

Wilson, Tabatha

From: Gilliam, Allen
Sent: Friday, June 28, 2013 11:24 AM
To: Wastewater System Magnolia; rbell@bell-boyd.net
Cc: Fuller, Kim; Wilson, Tabatha; Peltier, Hannah
Subject: AR0043613_Magnolias June 2013 final Pretreatment Ord review_20130628
Attachments: magnolias 2013 draft Ord review.docx

Russell and Ronny,

Find attached this office's final review of your revised Pretreatment Ordinance. Apologies for not being able to devote more time to it sooner.

This office has thoroughly reviewed your initial submittal and made numerous recommendations and some required language per EPA's latest model Ordinance language and some using professional judgment.

The largest omission found in your submittal were sections dealing with the Industrial User Permitting requirements.

The version attached is a product adopted by the Pretreatment cities under my purview. It is helpful to have numerous Pretreatment cities adopt a standardized Pretreatment Ordinance in the same basic template.

Not being an attorney, I relied heavily on EPA's Model Ordinance since it has been used nationwide and almost exclusively in all the Pretreatment cities in Arkansas.

Please submit a final version (preferably in MS Word format) within the next ninety (90) days for final approval, public notice and adoption. Please note which recommendations were not acceptable.

The next step for final approval of your Pretreatment Program will be to submit your revised Program narrative with the procedural, organizational, Enforcement Response Plan and Local Limits' Evaluation sections. We will have further discussions regarding this issue.

If you have any questions please feel to contact this office. I'll be returning to the office on 7/18.

Sincerely,

Allen Gilliam
ADEQ State Pretreatment Coordinator
501.682.0625

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 22 OF THE MAGNOLIA CODE RELATING TO THE CITY’S INDUSTRIAL PRETREATMENT PROGRAM TO COMPLY WITH REQUIREMENTS OF THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY, AND FOR OTHER PURPOSES

WHEREAS, in order to comply with the requirements of the Arkansas Department of Environmental Quality and for the protection of the health, safety and welfare of the citizens of this city, it is necessary and desirable to amend Article VI of Chapter 22 of the Magnolia Code relating to the city’s industrial pretreatment program as set forth herein.

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Comment [GA1]: A table of contents and page numbers would be very useful. Recommend including.

NOW, THEREFORE, **BE IT ORDAINED**, by the Magnolia City Council, in regular session assembled, that:

Section 1: Article VI of Chapter 22 of the Magnolia **Code be, and** the same is hereby amended to read as follows:

“ARTICLE VI. INDUSTRIAL PRETREATMENT PROGRAM

Section 22-101. Legal authority.

The City of Magnolia shall operate pursuant to legal authority enforceable in federal, state or local courts, which authorizes or enables the City of Magnolia’s Wastewater Department to apply and to enforce the requirements of sections 307(b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. Such authority maybe contained in a statute, ordinance, or series of contracts or joint power agreements which the City of Magnolia is authorized to enact, enter into or implement and which are authorized by state law. At a minimum, this legal authority shall enable the city to implement the program in accordance with 40 CFR 403.8(f)(1).

Section 22-102. General provisions.

(a) *Establishing provision.* This article sets forth uniform requirements for users of the city’s sewer system and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 CFR 403) and other local conditions stated herein.

2

Comment [GA2]: What’s this?

(b) ~~Pretreatment program requirements.~~ **Purpose and Policy.** [This article is enacted:]

Comment [GA3]: Recommend using EPA's model Ord language.

- (1) To prevent the introduction of pollutants into the city's wastewater treatment plant that will interfere with its operations;
- (2) To prevent the introduction of pollutants into the city's treatment plant which has the potential to pass through the plant inadequately treated into the receiving stream;
- (3) To prevent contamination of the city's wastewater treatment plant sludges or prevent conventional sludge disposal methods;
- (4) To protect public health of the city's employees, who may be affected by the incompatible pollutants discharged into the system; ~~and~~
- (5) To ~~promote~~ **enable** compliance with the city's National Pollutant Discharge Elimination Permit (NPDES) and all conditions and requirements stated within the permit;
- (6) **To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and**
- (7) **To encourage industrial user waste minimization; recycling/reuse; best management practices; water and energy conservation through Pollution Prevention Activities.**

Comment [GA4]: Recommend using EPA's model Ord language.

