prevail in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (64) Publicly Owned Treatment Works (POTW). A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by CWL, ~~the State or municipality (CWL).~~ This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term shall also mean the public entity having jurisdiction over ~~the POTW~~ the persons and Industrial Users discharging to the POTW and responsibility for the operation and maintenance of the treatment works.
- (65) Public Sewer. ~~Shall mean~~ A sewer in which all owners of abutting properties have equal rights, ~~and is~~ controlled by ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL.
- (66) Sanitary Sewer. ~~Shall mean~~ A sewer which carries sewage and to which stormwater, surface water, and groundwater is not intentionally admitted.
- (67) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (68) Sewage. Human excrement and gray water (household showers, dish washing operations, etc.).
- (69) Significant Industrial User (SIU).
- (A) A User subject to Categorical Pretreatment Standards; ~~and~~ or
- (B) A User that:
- i) Discharges an average of 25,000 gpd or more of process wastewater to the POTW, excluding sanitary, noncontact, cooling, and boiler blowdown wastewater; or
 - ii) Contributes a process waste stream which contributes five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant, or
 - iii) Is designated as a Significant Industrial User by City Water and Light Plant CWL of Jonesboro, Arkansas, 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.
- (70) Slug Load or Slug. Any discharge at a flow rate or concentration which may cause a violation of the prohibited discharge standards set forth in Section 10.04.06 of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill/slug or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or may in any other way violate CWL's Pretreatment Regulations, Local Limits, or NPDES permit conditions.
- (71) Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U. S. Office of Management and Budget.

- (72) 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, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- (73) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
- (74) Storm Drain or Storm Sewer. ~~(Sometimes termed "storm sewer") shall mean~~ A sewer that carries stormwater, surface water, and drainage, but excludes sewage and industrial waste ~~other than unpolluted cooling water~~.
- (75) Surcharge. ~~Shall~~ A sewer service fee, as set forth in Section 10.04.18, charged in addition to charge above the normal monthly sewer rate, which may be assessed to those non-residential sewer Users who discharge wastewater exceeding the BOD, TSS, or FOG concentrations typical of normal domestic wastewater, defined herein, into the POTW. ~~having BOD₅ in excess of 250 mg/L; suspended solids content in excess of 250 mg/L.~~
- (76) Surface Water. ~~Shall mean~~ Any watercourse, pond, stream, ditch, lake, or other body of water occurring on the earth's surface.
- (77) Suspended Solids or Total Suspended Solids (TSS). The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids, and is removable by laboratory filtering.
- (78) To Discharge. ~~Includes~~ To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of wastewater; or to allow, permit, or suffer any of these acts or omissions.
- (79) Toxic Pollutant. Any one of ~~126~~ the pollutants or combination of ~~these pollutants thereof~~, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- (80) Treatment Plant Effluent or Effluent. Any discharge of wastewater pollutants from the POTW into the waters of the State.
- (81) User or Industrial User (IU). ~~A non-domestic~~ source of indirect discharge to the waters of the State through a POTW.
- (82) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, ~~which are~~ contributed to the POTW.
- (83) Wastewater Treatment Plant (WWTP) or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.
- (84) Watercourse. ~~Shall mean~~ A channel in which a flow of water occurs, either continuously or intermittently.

The word "shall" is construed as mandatory.

The word "may" is permissive or discretionary.

The use of the singular shall be construed to include the plural and the plural shall include the singular, as indicated by the usage context of its use.

10.04.04 - ABBREVIATIONS

The following abbreviations shall have the designated meanings:

- ADEQ - Arkansas Department of Environmental Quality
- ADH - Arkansas Department of Health
- ASTM - Association for the Standard Testing of Materials
- BMP - Best Management Practice
- BOD₅ - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- CWL - City Water and Light Plant of the City of Jonesboro
- EPA - U. S. Environmental Protection Agency
- FOG - Fats, oils, and grease
- gpd - Gallons per Day
- IU - Industrial User
- L - Liter
- lb/day - Pounds a Day
- mg - Milligrams
- mg/L - Milligrams per Liter
- NOV - Notice of Violation
- NPDES - National Pollutant Discharge Elimination System
- OSHA - Occupational Safety and Health Administration (~~Title 29, Chapter XVII CFR~~)
- O&M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classifications
- SIU - Significant Industrial User
- S.U. - Standard Units
- SWDA - Solid Waste Disposal Act (42 U.S.C. 6901, *et seq.*)
- TBLL - Technically Based Local Limits
- TSS - Total Suspended Solids
- USC - United States Code
- WPCF - Water Pollution Control Federation
- WWTP - Wastewater Treatment Plant

10.04.05 - GENERAL SEWER USE REQUIREMENTS

(1) Use of Public Sewers

- (A) It shall be unlawful for any person to place, deposit or discharge, or permit to be deposited or discharged, any human or animal excrement, garbage, or other objectionable wastes in any unsanitary manner upon public or private property within the City of ~~Jonesboro, Arkansas~~, or in any area under the jurisdiction of the said City.
- (B) It shall be unlawful to discharge to any natural outlet within the City of ~~Jonesboro, Arkansas~~, or in any area served by ~~City Water and Light Plant~~ CWL any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance. The issuance of a valid NPDES National Pollutant Discharge Elimination System permit authorizing such discharges into a natural outlet shall be considered as meeting all the requirements of this section.
- (C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.
- (D) Owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of ~~Jonesboro~~ and abutting any street, alley, or right-of-way in which there is ~~now~~ located or may in the future be located an accessible public sanitary sewer of ~~CWL the City Water and Light Plant of Jonesboro, Arkansas~~, is hereby required at his the owner's expense to install suitable toilet facilities therein and to connect such facilities directly to the public sewer, provided that said accessible public sewer is within three hundred (300) feet of the property line. Connection to the ~~proper accessible~~ public sewer shall be made in accordance with the provisions of the ~~Jonesboro Municipal Code~~ this ordinance within sixty (60) days after date of official notice to do so. The requirements of this section shall not apply to owners discharging ~~such sewage~~ under the provisions of a valid NPDES National Pollutant Discharge Elimination System permit.
- (E) Other than building sewers and collector building sewers, all sewers constructed by owners connecting building drains of structures to the existing public sewer shall be located within public easements or rights-of-way. ~~and shall be constructed by such owner~~ Construction shall be to the standards required by ~~City Water and Light Plant~~ CWL for public sewers. No sewer shall be constructed within any public easement or right-of-way or connected to an existing public sewer without approval by the Manager of ~~City Water and Light Plant~~ CWL.
- (F) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, or subsurface drainage to the POTW.
- (G) Stormwater and all other surface runoff shall be discharged to ~~such~~ sewers specifically designated as storm sewers or to a natural outlet.
- (H) No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the ~~provisions of sanctions set out in~~ Sections 10.04.14 through 10.04.16 of ~~the Jonesboro Municipal Code~~ this ordinance.
- (I) The Manager of CWL may use a grab sample(s) as a screening tool for pollutants, including for the purpose of determining the source of pollutant discharge. When necessary, the Manager may resample using composite techniques.

(2) Private Sewage Disposal

- (A) Where a public sanitary sewer is not available under the provisions of Section 10.04.05 (1) of this ordinance above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
- (B) Before construction of a private sewage wastewater disposal system shall commence within the City of ~~Jonesboro, Arkansas~~, or any area under the jurisdiction of said ~~City Water and Light Plant CWL~~, all persons shall first obtain a permit for ~~such~~ construction from the City Inspector. The application form for the permit shall be ~~made on a form furnished to the applicant~~ by the City Inspector. ~~which~~ The applicant shall ~~submit the application and supplemental~~ submit the application and supplemental plans, specifications, and construction permits approved by the ~~ADH Arkansas Department of Health and/or the Arkansas Department of Environmental Quality ADEQ~~. The ~~then~~ current permit and inspection fee prescribed by the City Inspector shall be paid to the City of ~~Jonesboro~~ at the time the application is filed.
- (C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Inspector. The Inspector shall be allowed to inspect the work at any stage of construction. ~~and, in any event,~~ The applicant for the permit shall notify the Inspector when the work is ready for final inspection and before any underground portions are covered. The Inspector shall make the inspection within two (2) business days ~~forty-eight (48) hours~~ of the receipt of notice.
- (D) The type, capacity, location, and layout of private sewage disposal systems shall comply with all applicable requirements of the ~~Arkansas Department of Health ADH and/or the Arkansas Department of Environmental Quality ADEQ~~. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No private sewage disposal septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (E) At such time as an accessible public sewer becomes available to a property that is served by a private sewage disposal system, as provided in Section 10.04.05 (1) of ~~the Jonesboro Municipal Code~~ this ordinance, the building sewer shall be connected to said available sewer within sixty (60) days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable materials. The requirements of this section shall not apply to persons discharging ~~such~~ sewage under the provisions of a valid ~~National Pollution Discharge Elimination System NPDES~~ permit.
- (F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City of ~~Jonesboro~~ or to ~~City Water and Light CWL~~.
- (G) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Craighead County Health Department Environmental Engineer or similar officer Sanitarian.

(3) Building Sewers and Connections

- (A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit ~~for such connection~~ from the Manager of ~~City Water and Light Plant CWL~~. No permit shall be issued for a sewer connection until ~~the then current~~ all associated connection tie-on fees prescribed by the Board of ~~Directors (Board)~~ of ~~City Water and Light Plant (CWL)~~ have been paid.

- (B) There shall be two (2) classes of building sewer permits:
 - i) For service to residential and commercial establishments; and
 - ii) For service to establishments producing industrial wastes.

In either case, the person shall make application on special forms furnished by the Manager of ~~City Water and Light Plant CWL~~. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent by the Manager.

- (C) Prior to the initiation of sewer service to potential new Users ~~customers~~ who will discharge industrial process wastes to the POTW, the potential Users ~~customers~~ shall complete an Industrial User Survey, a form furnished by the Manager of ~~City Water and Light Plant CWL~~. The Industrial User Survey shall be returned to CWL within thirty (30) days of receipt, but no less than ninety (90) days before the User plans to discharge wastewater to the POTW. no less than one hundred and twenty (120) days prior to the date on which they. If the potential Users ~~customers~~ will be required to obtain a permit, a Significant Industrial User an SIU, the potential Users ~~customers~~ shall, pursuant to Section 10.04.08 (4-6) of the ~~Jonesboro Municipal Code~~ this ordinance, complete an application for an individual industrial wastewater discharge permit. ~~also on a form furnished by the Manager of City Water and Light Plant, no less than ninety (90) days prior to the date on which they plan to discharge wastewater.~~
- (D) The Manager will evaluate applications for individual industrial wastewater discharge permits and determine, pursuant to Section 10.04.08 (7) of the ~~Jonesboro Municipal Code~~ this ordinance, whether or not to issue the applicant an individual industrial wastewater discharge permit.
- (E) A separate and independent building sewer shall be provided for each individual building except:
 - i) Where multiple buildings are constructed in an apartment complex or condominium on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels. The individual buildings may be connected to a common building sewer provided that only one person is responsible for the maintenance of the building sewer; or
 - ii) Temporary buildings, mobile homes, or similar portable structures which may be connected to a building sewer installed to serve a previously constructed permanent building, provided that both the permanent and temporary buildings are located on a lot or tract of, and maintained in, common ownership.
- (F) Pipe ~~for used in~~ used in building sewers for service to the ~~City Water and Light Plant CWL~~ public sewer may be of any approved material listed in the ~~City of Jonesboro Plumbing Code~~. The Manager shall approve:
 - i) Type of material and size of pipe to be used in the construction of building sewers; and
 - ii) Methods of installation of building sewer pipe prior to and/or during construction of the building sewers.
- (G) Old building sewers may be used in connection with new buildings only when they are found through examination and testing by the Manager of ~~City Water and Light Plant CWL~~ to meet all requirements of the ~~Jonesboro Municipal Code~~ this ordinance.
- (H) The size, slope, and alignment of building sewers and the methods to be used in excavating and backfilling the trench and placing, jointing, and testing the pipe shall conform to the

requirements of the all applicable building and plumbing codes or and other applicable rules and regulations of City Water and Light Plant CWL. In the absence of applicable code provisions or in amplification thereof, the materials and procedures set forth in the appropriate sections of ASTM and AWWA specifications and the WPCF Manual of Practice No. 9 shall apply.

- (I) Where possible, the building sewer shall be brought connected to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such the connected building drain shall be lifted by an approved means and discharged to the building sewer.
- (J) No person shall ~~make connection of~~ roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which ~~in turn~~ is connected directly or indirectly to a public sanitary sewer.
- (K) The building drain and connection of the building sewer into the public sewer, including all intermediate appurtenances, shall conform to the requirements of the all applicable building and plumbing codes or and other applicable rules and regulations of City Water and Light Plant CWL. In the absence of applicable code provisions, or the procedures set forth in appropriate sections of ASTM and AWWA specifications and the WPCF Manual of Practice No. 9, shall apply. All such connections shall be made gastight and watertight. The ~~Manager of City Water and Light Plant CWL~~ must approve any deviation from the prescribed procedures and materials before installation.
- (L) All excavations for building sewer installations shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Jonesboro.
- (M) Persons possessing building sewer permits shall notify the Manager when the building sewer is ready for inspection and connection to the POTW. The connection shall be accomplished made only under the supervision of ~~City Water and Light Plant CWL~~ Water and Sewer Department personnel.
- (N) Persons possessing building sewer permits shall indemnify and hold the City of Jonesboro and ~~City Water and Light Plant CWL~~ harmless from any damage, loss, cost, obligations, claims, demands, and all expenses or damage that may directly or indirectly be caused by or arising from ~~occasioned by~~ the installation and/or operation of the building sewer.
- (O) ~~Persons possessing building sewer permits shall hold the City of Jonesboro and City Water and Light Plant CWL harmless from any loss or damage that may directly or indirectly be occasional caused by or arising from the installation and/or operation of the building sewer.~~

10.04.06 - REGULATION OF DISCHARGES

(1) Prohibited Discharge Standards

(A) General 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 any other National, State, or local Pretreatment Standards or Requirements.

(B) Specific Prohibitions

~~Furthermore,~~ No Industrial User may contribute or cause to be introduced the following pollutants, substances, or wastewater to the POTW:

- i) Pollutants which create a fire or explosive hazard in the municipal wastewater collection system or POTW, including but not limited to waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- ii) Any wastewater having a pH less than 6.0 S.U. or more than 11.5 S.U., or otherwise causing corrosive structural damage to the POTW or equipment or endangering ~~City Water and Light Plant~~ CWL personnel;
- iii) Solid or viscous substances in amounts which will cause obstruction of the flow to and within the POTW or result in interference, and but in no case shall solids greater than one half (1/2) inch (1.27 centimeters) in any dimension;
- iv) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD₅, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW or any wastewater treatment or sludge process, or which will constitute a hazard to humans ~~or animals~~;
- v) Any wastewater having a temperature greater than 150°F (65°C) or that which will inhibit biological activity in the treatment plant and result in interference, but in no case wastewater which causes the influent temperature at the introduction into of the WWTP at the introduction into the treatment plant to exceed 104°F (40°C);
- vi) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- vii) Any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- viii) Any trucked or hauled pollutants, except at discharge points designated by the Manager of ~~City Water and Light Plant~~ CWL in accordance with Section 10.04.07 (5) of the ~~Jonesboro Municipal Code~~ this ordinance;
- ix) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent human entry into the sewers for maintenance and repair;
- x) Any wastewater which imparts color that cannot be removed by the treatment process such as but not limited to dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating CWL's City Water and Light Plant's NPDES permit;
- xi) ~~Any~~ Wastewater containing any radioactive wastes or isotopes except as

- specifically approved by the Manager in an individual industrial wastewater discharge permit and in compliance with applicable State or Federal regulations;
- xii) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Manager in an individual industrial wastewater discharge permit;
 - xiii) Any sludges, screenings, or other residues from the pretreatment of industrial wastes;
 - xiv) Any medical wastes, except as specifically authorized by the Manager in an individual industrial wastewater discharge permit;
 - xv) Any wastewater causing the treatment plant's effluent to fail a toxicity test;
 - xvi) Any wastes containing detergents, surface-active agents, surfactants, or other substances that may cause excessive foaming or scum in the POTW;
 - xvii) Any wastes containing fats, oils, or grease (FOG) of animal, vegetable, or mineral origin exceeding one hundred (100) mg/L, except as specifically authorized by the Manager in an individual industrial wastewater discharge permit except that which may be permitted by the Manager of City Water and Light Plant CWL as provided for by Section 10.04.18 of the Jonesboro Municipal Code this ordinance; and
 - xviii) Any liquids, solids, or gases which by reason of nature or quantity are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Wastewater causing two (2) readings on an explosions hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5% or any single reading over 10% of the Lower Explosive Limit of the meter.

Pollutants, substances, or wastewater ~~Wastes~~ prohibited by this section shall not be processed or stored in such a manner that ~~they could be~~ could facilitate discharge to the POTW. All floor drains located in process or material storage areas must discharge to the Industrial User's pretreatment facility, if applicable, before connecting with the POTW.

(2) Federal Categorical Pretreatment Standards

The National Categorical Pretreatment Standards ~~found at~~ set forth in 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- (A) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6 (c).
- (B) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (C) When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Manager may impose an alternate limit based on the combined waste stream formula in 40 CFR 403.6 (e).
- (D) An Industrial User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to the User's discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.

(E) When a Categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an IU may request that CWL convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Manager. To be eligible for equivalent mass limits established by CWL, the IU must meet all of the requirements set forth in 40 CFR 403.6 (c) (5) (i) and below.

i) The IU must:

- a) Employ or demonstrate that it will employ water conservation methods and technologies that substantially reduce water use during the term of the User's control mechanism;
- b) Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
- c) Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- d) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
- e) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior the IU's request for equivalent mass limits.

ii) An IU subject to equivalent mass limits must:

- a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
- b) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
- c) Continue to record the facility's production rates and notify the Manager whenever production rates are expected to vary by more than 20% from baseline production rates determined by 40 CFR 403.6 (c) (5) (i) (C) and as described in 10.04.06 (2) (E) (i) (c) in this section. Upon notification of a revised production rate, the Manager must reassess the equivalent mass limits and revise the limit as necessary to reflect changed conditions at the facility; and
- d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to 10.04.06 (2) (E) (i) (a) of this section.

iii) When developing equivalent mass limits, the Manager:

- a) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the IU by the concentration-based daily maximum and monthly average standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;
- b) Will reassess the equivalent mass limit and recalculate the limit as

necessary to reflect changed conditions at the facility, upon notification of a revised production rate;

- c) May retain the same equivalent mass limit in subsequent control mechanism terms if the IU's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 10.04.06 (7) of this ordinance. The IU must also be in compliance with Section 10.04.17 (3) of this ordinance regarding the prohibition of bypass.
- (F) Once incorporated into a User's permit, the IU must comply with the equivalent limitations developed in this Section in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived.
- (G) Many Categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such Categorical Pretreatment Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (H) Any IU operating under a control mechanism incorporating equivalent mass limitations calculated from a production based standard shall notify the Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Manager of such anticipated change will be required to meet the mass limits in its control mechanism that were based on the original estimate of the long-term average production rate.