Comment [GA5]: Recommend including. "Fees" are mentioned just below in (c), but there's not a section on fees in this Ord. Where is your fee structure? In a different code?

Comment [GA6]: Recommend including.

(c) *Application and scope.* This article shall apply to all users of the city's wastewater system. This article authorizes the issuance of wastewater discharge permits, provides for monitoring and inspection of users, [provides] enforcement activities, establishes administrative review procedures; requires for reporting of users, and provides for the setting of fees resulting from the program implementation.

Section 22-103. Administration.

Except as otherwise provided herein, the superintendent shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed by the superintendent may be delegated by the superintendent to other applicable personnel.

Section 22-104. Abbreviations.

The following abbreviations, when used in this ordinance, shall have the designated meanings.

ADEQ – Arkansas Department of Environmental Quality

Comment [GA7]: Recommend including.

BOD – Biochemical Oxygen Demand

BMP – Best Management Practice

BMR – Baseline Monitoring Report

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

COD – Chemical Oxygen Demand

EPA – U.S. Environmental Protection Agency

FOG – Fats, Oils and Grease

Comment [GA8]: Recommend including.

gpd – gallons per day

IU – Industrial User

mg/l – milligrams per liter

NAICS – North American Industrial Classification System

Comment [GA9]: Recommend including.

NPDES – National Pollutant Discharge Elimination System

~~NSCIU – Non Significant Categorical Industrial User~~

Comment [GA10]: Recommend deleting as you'll likely never classify an industry as one and this optional revision to CFR 403 is administratively cumbersome.

O&M – Operation and Maintenance

P2 – Pollution Prevention (practices)

Comment [GA11]: Recommend including.

POTW – Publicly Owned Treatment Works

RCRA – Resource Conservation and Recovery Act

SIU – Significant Industrial User³

SNC – Significant Noncompliance

~~SWDA – Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)~~

TSS – Total Suspended Solids

U.S.C. – United States Code

Comment [GA12]: delete

Comment [GA13]: recommend including.

Section 22-105. Definitions.

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

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

B. Approval Authority. ~~The State of Arkansas will be our designated approval authority. They have in place an EPA approved pretreatment program.~~ ~~Currently the Arkansas Department of Environmental Quality (ADEQ).~~

Comment [GA14]: Recommend revising.

C. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation, ~~authorized representative shall mean:~~

Comment [GA15]: Revise per EPA’s model Ord. language.

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investments, 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 ~~for general permit (optional)~~ requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Comment [GA16]: Recommend deleting as you’ll probably not be issuing general permits.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall ⁴ 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 City of Magnolia.

Comment [GA17]: delete

D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

E. Best Management Practices or BMP’s means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and 9B)]. BMP’s include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. ~~[Note: BMP’s also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.]~~

Comment [GA18]: delete.

Comment [GA19]: delete

F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33

U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Pars 405-471.

G. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

H. City. The City of Magnolia, Columbia County, in the State of Arkansas.

Comment [GA20]: include.

I. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Comment [GA21]: Include.

J. Control Authority. The City of Magnolia, Arkansas 71753.

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

L. 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.

M. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

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

Comment [GA22]: Delete.

O. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

P. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

Q. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

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

Comment [GA23]: delete

Comment [GA24]: delete

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

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

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

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

W. New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment

Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:⁶

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing source; or
- (c) The production or wastewater generating process of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

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

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

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

X. 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.

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

Z. **Pass Through.** A discharge which exits the POTW into waters of the United States 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 the City of Magnolia's NPDES permit, including an increase in the magnitude or duration of a violation.⁷

AA. 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.

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

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

DD. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and

Comment [GA25]: delete.

Comment [GA26]: Recommend adding. BEGIN LETTERING CHANGE.

Comment [GA27]: Begin changing lettering system.

Comment [GA28]: Delete.

Comment [GA29]: Recommend including.

industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

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

Comment [GA30]: Recommend including.

FF. 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 be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

DD. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

EE. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, narrative BMPs and Local Limits.

Comment [GA31]: Recommend including.

FF. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.

Comment [GA32]: Check for correct Ord citation.

GG. Publicly Owned Treatment Works or POTW. A treatment works, as defined by Section 212 of the Act (33 U.S.C. section 1292), which is owned by the City of Magnolia. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

HH. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

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

JJ. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

Comment [GA33]: Delete.

(1) An Industrial User subject to categorical Pretreatment Standards; or

(2) An Industrial User that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the City of Magnolia on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard of Requirement.

~~(3) The City of Magnolia may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:~~

~~(a) The Industrial User, prior to the City of Magnolia finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;~~

~~(b) The Industrial User annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and~~

~~(c) The Industrial User never discharges any untreated concentrated wastewater.~~

Comment [GA34]: Suggest deleting as this is an optional mod and is administratively cumbersome.

(3) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City of Magnolia may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

KK. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards contained in section 22-107 hereof.. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.9 |

Comment [GA35]: delete

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

MM. Superintendent. The person designated by the City of Magnolia to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a Duly Authorized Representative of the Superintendent.

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

OO. User or Industrial User. A source of indirect discharge.

PP. 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.

QQ. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Section 22-106. General sewer use requirements.

No user shall introduce or cause to be introduced into the City of Magnolia's Wastewater System any pollutant or wastewater which causes pass through or interference. These conditions apply to all users of the wastewater system whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment conditions, standards, or requirements.

Comment [GA36]: make singular, delete the "s"

Section 22-107. Specific prohibition.

No user shall introduce or cause to be introduced into the wastewater system the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the wastewater system. Including, but not limited to, waste streams with a closed-cup flash points of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than 5.0 or more than 9.0 standard units (s.u.), or otherwise causing corrosive structural damage to the wastewater system or equipment;
- (3) Any solid or viscous substance in amount which will cause obstruction of the flow throughout the wastewater system resulting in interference;10 |
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and /or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference within the wastewater system;
- (5) Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

Comment [GA37]: consider revising this upper limit to 10 or 11 s.u.

Comment [GA38]: delete

Comment [GA39]: recommend using a standard City's specific user max. discharge temp along with EPA model Pret. Ord. language.

- (6) Petroleum oils, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, quantity that may cause acute worker health and safety problems;
- (8) Any trucked or hauled waste, except at discharge points designated by the superintendent;
- (9) 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 or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (13) Medical wastes, except as specifically authorized by the superintendent in a wastewater discharge permit;
- (14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (15) Detergents, surface-active agents, or other substances which may cause excessive foaming at the wastewater treatment plant;
- (16) Wastewater causing two (2) readings on an explosion hazard meter any point of discharge into the wastewater system.
- (17) Pharmaceutical drugs from any commercial, for-profit entity.

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

Section 22-108. Categorical pretreatment standards.

~~The categorical pretreatment standards found in 40 CFR 405-471 are hereby incorporated:~~
Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the superintendent shall impose an alternative limit using the combined wastestream formula in 40 CFR 403.6(e).
- ~~(3) A user may obtain a variance from the categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provision in 40 CFR 403.12, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.~~
- ~~(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15, as approved by the superintendent.~~

Comment [GA40]: Recommend including this prohibition and condition.

Comment [GA41]: delete.

Comment [GA42]: Recommend using EPA's model Ord. language.

Comment [GA43]: Consider deleting. Neither of these two options have been exercised nationally, but maybe in less than a handful of cases. The 2nd option is administratively cumbersome.

Section 22-109. Technically based local limitations.

The superintendent is responsible for issuing permits regarding the amounts or limits each user may discharge. The superintendent may allocate limits to users based on any acceptable allocation methods as to not exceed the headworks limitations as listed below:

- ~~Maximum Headworks~~
- ~~Pollutant Loading (lbs/dy)~~
- ~~Arsenic 1.96~~
- ~~Cadmium 0.09~~
- ~~Chromium 24.33~~
- ~~Copper 2.19~~
- ~~Lead 0.48~~
- ~~Mercury 0.97~~
- ~~Molybdenum 2.94~~
- ~~Nickel 6.89~~
- ~~Selenium 1.89~~
- ~~Silver 0.48~~
- ~~Zinc 6.76~~
- ~~Cyanide 8.64~~
- ~~Phenols 12.69~~

Comment [GA44]: Delete this entire section and incorporate it into your Pretreatment Program's Section "?".

Local Limits are developed, implemented and enforced to protect against pass through and interference. No Industrial User shall discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Superintendent as required in City's NPDES permit, 40 CFR 403.5 (c) and approved by ADEQ. TBLLs (if necessary) based on calculated site specific Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Section [?]. At the discretion of the Superintendent, TBLLs shall be allocated, imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the Superintendent, mass limitations may be imposed in addition to or in place of concentration based TBLLs.