(3) State Requirements

~~The Arkansas Department of Environmental Quality ADEQ may, from time to time, promulgate new Pretreatment Requirements. In the event that a particular Pretreatment Requirement may be more stringent than that imposed by Federal Law or by the Jonesboro Municipal Code this ordinance, the State Requirement shall immediately supersede the others and shall then become govern as the applicable Pretreatment Standard or Requirement.~~

(3) Specific Pollutant Limitations-Local Limits

~~To protect against pass through and interference, no Significant Industrial User may discharge or cause to be discharged into the POTW any wastewater having concentrations of pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Manager of City Water and Light CWL in his or her discretion or as required by Part III of CWL Plant of the City of Jonesboro CWL's NPDES permits No. AR0037907 and AR0043401, authorized by 40 CFR 403.5 (c), and adopted by Resolution by the Board of Directors of City Water and Light Plant. Adopted Technically Based Local Limits also are as, and approved by the Arkansas Department of Environmental Quality Approval Authority. TBLLs based on the calculated Maximum Allowable Industrial Loadings shall be included in CWL's Pretreatment Program and accompanying Appendices. Technically Based Local Concentration Limits TBLLs shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals pollutants shall be for in terms of "total" metals unless otherwise indicated. At his the discretion of the Manager, mass limitations may be imposed in addition to or in place of concentration based Technically Based Local Limits TBLLs. The Manager of CWL may also develop BMPs by ordinance or 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, CWL 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 applies whether Local Limits are set by ordinance or on a case-by-case basis.~~

(4) City Water and Light Plant's Right of Revision

~~The City Water and Light Plant CWL may establish by Resolution by the Board of Directors of City Water and Light Plant (Board) or in individual wastewater discharge permits more stringent Standards or Requirements for discharges to the POTW if deemed necessary to comply with the objectives presented in Section 10.04.01 of the Jonesboro Municipal Code this ordinance or the general or specific prohibitions Local Limits set forth in Section 10.04.06 (3) of the Jonesboro Municipal Code this ordinance.~~

(5) Most Stringent Requirement or Standard to Apply

~~The most stringent of Federal, State of Arkansas, or Jonesboro Municipal Code local Requirements or Standards shall supersede the others and shall then become govern as the applicable Pretreatment Requirement or Standard.~~

(6) Special Agreement

~~The Board of Directors of City Water and Light Plant (Board) may enter into special agreements with Industrial Users, setting out special terms under which they the Users may discharge to the POTW. In no case ~~will~~ shall a special agreement waive compliance with a Pretreatment Standard or Requirement.~~

(7) Dilution

~~No Industrial User shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation, unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Manager of City Water and Light Plant CWL may impose mass limitations on Industrial Users ~~which are~~ using dilution to meet applicable Pretreatment Standards or Requirements or in other cases when the imposition of mass limitations is appropriate.~~

10.04.07 - PRETREATMENT OF WASTEWATER

(1) Pretreatment Facilities

Industrial Users shall provide necessary wastewater pretreatment as required to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 10.04.06 of this ordinance above, within the time limitations specified by the EPA, the State, or the Manager CWL, whichever is more stringent. Any Facilities required to pretreat wastewater to a level acceptable to City Water and Light Plant CWL shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Manager for review and shall be acceptable to approved by the Manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an acceptable discharge to City Water and Light Plant CWL under the provisions of this ordinance. Any subsequent changes in pretreatment facilities or method of operation shall be reported to and accepted by the Manager prior to the User's initiation of said changes.

(2) Additional Pretreatment Measures

(A) Whenever deemed reasonably necessary for proper operation of the POTW, the Manager of City Water and Light Plant CWL may require Industrial Users to restrict their discharge of wastewater during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate non-industrial sewage waste streams from industrial waste streams, and other conditions measures as may be necessary to protect the POTW and determine the Industrial User's compliance with the requirements of this ordinance.

(B) Whenever deemed reasonably necessary for proper operation of the POTW, the Manager of City Water and Light Plant CWL may require Industrial Users to install and maintain, on his the User's property and at his the User's expense, a suitable storage and flow control facility to ensure equalization of flow over a twenty-four (24) hour period. The Manager may require that such flow equalization control facilities be equipped with alarms and controls for metering and regulating the rate of discharge controller, the regulation of which may be directed only by the Manager. An individual wastewater discharge permit may be issued solely for flow equalization.

(C) FOG Grease, oil, and sand interceptors shall be provided when, in the opinion of the Manager of City Water and Light Plant CWL, they are necessary for the proper handling of wastewater containing excessive amounts of fats, oils, grease, flammable wastes, sand, and/or other objectionable wastes, except such interceptors shall not be required for private living quarters or dwelling units.

All interceptors shall be of the type and capacity approved by the Manager, shall comply with all applicable Federal, State, and local Pretreatment Standards or Requirements, including local ordinances promulgated under the Jonesboro Municipal Code or as otherwise specified by the Manager or the Manager's approved designee the Fats, Oils, and Grease (FOG) Management Ordinance of the Jonesboro Municipal Code, provide a minimum detention time of 12 minutes and a minimum capacity of 500 gallons, and shall be located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at own expense in accordance with the FOG Management Ordinance all applicable Federal, State, and local Pretreatment Standards or Requirements, including local ordinances promulgated under the Jonesboro Municipal Code or as otherwise specified by the Manager or the Manager's approved designee, as well as Users shall continuously maintain all interceptors in a satisfactory and effective operation. Storage, handling, transportation, and disposal of all wastes generated from interceptors shall be performed in accordance with all applicable Federal, State, and local regulations, and

policies adopted by CWL that pertain to that type and/or class of waste.

- (D) Industrial Users with the potential to discharge flammable substances may be required by the ~~Manager of City Water and Light Plant~~ CWL to install and maintain an approved combustible gas detection meter.

(3) Accidental Discharge/ Slug Control Plans

~~The Manager of CWL shall evaluate whether each SIU needs an accidental or slug discharge control plan or other action to control slug discharges. At least once every two years the Manager shall evaluate whether each significant industrial user needs such a plan.~~ The Manager of ~~City Water and Light Plant~~ CWL may require any Industrial User to develop, submit for approval, and implement an accidental discharge/slug control such a plan or take such other action that may be necessary to control slug discharges. Any Industrial User required to develop and implement An accidental discharge or slug discharge control plan shall submit a plan that 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~~ CWL of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 10.04.06 of the ~~Jonesboro Municipal Code~~ this ordinance; and
- (D) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

All SIUs shall notify CWL immediately of any changes at its facility affecting potential for a slug discharge.

(4) Tenant Responsibility

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

(5) Hauled Wastewater

- (A) Septic tank waste may be accepted into the POTW, at the sole discretion of CWL, at a receiving structure designated by the ~~Manager of City Water and Light Plant~~ CWL and at such times established by the Manager, provided such wastes do not violate Section 10.04.06 of the ~~Jonesboro Municipal Code~~ this ordinance or any other requirements established or adopted by the ~~Board of Directors of City Water and Light Plant~~. The Manager may ~~issue~~ require septic tank waste haulers to obtain an individual wastewater discharge permit from CWL for individual vehicles to use such facilities. The Manager shall have authority to prohibit the disposal of such wastes if, in the Manager's sole discretion, its disposal would interfere with the treatment plant operation. Septic waste haulers shall also be subject to all other applicable sections of this ordinance.
- (B) The discharge of hauled industrial wastes as "industrial septage" into the POTW requires prior approval by CWL. Industrial septage may be accepted into the POTW, at the sole discretion of CWL, at a receiving structure designated by the Manager of CWL and at such times established by the Manager, provided such wastes do not violate Section 10.04.06 of this ordinance or any other requirements established or adopted by the Board. The

Manager may require industrial waste haulers to obtain an individual wastewater discharge permit from City Water and Light Plant CWL for individual vehicles to use such facilities. The Manager shall have authority to prohibit the disposal of such wastes if, in the Manager's sole discretion, its disposal would interfere with the treatment plant operation. Industrial waste haulers are shall also be subject to all other applicable sections of the Jonesboro Municipal Code.

- (C) Industrial and septic waste haulers may discharge loads only at locations designated by the Manager. No load may be discharged without prior consent of the Manager. The Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The Manager may require waste haulers to provide a waste analysis of any load prior to discharge.
- (D) Industrial and septic waste haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler; permit number, if applicable; truck vehicle identification; names and addresses of sources of waste; and volume and characteristics of waste. For hauled industrial wastes, the form shall also identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (E) Fees for dumping septage and industrial waste will shall be established by the Manager Board of Directors of City Water and Light Plant as part of the Industrial User Pretreatment fee system, as authorized in Section 10.04.19 (1).

10.04.08 - WASTEWATER DISCHARGE PERMIT ELIGIBILITY

(1) Wastewater Survey

When requested by the Manager of ~~City Water and Light Plant CWL~~, all Industrial Users must submit information on the nature and characteristics of its wastewater by completing a wastewater survey prior to commencing ~~their~~ discharge. The Manager is authorized to prepare a special form for this purpose and may periodically require Industrial Users to update this information ~~the survey~~. Failure to complete this survey or update the information as required shall be considered a violation of the ~~Jonesboro Municipal Code~~ this ordinance and reasonable grounds for terminating water and wastewater service to the Industrial User.