Comment [GA45]: Will have to identify section or Appendix of the City's Pretreatment Program where TBLLs/MAHLs are discussed.

The superintendent may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards.

Comment [GA46]: Recommend using ADEQ's "standardized" language striking current language.

Section 22-110. Right to revision.

The City of Magnolia reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the wastewater system deemed appropriate or necessary by the superintendent.

Comment [GA47]: delete

Section 22-111. Dilution.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement standard or requirements. The superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitation is appropriate.

Section 22-112. Pretreatment of wastewater.

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set forth in this article within the time limitations specified by EPA, ~~ADPC & E~~ **ADEQ**, or the superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user’s expense. Detailed plans describing such facilities and operating procedures shall be submitted to the superintendent for review and shall be acceptable to the superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge accepted by the superintendent under the provisions of this article.

Comment [GA48]: Revise

Comment [GA49]: Correct typo

Section. 22-113. Additional pretreatment requirements.

(a) Whenever deemed necessary, the superintendent may require users to restrict their discharge during peak flow period, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate point of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the wastewater plant and determine the user’s compliance with the requirements of this article.

(b) The superintendent may require any person discharging into the wastewater system to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand, except that such interceptors shall not be required for residential users. All interception units shall be of the type and capacity approved by the superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their ~~12~~ expense.

Comment [GA50]: delete

(d) Users with the potential to discharge flammable substance[s] may be required to install and maintain an approved combustible gas detection meter.

(e) Users may be required at the discretion of the superintendent to install flowmeters and sampling equipment for routine monitoring of wastewater.

(f) Users may be required to have an Arkansas licensed wastewater treatment operator, the level of which will be determined by the Superintendent, on duty at any time there is process wastewater being discharged to the City.

Comment [GA51]: recommend including.

Section. 22-114. Accidental discharge/slug control plans.

~~At least once every two (2) years, the superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges.~~ The superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the superintendent may develop such a plan for any users. An accidental discharge/slug control plan shall address, at a minimum, the following:

Comment [GA52]: Delete 1st sentence in lieu of the one from EPA’s model Ord.

(1) Description of discharge practices, including non-routine date discharges;

- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the superintendent of any accidental or slug discharge, as required by this article;
- (4) Procedures to prevent adverse impact from any accidental slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, the handling and transport for materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measurement and equipment for emergency response.

Section. 22-115. Hauled waste.

The superintendent may approve the acceptance of septic tank waste into the city’s wastewater system at a designated discharge point. The waste hauler may be required to obtain a special discharge permit regarding the waste disposal. The discharge of any hauled waste is subject to all other requirements of this article. The superintendent reserves the right to have samples collected of the hauled waste to ensure compliance with all applicable standards. Additionally, the waste hauler is required to keep a log regarding the name of the hauler, permit number, truck identification, names and address of the sources of waste, volume and characteristic of waste. A copy of this log must be submitted to the superintendent prior to disposal of the hauled waste.

Section. 22-116. Individual Wastewater discharge permits.

(a) **Wastewater Analysis:**

When requested by the Superintendent, a User must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require Users to update this information.

Comment [GA53]: Recommend adding per EPA’s model Ord.

Comment [GA54]: Recommend including per EPA’s model Ord.

Section. 22-117 Individual Wastewater Discharge Permit Requirement.

(a) No significant industrial user shall discharge wastewater into the city’s wastewater system without first obtaining a wastewater discharge permit from the superintendent. All users required to obtain a wastewater discharge permit must submit a permit application. Incomplete or inaccurate application will not be processed and will be returned to the user for revision(s).

Comment [GA55]: Need to check for correct numbering system.

Comment [GA56]: Delete

(b) All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly 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 fines and imprisonment for knowing violations.”

(c) The Superintendent may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

(d) Any violation of the terms and conditions of an individual wastewater discharge shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

Comment [GA57]: Check for proper Ord. citation.

Comment [GA58]: Recommend including per EPA's model Ord.

Section. 22-118. Industrial Wastewater Discharge Permitting: Existing Connections.

Any User required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Superintendent for an individual wastewater discharge permit in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit issued by the Superintendent.

Comment [GA59]: Check for proper Ord. citation.

Section. 22-119. Industrial Wastewater Discharge Permitting: New Connections.