(2) Wastewater Discharge Permit Requirements

(A) It shall be unlawful for any SIU to discharge wastewater into the Jonesboro POTW without first obtaining an individual industrial wastewater discharge permit from the Manager of ~~City Water and Light Plant CWL~~, with the exception that an SIU that has filed a timely application pursuant to Section 10.04.08 (3) of this ordinance may continue to discharge for the time period specified therein. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of the ~~Jonesboro Municipal Code~~ this ordinance and subjects the individual wastewater discharge permittee to the provisions ~~sanctions set out in Sections 10.04.13 10.04.14 through 10.04.16 of this ordinance the Code.~~

Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable Federal and State Pretreatment Standards or Requirements ~~and with any other requirements of Federal, State, and local law.~~

(B) The Manager of ~~City Water and Light Plant CWL~~ may require other Industrial Users, including liquid waste haulers, to obtain individual industrial wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(3) Individual Wastewater Discharge Permitting: Existing Connections

~~The Manager of City Water & Light Plant CWL may, within 30 days of determining that an existing Industrial User is a Significant Industrial User as defined by Section 10.04.03 (64) of the Jonesboro Municipal Code, notify the Significant Industrial User of its status as a Significant Industrial User and of the requirement to obtain a wastewater discharge permit. After notification of the requirement to obtain a wastewater discharge permit, Within ninety (90) days after notification, any Industrial User required to obtain an individual wastewater discharge permit who that is discharging wastewater into the POTW prior to the effective date of this ordinance and wishes to continue such discharges in the future shall apply to the Manager of City Water and Light Plant CWL for an individual wastewater discharge permit in accordance with Section 10.04.08 (5) of this ordinance below. The Manager will furnish the existing Significant Industrial User an appropriate permit application package. Existing Significant Industrial Users shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days after notification of the requirement to obtain an individual wastewater discharge permit, except in accordance with an individual wastewater discharge permit issued by the Manager.~~

(4) Individual Wastewater Discharge Permitting: New Connections

~~Any Significant Industrial User required to obtain an individual wastewater discharge permit proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence, unless the ninety (90) day period is otherwise waived by the Manager.~~

(5) Individual Wastewater Discharge Permit Application Contents

All Users required to obtain an individual wastewater discharge permit must submit a permit application. In order to be considered for a wastewater discharge permit, all Industrial Users required to have a wastewater discharge permit must submit the information required by Section 10.04.10 (1) (B) of the Jonesboro Municipal Code below on an Industrial Wastewater Discharge Permit Application form provided by the Manager of City Water and Light Plant CWL. In addition, All or part some of the following information may be requested by the Manager as part of a permit application:

(A) Identifying Information.

- i) The name and address of the facility, including the name of the operator and owners;
- ii) Contact information, description of activities, facilities, and plant production processes on the premises;

(B) Environmental Permits.

A list of any environmental control permits held by or for the facility;

(C) Description of Operations.

- i) A brief description of the nature and average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) of the operation(s) carried out by the Industrial User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- ii) 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;
- iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- iv) Type and amount of raw materials processed (average and maximum per day);
- v) 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;

(D) Time and duration of discharges;

(E) The location for monitoring all wastes covered by the permit;

(F) 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, as set out in 40 CFR 403.6 (e).

(G) Measurement of Pollutants.

- i) Identify—The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- ii) Submit—The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the Manager of City Water and Light Plant CWL, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average

concentrations or mass shall be reported where required. The sample shall be representative of daily operations.

- iii) In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Manager of ~~CWL~~ or the applicable Standards to determine compliance with the Standard;
- iv) Sampling and analysis shall be pursuant which Sections 10.04.10 (10) and (11) of this ordinance.

(H) Any other information as may be deemed necessary by the Manager to evaluate the individual wastewater discharge permit application.

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

(6) Application Signatories and Certification

(A) All individual wastewater discharge permit applications, Industrial User reports, and certification statements must contain the following certification statement in Section 10.04.10 (14) (A) of this ordinance and be signed by an Authorized Representative of the Industrial User.

(B) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the User company, a new written authorization satisfying the requirements of this Section must be submitted to the Manager prior to or together with any reports to be signed by an Authorized Representative.

(7) Individual Wastewater Discharge Permit Decisions

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

10.04.09 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

(1) 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 sole discretion of the Manager of City Water and Light Plant CWL. Each individual wastewater discharge permit will indicate a specific expiration date upon which it will expire.

(2) Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed to be reasonably necessary by the Manager of City Water and Light Plant CWL to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against prevent damage to the POTW.

(A) Individual wastewater discharge permits shall contain the following conditions:

- i) A statement that indicates the individual wastewater discharge permit issuance date, expiration date, and effective date and duration, which in no event shall exceed five (5) years;
- ii) A statement that the individual wastewater discharge permit is non-transferable without prior notification to and approval from the Manager of City Water and Light Plant CWL in accordance with Section 10.04.09 (5) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- iii) Effluent limits, including BMPs, which are applicable to the User and based on applicable Standards in Federal, State, and local law;
- iv) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants or BMPs to be monitored; sampling location; sampling frequency; and sample type based on Federal, State, and local law;
- v) Statement of applicable civil and criminal, and administrative penalties and administrative fines for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such a schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and
- vi) Requirements to control slug discharges, if determined by the POTW to be necessary.

(B) Individual wastewater discharge permits may contain, but need not be limited to, the following:

- i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- ii) Limits on the instantaneous, daily, and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- iii) 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 POTW;
- iv) Development and implementation of spill/slug control plans or other special

conditions, including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

- v) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- vi) The unit charge or schedule of Industrial User charges and fees for the management of the wastewater discharged to the POTW;
- vii) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- viii) 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;
- ix) Development and implementation of Best Management Practices; and
- x) Any other conditions as deemed appropriate by the Manager of ~~City Water and Light Plant CWL~~ to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(3) Wastewater Discharge Permit Process and Appeals

(A) Permit Appeals

Any person, including the Industrial User, may petition the ~~Manager Board of Directors of City Water and Light Plant of Jonesboro, Arkansas~~ to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of its issuance.

- i) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- ii) In its petition, the appealing party must indicate the individual wastewater discharge permit provision(s) objected to, the reasons for this objection, and the alternative condition to the provision objected to objection, if any, sought to place in the individual wastewater discharge permit.
- iii) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.
- iv) If the ~~Manager Board of Directors of City Water and Light Plant of Jonesboro, Arkansas~~ fails to act within sixty (60) days, a request for reconsideration shall be ~~deemed to be~~ considered denied. Decisions not to reconsider an individual wastewater discharge permit, ~~not to issue~~ an individual wastewater discharge permit, or ~~not to modify~~ an individual wastewater discharge permit shall be considered the final administrative action for purposes of judicial review.
- v) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decisions must do so by filing a complaint within a court of competent jurisdiction.

(4) Wastewater Discharge Permit Modification

(A) The Manager of ~~City Water and Light Plant CWL~~ may modify an individual wastewater discharge permit at any time for good cause including, but not limited to, the following reasons;

- i) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

- ii) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- iv) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, beneficial sludge use, or the receiving waters;
- v) Violation of any terms or conditions of the individual wastewater discharge permit;
- vi) Misrepresentations or failure to fully disclose all relevant facts in the individual wastewater discharge permit application or in any required reporting;
- vii) Revision of Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- viii) To correct typographical or other errors in the individual wastewater discharge permit; or
- ix) To reflect a transfer of the facility ownership and/or operation to a new owner/operator, where requested in accordance with Section 10.04.09 (5) of this ordinance.

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

(5) Individual Wastewater Discharge Permit Transfer

Individual wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Manager of ~~City Water and Light Plant CWL~~, unless the thirty (30) day period is otherwise waived by the Manager, and the Manager approves the individual wastewater discharge permit transfer. The notice to the Manager must include a written certification from the new owner and/or operator which:

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

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

(6) Individual Wastewater Discharge Permit Revocation

Individual wastewater discharge permits may be revoked by the Manager for the following reasons:

- (A) Failure to notify the Manager of ~~City Water and Light Plant CWL~~ of significant changes to the wastewater prior to the changed discharge;
- (B) Failure to provide prior notification to the Manager of ~~City Water and Light Plant CWL~~ of changed conditions pursuant to Section 10.04.10 (5) of ~~the Jonesboro Municipal Code~~ this ordinance;
- (C) Misrepresentation or failures to fully disclose all relevant facts in the individual wastewater discharge permit application;
- (D) Falsification of self-monitoring reports;
- (E) Tampering with monitoring equipment

- (F) Refusal to allow the Manager of ~~City Water and Light Plant CWL~~ 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, including any surcharges or capacity charges;
- (J) Failure to meet compliance schedules;
- (K) Failure to complete a wastewater survey or the individual wastewater discharge permit application, or failure to update such information as required by this ordinance;
- (L) Failure to provide advance notice of the transfer of a permitted facility; or
- (M) Violation of any Pretreatment Standard or Requirement, any terms of the individual wastewater discharge permit, ~~or the Ordinance~~ this ordinance.

Individual wastewater discharge permits shall be ~~void~~ voidable upon transfer of business facility ownership or following a period of ninety (90) days of disuse or cessation of operations at the facility.

All existing individual wastewater discharge permits issued by ~~City Water and Light Plant CWL~~ are ~~void upon~~ shall be superseded by the issuance of a new individual wastewater discharge permit to that User.

(7) Facility Closure Notification

A minimum of ninety (90) days before the closure of a facility or a period of facility disuse of ninety (90) days or more, the IU shall notify CWL in writing of the anticipated date of closure, as well as the anticipated date of resumption of facility use, if any.

(8) Wastewater Discharge Permit Reissuance

~~A Significant Industrial User~~ with an expiring individual wastewater discharge permit shall apply for the reissuance of an individual wastewater discharge permit by submitting a complete individual wastewater discharge permit application, acceptable ~~by~~ to the Manager of ~~City Water and Light Plant CWL~~, in accordance with Section 10.04.08 (5) of ~~the Jonesboro Municipal Code~~ this ordinance, a minimum of sixty (60) days prior to the expiration of the Industrial User's existing individual wastewater discharge permit.

10.04.10 - REPORTING REQUIREMENTS

(1) Baseline Monitoring Reports

- (A) Within either 180 days after the effective date of a Categorical Pretreatment Standard or 180 days after the final administrative decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing ~~significant~~ Industrial Users subject to such Categorical Pretreatment Standards currently discharging to or scheduled to discharge to the POTW shall be required to submit to the ~~Manager of City Water and Light Plant~~ CWL a report which contains all of the information listed in Section 10.04.10 (1) (B) of this ordinance paragraph B, below. At least ninety (90) days prior to commencement of discharge, New Sources and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard shall be required to submit to the ~~Manager of City Water and Light Plant~~ CWL a report which contains the information listed in Section 10.04.10 (1) (B) of this ordinance below. A New Source shall also be required to report the intended method of pretreatment to meet applicable Pretreatment Standards and give estimates of anticipated flow and quantity of discharged pollutants.
- (B) The Industrial User shall submit the information required by this section including:
- i) Identifying Information.
The name and address of the facility, including the name of the operator and owners;
 - ii) Environmental Permits.
A list of any environmental control permits held by or for the facility;
 - iii) Description of Operations.
A brief description of the nature and average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) of the operation(s) carried out by the Industrial User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - iv) 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, as set out in 40 CFR 403.6 (e).
 - v) Measurement of Pollutants.
 - a) Identify The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - b) Submit—The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the ~~Manager of City Water and Light Plant~~ CWL, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations or mass shall be reported where required. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 10.04.10 (10) of this ordinance below.
 - c) In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Manager of CWL or the applicable

Standard to determine compliance with the Standard;

- d) Sampling shall be pursuant which Section 10.04.10 (11) of this document;
- e) The User shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this Section. paragraph.
- f) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the appropriate flows and concentrations necessary to allow use of the combined waste stream formula set forth in 40 CFR 403.6 (e) to evaluate compliance with the Pretreatment Standards. When an alternative concentration or mass limit has been calculated in accordance with 40 CFR 403.6 (e), this adjusted limit, along with supporting data, shall be submitted to the Control Authority;
- g) The Manager 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; and
- h) The baseline report shall indicate the time, date, and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

- vi) Compliance Certification.
A statement reviewed by the Industrial User's Authorized Representative, as defined in Section 10.04.03 (5) of this ordinance, 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.
- vii) Compliance Schedule.
If additional O&M and/or pretreatment 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 must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 10.04.10 (2) of ~~the Jonesboro Municipal Code~~ this ordinance.
- viii) Signature and Report User Certification.
All baseline-monitoring reports must be certified in accordance with Section 10.04.10 (14) (A) of this ordinance and signed by an Authorized Representative as defined in Section 10.04.03 (5) of this ordinance.

(2) Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by Section 10.04.10 (1) (B) (vii) of this ordinance above:

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards. Such events include hiring an engineer, completing preliminary and final plans, executing

contracts for major components, commencing and completing construction, and beginning and conducting routine operation.

- (B) No increment referred to above shall exceed nine (9) months.
- (C) The Industrial User shall submit a progress report to the Manager of ~~City Water and Light Plant CWL~~ no later than 14 days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and the steps being taken by the ~~significant~~ Industrial User to return to the established schedule.
- (D) In no event shall more than nine (9) months elapse between each such progress reports to the Manager of ~~City Water and Light Plant CWL~~.

(3) Report on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to such Pretreatment Standards and Requirements shall submit to the Manager of ~~City Water and Light Plant CWL~~ a report containing the information described in Section 10.04.10 (1) (B) (iv-v) of this ordinance above. For Industrial Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 10.04.06 (2) of this ordinance and 40 CFR 403.6 (c), this report shall contain a reasonable measure of the Industrial User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or another measure of operation), this report shall include the Industrial User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with ~~Section 10.04.08 (7)~~ 10.04.10 (14) (A) of this ordinance. All sampling shall be done in conformance with Section 10.04.10 (11) of this ordinance.

(4) Periodic Compliance Reports

- (A) All any SIUs subject to a Pretreatment Standard must, at a frequency determined by the Manager of ~~City Water and Light Plant CWL~~ but in no case less than twice per year [in June and December at a minimum (or on dates specified)], as required by 40 CFR 403.12 (e) (1)], submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. ~~All periodic compliance reports must be signed and certified in accordance with Section 10.04.08 (7) above.~~ In cases where the Pretreatment Standard requires compliance with a BMP (or pollution prevention alternative) the SIU User shall submit documentation required by CWL or the Pretreatment Standard necessary to determine the SIU's User's compliance status. At the discretion of CWL and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., CWL may modify the months during which the above reports are to be submitted.
- (B) All periodic compliance reports must be signed and certified in accordance with Section 10.04.10 (14) (A) of this ordinance.
- (C) All wastewater samples must be representative of the SIU's Industrial User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that sample results are unrepresentative of its discharge.
- (D) If an Industrial User subject to the reporting requirement ~~in and of~~ set forth in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the POTW by the procedures prescribed in Section 10.04.10 (10) and (11) of this ordinance below, the results of this additional monitoring shall be included in the report.

(5) Report of Changed Conditions

Each Industrial User is required to notify the Manager of ~~City Water and Light Plant~~ CWL of any planned significant changes, as defined below, to the Industrial User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- (A) The Manager of ~~City Water and Light~~ CWL may require the Industrial User to submit such information as ~~may be~~ deemed necessary to evaluate the changed condition, including the submission of an individual wastewater discharge permit application under Section 10.04.08 (5) of this ordinance above.
- (B) The Manager of ~~City Water and Light~~ CWL may issue an individual wastewater discharge permit under Section ~~10.04.08 (5)~~ 10.04.09 (8) above or modify an existing individual wastewater discharge permit under Section 10.04.09 (4) of this ordinance above.
- (C) No Industrial User shall implement the planned changed conditions(s) until and unless the Manager of ~~City Water and Light~~ CWL has responded to the Industrial User's notice.
- (D) For purposes of this requirement, flows in excess of the limitations set forth in the Significant User's individual industrial wastewater discharge permit and/or the discharge of any previously unreported pollutants shall be deemed significant changes.

(6) Reports of Potential Problems

- (A) In the case of any discharge including but not limited to accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or a slug load which may cause potential problems for the POTW [including a violation of the prohibited discharge standards in Sections ~~10.04.07 (1), (2), and (4)~~ 10.04.06 (1) (A-B) of the ~~Jonesboro Municipal Code~~ this ordinance], it is the responsibility of the Industrial User to immediately telephone and notify the Manager of ~~City Water and Light~~ CWL of the incident. This notification shall include the location of discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the Industrial User.
- (B) Within five (5) days following such discharge, the Industrial User shall, unless waived by the Manager of ~~City Water and Light~~ CWL, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- (C) Failure to notify the Manager of ~~City Water and Light~~ CWL in accordance with the provisions of Section 10.04.10 (6) (A) of potential problem discharges shall be deemed a separate violation of this ordinance.
- (D) SIUs are required to notify the Manager immediately of any changes at its facility affecting potential for a slug discharge.
- (E) A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place, advising employees whom to call in the event of a discharge described in Section 10.04.10 (6) (A) of this ordinance above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(7) Reports from Non-Significant Unpermitted Industrial Users

All Industrial Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Manager of ~~City Water and Light~~ CWL as ~~the Manager~~ may be required by the Manager.

(8) Notice of Violation/ Repeat Sampling and Reporting

If sampling performed by an Industrial User indicates a violation, the Industrial User must notify ~~the Control Authority (the Manager of City Water and Light Plant)~~ the Manager within 24 hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to ~~the Control Authority (the Manager)~~ CWL within 30 days after becoming aware of the violation. ~~The industrial user is not required to re-sample if the POTW~~ Where CWL performs compliance monitoring in lieu of the IU, CWL will **must** perform the repeat sampling and analysis unless CWL notifies the User of the violation and requires the User to perform the repeat analysis. Repeat sampling ~~Resampling~~ shall not be required if:

- i) CWL performs sampling of the Industrial User's wastewater discharge at least once a month; or
- ii) ~~the POTW~~ CWL performs compliance monitoring, which indicates compliance, between the time that the ~~Industrial User's~~ initial sampling was conducted and when the Industrial User or CWL receives the results of the initial sampling which indicates a permit violation.

(9) Notification of the Discharge of Hazardous Waste

(A) Any Industrial User who commences or causes the commencement of the discharge of hazardous waste shall notify the ~~Manager of City Water and Light Plant~~ CWL, 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 classified as 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 Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent ~~such information is known and readily available to the Industrial User:~~

- i) An identification of the hazardous constituents contained in the wastes;
- ii) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and
- iii) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 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 discharges must be submitted under pursuant to Section 10.04.10 (5) of this ordinance above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections 10.04.10 (1), (3), and (4) of this ordinance above.

(B) Industrial Users discharging or causing the discharge of hazardous waste ~~Dischargers~~ are exempt from the requirements of paragraph (A) of this section during any a-calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under Section 3001 of RCRA identifying additional

characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the Manager, ~~of City Water and Light Plant CWL~~ the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

- (D) In the case of any notification made under this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(10) Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of an individual 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 EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses must shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures approved suggested by the Manager or other parties approved by the EPA Approval Authority.