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 4.5 of this ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

Comment [GA60]: Check for proper Ord. citation.

Section. 22-120. Individual Wastewater Discharge Permit Application Contents

(a) All Users required to obtain an individual wastewater discharge permit must submit a permit application. The Superintendent may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises;

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

(3) Description of Operations.

- a. A comprehensive, narrative description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), SIC and NAICS code(s) of the operation(s) carried out by such User. This description should include a comprehensive schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- b. Types of wastes generated, and a list of all raw materials and chemicals (not trade names) used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Comprehensive site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

- (4) Time and duration of discharges.
- (5) The location for monitoring all wastes covered by the permit.
- (6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (7) Measurement of Pollutants.
 - a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 22-137 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the Standard.
 - e. Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.
- (8) Any other information as may be deemed necessary by the Superintendent to evaluate the permit application.

Comment [GA61]: Check for correct Ord citation

Section. 22-121 Application Signatories and Certifications

- (1) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 22-117.(b).
- (2) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Superintendent prior to or together with any reports to be signed by an Authorized Representative.

Comment [GA62]: Recommend including per EPA's model Ord.

Section. 22-122. Permit decision.

- (a) The superintendent will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the superintendent will determine whether or not to issue a wastewater discharge permit based on the information provided and an inspection of the facility. The superintendent may deny any application for a wastewater discharge permit.
- (b) The superintendent shall provide notice to the applicant of the reason for denial of the permit. The applicant may petition the superintendent to reconsider the terms of a wastewater discharge permit within fifteen (15) days of notice of the permit decision. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal process. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal process. The superintendent will be required to provide an answer to the applicant regarding its denial within thirty (30) days. If the applicant is not satisfied with the decision of the superintendent, it may appeal to the sewer commission, requesting a hearing of the Commission within ten (10)

days of the previous decision of the superintendent. Within ten (10) days following the hearing, a decision must be provided to the applicant. This decision is the final step in the appeal process regarding the City of Magnolia.

Section. 22-123. Wastewater Discharge Permit Issuance

Individual Wastewater Discharge Permit Contents:

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- (1) Individual wastewater discharge permits must contain:
 - a. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
 - b. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 22-125 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - c. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
 - d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
 - e. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
 - f. Requirements to control Slug Discharge, if determined by the Superintendent to be necessary;
- (2) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
 - a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - d. Development and implementation of Pollution Prevention (P2) activities such as source reduction and waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 - g. A statement that compliance with the individual wastewater discharge permit does not

relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit;

h. A requirement to have an Arkansas licensed wastewater treatment operator, the level of which will be determined by the Superintendent, on duty at any time there is any process wastewater being discharged to the City; and

i. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Section. 22-124. Permit Modification

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

- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters or threats to the POTW's beneficial sludge use.
- (5) Violation of any terms or conditions of the individual wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the individual wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 22-125.

Section. 22-125. Individual Wastewater Discharge Permit Transfer

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

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

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

Comment [GA63]: Recommend including per EPA's model Ord.

Section. 22-126. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a five-year time period from the effective date of the permit. A wastewater discharge permit may be issued for less than one year at the discretion of the superintendent. Each wastewater discharge permit will indicate a specific date upon which it will become effective and expire. A wastewater discharge permit is not transferable to a new owner or operator. A wastewater discharge permit does not relieve the permittee of the responsibility for compliance with all applicable federal, state, and local ~~LS~~ pretreatment standards, including those which become effective during the term of the wastewater discharge permit. The permit may be amended by the superintendent at any time to ensure compliance with this article, state and federal laws, rules and regulations.

Comment [GA64]: delete

Section. 22-127. Revocation of permit.

The superintendent may revoke a wastewater discharge permit for good cause, including, but not limited, to the following reasons:

- (1) Failure to notify the superintendent of significant changes to the wastewater prior to the change discharge;
- (2) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

~~(3) Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 6.5 of this ordinance;~~

Comment [GA65]: check for correct Ord citation.

Comment [GA66]: Recommend including per EPA's model Ord.

- (4) Falsifying self-monitoring reports or refusal to submit requested reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the superintendent or a designated representative timely access to the facility premises and records;
- (7) Failure to meet the discharge limitations established in the permit;
- (8) Failure to pay applicable surcharges and fines assessed by the City of Magnolia;
- (9) Failure to provide reports, records, or information not deemed confidential or proprietary to the superintendent;
- (10) Failure to provide advance notice of transfer of business ownership of a permitted facility;

~~(11) Failure to meet compliance schedules;~~

Comment [GA67]: Recommend including per EPA's model Ord.