(11) Sample Collection

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

- (A) Except as indicated in ~~Section paragraphs~~ (B) and (C) below, the Industrial User must collect wastewater samples using 24-hour flow-proportional composite collection techniques. In the event flow-proportional sampling is infeasible, Where time-proportional or grab sampling is authorized by the Manager of City Water and Light Plant CWL, may authorize the use of time-proportional sampling or through a minimum of four (4) grab samples where the use demonstrates that this will provide the samples must be representative sample of the effluent being discharged discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: cyanide, total phenol, and sulfide samples may be composited in the laboratory or in the field; volatile organics and FOG samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by CWL, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (B) Samples for ~~oils and grease~~ FOG; temperature; pH; cyanide; total phenols; toxicity; sulfides; and volatile organic chemicals must be obtained using grab collection techniques.
- (C) For sampling required in support of baseline monitoring and 90-day compliance reports required by Sections 10.04.10 (1) and 10.04.10 (3) of this ordinance [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH; cyanide; total phenols; FOG; sulfides; and volatile organic compounds for facilities for which historical sampling data does not exist. For facilities for which historical sampling data is available, the Manager may authorize a lower minimum of grab samples. For sampling required in support of periodic or continued compliance reports and reports from IUs not subject to Categorical Pretreatment Standards, as required by Sections 10.04.10 (4) and 10.04.10 (7) of this ordinance [40 CFR 403.12 (e) and (h)], the IU shall be required by the Manager to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

(12) Timing-Date of Receipt of Reports

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

(13) Recordkeeping

Industrial Users subject to the reporting requirements of this ordinance shall retain and make available for inspection and copying, all records and information required to be retained under this ordinance, including that 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 BMPs established under Section 10.04.06 (3) of this ordinance. Records shall include the date, exact place, method, and time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; the names of the person(s) performing 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 enforcement action concerning compliance with this ordinance or where the Industrial User has been specifically notified of a longer retention period by the Manager of City Water and Light Plant CWL.

(14) Certification Statements

(A) Certification of Permit Applications, and User Reports

The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 10.04.08 (6) of this ordinance; Users submitting baseline monitoring reports under Section 10.04.10 (1) (B) (viii) of this ordinance; Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 10.04.10 (3) of this ordinance; and Users submitting periodic compliance reports required by Section 10.04.10 (4) (A-D) of this ordinance. The following certification statement must be signed by an Authorized Representative as defined in Section 10.04.03 (5) 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 gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

10.04.11 - COMPLIANCE MONITORING

(1) Right of Entry: Inspection and Sampling

The Manager of ~~City Water and Light CWL~~ shall have the right to enter the facilities of any Industrial User to ascertain whether the purpose of this ordinance and any individual permit or order issued hereunder is being met and whether the Industrial User is complying with all requirements thereof. Industrial Users shall allow the Manager or his ~~the Manager's designated~~ representatives 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 an Industrial User has security measures in force which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel guards so that, upon presentation of suitable identification, personnel from ~~City Water and Light Plant of Jonesboro, Arkansas, State, CWL and EPA~~ will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- (B) The Manager of ~~City Water and Light Plant, State, CWL and EPA~~ shall have the right to locate set-up on the Industrial User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- (C) The Manager of ~~City Water and Light Plant CWL~~ may require the Industrial User to install monitoring equipment as necessary and in accordance with Section 10.04.11 (3) of this ordinance. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Industrial User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated regularly and periodically to ensure ~~their~~ accuracy.
- (D) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the Manager of ~~City Water and Light Plant CWL~~ and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.
- (E) Unreasonable delays in allowing authorized ~~City Water and Light Plant CWL~~ personnel access to the Industrial User's premises shall be a violation of ~~the City of the Jonesboro Municipal Code~~ this ordinance.

(2) Search Warrants

If the Manager of ~~City Water and Light Plant CWL~~ has been refused access to a building, structure, property, or any part thereof, and if the Manager is able to demonstrate probable cause to believe that there may be a violation of ~~Chapter 10.04 of the City of the Jonesboro Municipal Code~~ this ordinance; or that there is the need to inspect and/or sample as part of a routine inspection and sampling program of ~~City Water and Light Plant CWL~~ 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 Manager of ~~City Water and Light CWL~~ through the ~~City Water and Light Plant CWL~~ Attorney, the applicable Municipal Court of the City or of the State of Jonesboro 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 and shall contain any other information required by applicable law. Such warrant shall be served at reasonable hours by the Manager in the company of a uniformed police officer of the City or as otherwise allowed or required by applicable law of Jonesboro. In the event of an emergency effecting public health and safety, the Manager may authorize inspections and sampling may be made without the issuance of a warrant.

(3) Location of Monitoring Facility

The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and, whether constructed on public or private property, should be provided in accordance with the Manager's requirements and all applicable local construction standards and specification. Such facilities shall be constructed and maintained in such a manner as to enable the Manager to perform independent monitoring activities.

10.04.12 - CONFIDENTIAL INFORMATION

Information and data ~~on~~ pertaining to an Industrial User obtained from reports, surveys, individual wastewater discharge permit applications, individual wastewater discharge permits, monitoring programs, and from ~~City Water and Light Plant of Jonesboro, Arkansas~~ CWL's inspection and sampling activities shall be available to the public without restriction, unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Manager of ~~City Water and Light Plant~~ CWL that the release of such information documents or data would divulge information, processes, and/or methods of production entitled to protection as trade secrets under applicable law. Subject to the provisions of the Arkansas Freedom of Information Act, when requested and demonstrated by the Industrial User ~~furnishing a report~~ that such information should be held confidential, ~~the portions of a report~~ that information or data which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

10.04.13 - PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

The Manager of ~~City Water and Light Plant CWL~~ shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, 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: An SIU (or any IU in violation of paragraphs (3), (4), or (8) below) is in Significant Noncompliance if the violation meets or exceeds one or more of the following:~~

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater pollutant measurements taken for the same pollutant during a six-month period ~~as determined by EPA Region 6 criteria, exceed by any magnitude their Industrial User Permit daily maximum limit or average limit for the same pollutant parameter by any amount a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3 (1);~~
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the ~~Industrial User Permit daily maximum limit or the average limit numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3 (1),~~ multiplied by the applicable criteria [1.4 for BOD; TSS; fats, oils, and grease FOG; 1.2 for all other pollutants except pH];
- (3) Any other ~~discharge violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3 (1) (daily maximum, long-term average, instantaneous limit, or narrative standard)~~ that the Manager believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of ~~City Water and Light Plant CWL~~ personnel and/or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment or has resulted in ~~City Water and Light Plant CWL~~ exercising its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 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;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), which may include a violation of Best Management Practices, which the ~~Manager of City Water and Light Plant CWL~~ determines will adversely affect the operation or implementation of the local pretreatment program.

10.04.14 - ADMINISTRATIVE ENFORCEMENT REMEDIES

(1) Notification of Violation

Whenever the Manager ~~or Authorized Representative of the Manager~~ of City Water and Light Plant ~~CWL~~ finds that any ~~person or~~ User has violated or is violating this ordinance, ~~an individual~~ wastewater discharge permit, orders issued hereunder, or any other Pretreatment Requirement, the Manager ~~or Authorized Representative of the Manager~~ ~~or his the Manager's approved agent~~ may serve upon said ~~person or~~ User a written Notice of Violation (NOV). Within ~~twenty~~ 20 calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the ~~person or Industrial~~ User to the Manager, ~~or if the original notice was served by the Authorized Representative of the Manager rather than the Manager, then to the Authorized Representative of the Manager of City Water and Light Plant CWL.~~ Submission of this plan in no way relieves the ~~person or Industrial~~ User of liability for any violations occurring before or after receipt of the ~~Notice of Violation NOV.~~ Nothing in this section shall limit the authority of the Manager ~~or Authorized Representative of the Manager of City Water and Light Plant CWL~~ to take any action, including emergency actions or any other enforcement actions, without first issuing an ~~Notice of Violation NOV.~~

(2) Consent Orders

The Manager ~~or Authorized Representative of the Manager~~ of City Water and Light Plant ~~CWL~~ is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any ~~person or~~ User responsible for noncompliance. Such orders may include specific action to be taken by the ~~person or~~ User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to Sections 10.04.14 (4) and (5) ~~of this ordinance below~~ and shall be judicially enforceable.

(3) Show Cause Hearing

The Manager ~~or Authorized Representative of the Manager~~ of City Water and Light Plant ~~CWL~~ may order any ~~person or~~ User which causes or contributes to violation(s) of this ordinance, ~~individual~~ wastewater discharge permits, orders issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the ~~Manager or Authorized Representative of the Manager or a duly appointed representative~~ Board of Directors of City Water and Light Plant ~~or a hearing panel designated by the Board~~ and show cause why a proposed enforcement action should not be taken. Notice shall be served on the ~~person or Industrial~~ User specifying the time and place for the show cause hearing, the proposed enforcement action, the reasons for such action, and a request that the ~~person or~~ User show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served ~~personally or by certified mail (return receipt requested and delivered to address only, at the address of the person or User indicated on its most recent wastewater discharge permit issued by the Manager of CWL or most recent sewer bill~~ at least ten (10) ~~working business~~ days prior to the hearing. ~~Such notice may be served in any method or manner permitted under Arkansas Law or Arkansas Rules of Civil Procedure. Service of notice shall be sufficient when served by certified mail, return receipt requested, and delivered to the addressee only, at the address of the User indicated on shown on any its most recent wastewater discharge permit issued to it by the Manager of City Water and Light Plant CWL.~~ Such notice may be served on any Authorized Representative of the User as defined in ~~Section 10.04.03 (5) and as required by Section 10.04.08 (6) of this ordinance.~~ Whether or not the ~~person or~~ 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. Nothing in this Section shall limit the authority of the Manager or Authorized Representative of the Manager to take any action, including emergency or other enforcement actions, without a show cause hearing.~~

(4) Compliance Orders

When the Manager or Authorized Representative of the Manager of City Water and Light Plant CWL finds that a person or User has violated or continues to violate the ordinance, individual wastewater discharge permits, orders issued hereunder, or any other Pretreatment Standard or Requirement, the Manager or Authorized Representative of the Manager he may issue an order to the person or User responsible for the discharge directing the person or User to come into compliance. If the person or User does not come into compliance within the time specified in the Manager's or Authorized Representative of the Manager's compliance order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal Pretreatment Standard or Requirement, nor does a compliance order release the person or User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the person or User.

(5) Cease and Desist Orders

When the Manager or Authorized Representative of the Manager of City Water and Light Plant CWL finds that a person or User is in violation of this ordinance, the User's individual wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or Requirement or that the person or User's past violations are likely to reoccur, the Manager or Authorized Representative of the Manager may issue an order to the person or User directing the person or User to cease and desist all such violations and:

- (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 prerequisite to taking any other action against the person or User.