(12) Violation of any pretreatment standards or requirement, or any term of the wastewater discharge permit; or

(13) Failure to appear at meeting when requested by the superintendent.

~~Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.~~

Comment [GA68]: Recommend including per EPA's model Ord.

Section. 22-128. Individual Wastewater Discharge Permit Reissuance

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 22-120 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User’s existing individual wastewater discharge permit.

Section. 22-129. Interjurisdictional agreement.

If another municipality or user located within another municipality contributes wastewater to the city’s wastewater system, the superintendent shall enter into an interjurisdictional agreement with the contributing municipality. The agreement at a minimum shall contain a description of the quality and volume of wastewater discharged, any industrial or commercial users located with the contributing municipality, and other information the superintendent deems necessary. A copy of this agreement must be signed by both the superintendent and a designated representative of the contributing municipality. ¹⁶

Comment [GA69]: delete

Section. 22-130. Reporting requirements

(a) Baseline monitoring reports

Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the city’s wastewater system shall submit to the superintendent a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants being discharged.

(b) Users **described above** shall submit the information set forth below:

- (1) The name and address of the facility, including the name of the operator and owner;
- (2) A list of any environmental control permits held by or for the facility;
- (3) A **brief comprehensive** description of the nature, average rate of production, ~~and~~ standard industrial classification code (SIC) **and the North American Industrial Classification (NAICS) code(s)** of the operation(s) carried out by the user. The description should include a **comprehensive** schematic process diagram which indicates point of discharge to the city’s wastewater system for the regulated process;
- (4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the city from the regulated process streams and other streams, as necessary, to allow use of the combined wastewater formula set out in 40 CFR 303.6(e). **The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;**
- (5) The categorical pretreatment standard applicable to each regulated process, as well as, a sample analyses identifying the nature and concentration, and/or mass, or regulated pollutants in the discharge from each regulated process.

Comment [GA70]: recommend using language per CFR 403.12(b).

Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. The sample shall be representative of daily operations. 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 City or the applicable Standards to determine compliance with the Standard.;

(6) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the EPA;

(7) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW;

Comment [GA71]: recommend using language per CFR 403.12(b)

(8) A statement, reviewed by the user's authorized representative and certified by a qualified profession, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standard and requirements;

(9) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standard, the shortest schedule by which these will provide such additional pretreatment and operation and maintenance. The completion [17] date of this schedule shall not be later than the compliance date established for the applicable pretreatment standard; and

Comment [GA72]: delete

(10) A baseline monitoring report must be signed and certified by the authorized representative.

Section. 22-131. Report of compliance with categorical pretreatment standards deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in case of a new source following commencement of the introduction of wastewater in the city's wastewater system, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information in this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to the categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production during the appropriate sampling period. All compliance report forms must be signed and certified by the authorized representative of the industry.

Comment [GA73]: is the right term?

Section. 22-132. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by this article:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required by the user to meet the applicable pretreatment standards.

(2) No increment shall exceed nine (9) months without the written consent of the superintendent.

(3) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance, including, as a minimum, whether or not it complied with the increment or progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule.

(4) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

Section. 22-133. Periodic compliance reports.

~~All significant industrial users conducting self monitoring shall at a minimum of twice per year (June and December) submit a report indicating the nature and concentration of pollutants concerning the discharge which is limited by pretreatment standards. All wastewater samples must be representative of the user's discharge. If a user subject to the reporting requirements in the section monitors any pollutant more frequently than required by the superintendent, the report of this monitoring shall be included in the report.~~ All Significant Industrial Users must, at a frequency determined by the Superintendent submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the User.

Comment [GA74]: Delete and use below language.

Comment [GA75]: Require using language from EPA's model Ord. (Streamlining requirement)

At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may modify the months during which the above reports are to be submitted.

Comment [GA76]: Recommend including

All periodic compliance reports must be signed and certified in accordance with Section 22-125 of this ordinance.

Comment [GA77]: Require including.

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

Comment [GA78]: Recommend using EPA's model Ord. language

Section. 22-134. Reports of changed conditions.