(6) Administrative Fines

- (A) When the Manager or Authorized Representative of the Manager finds that a person or 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 Manager or Authorized Representative of the Manager may fine such person or User in an amount not to exceed one thousand dollars (\$1,000) for each violation of this ordinance, and each day of a continuing violation may be deemed a separate violation in an amount not to exceed five hundred dollars (\$500) for each day the violation continues. The Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (B) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue interest at five percent (5%) above the federal primary credit rate in effect as of the date of the fine thereafter at a rate of one half percent (0.5%) per month. A lien against the person or User's property may shall be imposed for unpaid charges, fines, and penalties.
- (C) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person or User.

(7) Emergency Suspensions

The Manager or Authorized Representative of the Manager of City Water and Plant CWL may

immediately suspend a person or User's discharge (after informal notice to the person or User) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Manager or Authorized Representative of the Manager may also immediately suspend a person or User's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment.

- (A) Any person or User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a person or User's failure to immediately and voluntarily comply with the suspension order, the Manager or Authorized Representative of the Manager of City Water and Light Plant CWL shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage or endangerment to the POTW, the POTW's receiving stream, or any individuals. The Manager or Authorized Representative of the Manager shall allow the person or User to recommence discharging to the POTW when the person or User has demonstrated to the satisfaction of the Manager Board of Directors of City Water and Light Plant that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.04.14 (8) of this ordinance below are initiated against the person or User.
- (B) A person or User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Manager or Authorized Representative of the Manager of City Water and Light Plant CWL, prior to the date of any show cause or termination hearing under Sections 10.04.14 (3) above and 10.04.14 (8) of this ordinance below.

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

(8) Termination of Discharge

In addition to those provisions set forth in Section 10.04.09 (6) above, any person or User that violates the following conditions of this ordinance, individual wastewater discharge permits, any orders issued hereunder, or any other Pretreatment Standard or Requirement, including but not limited to such as those conditions listed in this Section below, is subject to termination of wastewater discharge:

- (A) Violation of individual wastewater discharge permit conditions;
- (B) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (C) Failure to report significant changes in operations or wastewater volume, constituents, and/or characteristics prior to discharge;
- (D) Refusal of reasonable access to the person or User's premises for the purpose of inspection, monitoring, and/or sampling; or
- (E) Violation of the ~~prohibited discharge~~ Pretreatment Standards set forth in Section 10.04.06 (1) of this ordinance.

Such person or Users in violation will be notified by the Manager or Authorized Representative of the Manager of the proposed termination of its discharge and offered an opportunity to show cause under Section 10.04.14 (3) of this ordinance why the proposed action should not be taken.

(9) Appeal of Orders of the Authorized Representative of the Manager

- (A) Any person or User aggrieved by any action of the Authorized Representative of the Manager made pursuant to this Section 10.04.14 may appeal the action by filing a written

notice of appeal with the Manager within thirty (30) days of the action, along with full payment of any fine ordered to be paid. The notice of appeal shall state the specific reason why the action of the Authorized Representative of the Manager is alleged to be erroneous. Failure to submit a timely written notice of appeal shall be deemed a waiver of the administrative appeal to the Manager provided for herein.

(B) If an appeal is timely filed in accordance with subparagraph (A) above, a hearing shall be held before the Manager within thirty (30) days of the date of the filing of the notice of appeal or such other date mutually agreed upon in writing by the appellant and the Manager. The Manager shall make a determination within thirty (30) days of completion of the appeal hearing.

(C) The appellant shall not be relieved of its obligations during the appeal process.

(D) The decision of the Manager shall be considered the final administrative action for purposes of judicial review.

(E) An aggrieved party seeking judicial review of the final administrative decision of the Manager must do so by filing a complaint within a court of competent jurisdiction within the time period permitted by Arkansas law.

(10) Request for Reconsideration of Action of the Manager.

(A) Any person or User aggrieved by any action of the Manager (acting directly and not through the Authorized Representative of the Manager) may request the Manager reconsider the action by filing a written request for reconsideration within thirty (30) days of the action, along with full payment of any fine ordered to be paid. The request for reconsideration shall state the specific reason why the action of the Manager is alleged to be erroneous. Failure to submit a timely written request for reconsideration shall be deemed a waiver of the request for reconsideration to the Manager provided herein.

(B) If the Manager determines the request for reconsideration has merit, the Manager may convene a hearing on the matter. In the event the person or User's request for consideration is successful, the payment, together with any interest accruing thereto, shall be returned to the person or User.

(C) The appellant shall not be relieved of its obligations during the appeal process.

(D) The decision of the Manager shall be considered the final administrative action for purposes of judicial review. An aggrieved party seeking judicial review of the final administrative decision of the Manager must do so by filing a complaint within a court of competent jurisdiction within the time period permitted by Arkansas law.

10.04.15 - JUDICIAL ENFORCEMENT REMEDIES

(1) Injunctive Relief

Whenever a person or User has violated a Pretreatment Standard or Requirement or continues to violate the provisions of this ordinance, an individual wastewater discharge permit, any order issued hereunder, or any other Pretreatment Requirement, ~~City Water and Light Plant CWL~~ may petition a Court of competent jurisdiction through the ~~Manager of City Water and Light Plant CWL~~ and the ~~City Water and Light Plant CWL~~ 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 ~~Chapter 10.04 of the Jonesboro Municipal Code~~ this ordinance on activities of the person or Industrial User. Such ~~Other~~ actions, as appropriate for legal and/or equitable relief, may also be sought by ~~City Water and Light Plant CWL~~. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a person or Industrial User.

(2) Civil Penalties

(A) Any person or User which has violated or continues to violate ~~Title 10, Chapter 10.04 of the Jonesboro Municipal Code~~ this ordinance, an individual wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to ~~City Water and Light Plant CWL~~ of Jonesboro, Arkansas, for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation per day, as provided by ~~A.C.A. 8-4-103 (g) et seq., as may be amended from time to time, Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) et seq.~~ In the case of the violation of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(B) Such civil penalties shall be recoverable in a Court of competent jurisdiction; but, as provided by ~~A.C.A. 8-4-103 (g) et seq., as may be amended from time to time, Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) et seq.~~, such civil proceeding may be initiated only after a majority vote of the ~~City Water and Light Plant Board of Directors~~ resolving to pursue such civil penalty.

(B) ~~City Water and Light Plant CWL~~ 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 ~~City Water and Light Plant CWL~~.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the person or User's violation, ~~(such economic benefit shall minimally be that determined in accord with EPA Guidance Manual for POTWS to Calculate the Economic Benefit of Noncompliance dated August, 1997)~~, corrective actions by the person or User, the compliance history of the person or User, and any other factors as justice requires.

(D) Filing a suit seeking civil penalties shall not be a prerequisite for taking any other action against a person or Industrial User.

(3) Criminal Prosecution

(A) Any person or User that willfully or negligently violates any provision of ~~Title 10, Chapter 10.04 of the Jonesboro Municipal Code~~ this ordinance, an individual wastewater discharge permit, or any orders issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation per day, as provided by ~~A.C.A. 8-4-103 (g) et seq., as may be amended from time to time, Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) et seq.~~

- (B) Any person or User that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this ordinance, an 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 one thousand dollars (\$1,000.00) per violation per day, as provided by A.C.A. 8-4-103 (g) et seq., as may be amended from time to time. ~~Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) et seq.~~
- (C) As provided by A.C.A. 8-4-103 (g) et seq., as may be amended from time to time, ~~Arkansas Code of 1987 Annotated, including 1995 Supplement Volume 6A, 8-4-103 (g) et seq.~~, no criminal prosecution under the foregoing subparagraphs 10.04.15 (3) (A) and (B) of this ordinance above, may be initiated except upon a majority vote of the ~~City Water and Light Plant CWL~~ Board of Directors resolving to pursue such criminal prosecution.
- (D) The criminal penalties provided in Section 10.04.15 (3) (A) and (B) ~~the foregoing subparagraphs (A) and (B) above~~, shall be in addition to any other cause of action for personal injury or property damage available under State law and shall be in addition to civil penalties which may be assessed under Section 10.04.15 (2) of this ordinance above.

(4) Remedies Nonexclusive

The provisions in Sections 10.04.13, 10.04.14, 10.04.15, and 10.04.16 of ~~the Jonesboro Municipal Code this ordinance~~ are not exclusive remedies. ~~City Water and Light Plant of Jonesboro, Arkansas CWL~~ reserves the right to take any, all, or any combination of these actions against a noncompliant person or User. Enforcement of pretreatment violations will generally be in accordance with ~~City Water and Light Plant's CWL's~~ Enforcement Response Plan (ERP). However, ~~City Water and Light Plant of Jonesboro, Arkansas CWL~~ shall have the right to take other action against any person or User when the circumstances warrant. Furthermore, ~~City Water and Light Plant of Jonesboro, Arkansas CWL~~ is empowered to take more than one enforcement action against any noncompliant noneompliance person or User. These actions may be taken concurrently.

10.04.16 - SUPPLEMENTAL ENFORCEMENT ACTION

(1) Performance Bonds

The Manager of ~~City Water and Light Plant CWL~~ may decline to reissue an individual wastewater discharge permit to any User which has failed to comply with the provisions of this ordinance, any orders, or a previous individual wastewater discharge permit issued hereunder, unless such User first files a satisfactory bond, payable to ~~City Water and Light Plant CWL~~, in a sum not to exceed a value determined by the Manager of ~~City Water and Light Plant CWL~~ to be necessary to achieve consistent compliance.

(2) Liability Assurance

The Manager of ~~City Water and Light Plant CWL~~ may decline to reissue an individual wastewater discharge permit to any User which has failed to comply with the provisions of this ordinance, any order, or a previous individual wastewater discharge permit issued hereunder, unless the User first satisfactorily demonstrates to the Manager the sufficient financial ability ~~submits proof that it has obtained financial assurances sufficient~~ to restore or repair damage to the POTW caused by its discharge.

(3) Water Supply Severance

Whenever a person or User has violated or continues to violate the provisions of this ordinance, an individual wastewater discharge permit, or any order issued hereunder, water service to the person or User may be severed. Service will only recommence at the person or User's expense and after the person or User has satisfactorily demonstrated the ability to comply.

(4) Public Nuisances

Any violation of this ordinance, the individual wastewater discharge permit, or any order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager of ~~City Water and Light Plant CWL~~ or his ~~the~~ Manager's approved designee. Any person or User creating a public nuisance shall be required to reimburse ~~City Water and Light Plant CWL~~ or the City of ~~Jonesboro~~ for any costs incurred in removing, abating, or remedying said nuisance, including but not limited to attorney's fees and costs.

(5) Penalty Fines for Late Reports

A penalty fine of up to \$1,000 may be assessed to any User for each day that a report required by this ordinance or a permit or order issued hereunder is late, beginning 20 days after the date the report is due. Further enforcement by CWL may be taken beginning 45 days after the date the report is due, including but not limited to the designation of the Industrial User as in Significant Noncompliance with this ordinance. Actions taken by the Manager to collect late reporting penalties fines shall not limit the Manager's authority to initiate other enforcement actions that may include penalties fines for late reporting violations.

(6) Payment of Outstanding Fees, Fines, and Penalties

The Manager may decline to issue or reissue an individual wastewater discharge permit permit to any User who has failed to pay any outstanding fees, fines, or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

10.04.17 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

(1) Upset

- (A) 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.
- (B) An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of Section 10.04.17 (C) of this ordinance are met.
- (C) An Industrial User wishing to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs or other relevant evidence that:
- i) An upset occurred, and the Industrial User can identify the causes(s) of the upset;
 - ii) The facility was at the time of upset being operated in a prudent and workmanlike manner, in compliance with applicable operation and maintenance procedures; and
 - iii) 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 also be provided within five (5) days]:
 - a) A description of the indirect discharge and cause of noncompliance;
 - b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (D) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.
- (E) 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.
- (F) The Industrial User shall control production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility, until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of electric power of the treatment facility is reduced, lost, or fails.

(2) General/ ~~Specific Prohibitions~~ Prohibited Discharge Standards

An Industrial User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions listed in Section 10.04.06 (1) (A) of this ordinance and specific prohibitions listed in Section 10.04.06 (1) (B) (iii-xviii) of this ordinance if the User can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference; and that either:

- (A) A local limit exists for each pollutant discharged, and the Industrial User was in compliance with each limit directly prior to and during the pass through or interference; or
- (B) No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the POTW was regularly in compliance with its

NPDES permit, and in the case of interference was in compliance with applicable sludge use and/or disposal requirements.

(3) Bypass

(A) Definitions

- i) "Bypass" means the intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
- ii) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(B) An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if for essential maintenance or to assure efficient operation. These bypasses are not subject to the provision of Sections 10.04.17 (3) (C) and (D) of this ordinance below.

(C) Notification of Bypass

- i) If an Industrial User knows in advance of the need for a bypass, the IU shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass if possible.
- ii) 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 also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) Enforcement Action Against or Approval of a Bypass

- i) Bypass is prohibited, and the Manager of ~~City Water and Light Plant~~ CWL 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 Section 10.04.17 (3) (C) of this ordinance above.
- ii) The Manager of ~~City Water and Light Plant~~ CWL may approve an anticipated bypass, after considering its adverse effects, and if the Manager determines determined that such bypass will meet the ~~three~~ conditions listed in Section 10.04.17 (3) (D) (i) of this ordinance above.

10.04.18 – EXCESSIVE POLLUTANT RATES

The Manager of ~~City Water and Light Plant CWL~~ may charge ~~non-residential POTW~~ Users the following surcharges ~~penalties, and capacity charges~~ in addition to the standard normal metered charge for sewer service. ~~The Sewer surcharges penalties, and capacity charges shall be based on the following formulas set forth herein.~~ Unit charges for ~~unusual excessive BOD₅, unusual suspended solids TSS, and FOG fats, oils, and grease in excess of 100 mg/L~~ shall be the ~~then-current surcharges penalties, and capacity charges~~ set forth in the ~~City Water and Light Plant of Jonesboro, Arkansas CWL~~ Sewer Service Rate Schedule.

(1) Excessive Strength Surcharge

The Manager of CWL may charge a surcharge, in addition to the standard normal metered charge for sewer service, to IUs who discharge wastewater into the Jonesboro POTW having a BOD₅ concentration in excess of 250 mg/L, a TSS concentration in excess of 250 mg/L, or a FOG concentration in excess of 100 mg/L.

Excessive Strength Surcharge Formula:

$$S = \frac{V_{ww} * 8.34 \{ [C_{BOD_5} (BOD_5 - 250)] + [C_{SS} (SS - 250)] + [C_{O\&G} (O\&G - 100)] \}}{(V_{ww}) (8.34) [C_{BOD_5} (BOD_5 - 250) + C_{SS} (TSS - 250) + C_{FOG} (FOG - 100)]}$$

- Where: S = Surcharge in dollars
 V_{ww} = Volume of wastewater in millions of gallons
 8.34 = Weight in pounds of one gallon of water ~~Weight of water in pounds per gallon~~
 C_{BOD_5} = Charge per pound of BOD₅ ~~Unit charge for BOD₅ in dollars per pound~~
 C_{SS} = Charge per pound of TSS ~~Unit charge for BOD₅ in dollars per pound~~
 C_{FOG} = Charge per pound of FOG ~~Unit Charge for FOG Oil and Grease concentrations in excess of 100 mg/L in dollars per pound~~
 BOD₅ = ~~Monthly average BOD₅ in mg/L of non-residential User's wastewater (≥250 mg/L)~~
 TSS = ~~Monthly average suspended solids TSS content in mg/L of non-residential User's wastewater (≥250 mg/L)~~
 FOG = ~~fats, oils, and grease FOG content in mg/L of non-residential User's wastewater (≥100 mg/L)~~
 250 = Concentration in mg/L above which both BOD₅ and TSS are defined as "unusual" "excessive" and a surcharge may be assessed
 100 = Concentration in mg/L above which O&G FOG is ~~deemed~~ defined as "excessive" and a penalty surcharge may be assessed

(2) Excessive Strength Capacity Charge

The Manager of CWL may charge a capacity charge, in addition to the standard normal metered charge for sewer service, to IUs who discharge wastewater into the Jonesboro POTW having a BOD₅ concentration in excess of 250 mg/L or a TSS concentration in excess of 250 mg/L. The capacity charge shall be based on the greater of the BOD₅ and the TSS concentrations.

Excessive Strength Capacity Charge Formula:

$$\text{CAP} = (V_{\text{ww}}) (8.34) [((\text{Greater of BOD}_5 \text{ or TSS}) - 250) C_{\text{CAP}}]$$

Where: CAP = Capacity Charge in dollars

V_{ww} = Volume of wastewater in millions of gallons

8.34 = Weight in pounds of one gallon of water

C_{CAP} = Charge per pound for greater of BOD₅ or TSS

BOD₅ = BOD₅ in mg/L of non-residential User's wastewater

TSS = TSS content in mg/L of non-residential User's wastewater

250 = Concentration in mg/L above which both BOD₅ and TSS are defined as "excessive" and a surcharge capacity charge may be assessed

(3) The payment of a surcharge or capacity charge by the User shall be in addition to and not in lieu of any reporting required under Sections 10.04.13 and 10.04.14

10.04.19 - MISCELLANEOUS PROVISIONS

(1) Pretreatment Charges and Fees

~~The City Water and Light Plant of Jonesboro, Arkansas CWL~~ may adopt reasonable administrative charges and fees for the reimbursement of costs associated with ~~of~~-setting up and operating the ~~City Water and Light Plant CWL~~ Pretreatment Program which may include:

- (A) Fees for individual wastewater discharge permit applications, including the cost of evaluating and processing such applications;
- (B) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing an Industrial User's discharge and reviewing monitoring reports submitted by Industrial Users;
- (C) Fees for reviewing and responding to accidental discharge procedures and construction;
- (D) Fees for filing appeals; and
- (E) Other fees as the ~~City Water and Light Plant CWL~~ may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by ~~City Water and Light Plant CWL~~.

(2) Severability

If any court of competent jurisdiction invalidates any provision of this ordinance, the remaining provisions shall not be effected and shall continue in full force and effect.

(3) 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.

~~The provisions of Sections 10.12.01, 02, and 03 are specifically repealed.~~

SECTION 2.

Effective Date

~~That~~ The Jonesboro City Council hereby determines that Title 10, Chapter 10.04 (Sewer Use - Pretreatment Ordinance Regulations) of the Jonesboro Municipal Code shall be revised to enable effective operation of City Water and Light Plant's WWTP sewage treatment plant and implementation of the Industrial Pretreatment Program of Jonesboro, Arkansas, and ~~that such~~ passage of this ordinance is necessary to enable such operation and implementation. Therefore, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately following from and after its passage, approval, and publication as provided by law.

INTRODUCED the ____ day of _____,
 FIRST READING the ____ day of _____,
 SECOND READING the ____ day of _____,
 PASSED this ____ day of _____.

AYES:	NAYES:	ABSENT:	NOT VOTING:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____

APPROVED this ____ day of _____, _____.

 Mayor

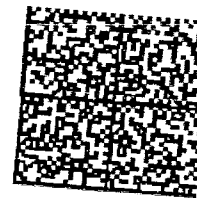
ATTEST:

 City Clerk

Published: _____ Date: ____/____/____
 Publication



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