Each user must notify the superintendent of any planned significant changes to the user's operation or system which may alter the nature, quality, volume, or change in ~~the authorized representative of~~ its wastewater at least thirty (30) days before the change. For purpose of this requirement, significant changes in volume include a flow increase of ten (10) percent or greater, and the discharge of any previously unreported pollutants.

Comment [GA79]: Delete. It doesn't make sense.

- A. The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 22-120 of this ordinance.
- B. The Superintendent may issue an individual wastewater discharge permit under Section 5.7 of this ordinance or modify an existing wastewater discharge under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.

Comment [GA80]: Check for correct Ord. citation.

Comment [GA81]: Check for correct Ord. citation.

Comment [GA82]: Recommend using EPA's model Ord. language.

- C. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Superintendent, using the procedures prescribed in Section 22-133 of this ordinance, the results of this monitoring shall be included in the report.

Comment [GA83]: Recommend using EPA model Ord. language.

Section. 22-135. Report of potential problems.

(a) In case of any discharge, including, but not limited to, the accidental discharge of a non-routine, episodic nature, a non-customary batch discharge or a slug load, that may cause potential problems to the city's wastewater system, the users shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, and corrective action taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar and future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a release of damage to the city's wastewater system, natural resources, or any other damages to person or property nor shall such notification relieve the user of any fines, penalties, or other liabilities which may be imposed pursuant to this article.

(c) A notice shall be permanently placed on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described above occurs.

(d) Significant Industrial Users are required to notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

Comment [GA84]: Require including per EPA's model Ord. (Streamlining requirement)

Section. 22-136. Reports from Unpermitted Users

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

Comment [GA85]: Recommend including per EPA's model Ord.

Section. 22-137. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Superintendent within twenty four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

Comment [GA86]: Require including as it is a required report and action per CFR 403.12.

Section. 22-138. Notification of the discharge of hazardous waste.

(a) Any user who commences the discharge of hazardous waste shall notify the City of Magnolia, the EPA Regional Waste Management Division director, and the ~~Arkansas Department of Pollution Control and Ecology~~ ADEQ's hazardous waste division in writing concerning any discharge into the city's wastewater system of a substance which, if otherwise disposed of, would be a hazard as set forth under 40 CFR Part 261. Such notification must include the name of the hazardous waste set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharged more than one hundred (100) kilograms of such waste per calendar month to the city's wastewater system, the notification also shall contain the following information to the extent such information is known and readily available to the use: an identification of the hazardous constituents contained in the waste, an estimation of the mass and concentration of such ~~49~~ constituents in the wastewater discharge during the calendar month, and an estimate of the

Comment [GA87]: delete

mass of constituents in the wastewater expected to be discharge during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph needs to submit only once for each hazardous waste discharge. However, **However, notifications of changed conditions must be submitted under Section 22-134 of this ordinance.** The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirement of this article.

Comment [GA88]: include per EPA's model Ord.

(b) Discharges are exempted from the requirement of the above paragraph during a calendar month if the discharge is no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.33(d) and 261.33(c). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastewater as specified in 40 CFR 261.30(d) and 261.33(c), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste does 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 User must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

Comment [GA89]: require including as this is more language under CFR 403.12(p)

Section. 22-139. Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Superintendent or other parties approved by EPA.

Comment [GA90]: require including as this is a requirement in CFR 403 and NPDES language.

Section. 22-140. 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 B and C below, the User must collect wastewater samples using 24 hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Superintendent. Where time proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24 hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory.**

Comment [GA91]: Recommend using language from EPA's model Ord.

Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90 day compliance reports required in 40 CFR 403.12(b) and (d), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize a lower minimum. For the reports required by paragraphs 40 CFR 403.12(e) and 403.12(h), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Comment [GA92]: Require including per EPA's model Ord as these are Streamlining requirements

Section. 22-141. Date of Receipt of Reports

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

Comment [GA93]: Recommend using language from EPA's model Ord.

Section. 22-142 Certification Statements

Certification of Permit Applications and Industrial User Reports - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 22-120; Users submitting baseline monitoring reports under Section 22-130; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 22-131 and Users submitting periodic compliance reports required by Section 22-133. The following certification statement must be signed by an Authorized Representative as defined in Section 22-105.C:

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

Comment [GA94]: Recommend including per EPA's model Ord although it may seem like a duplication of what's req'd in Sec. 22-117.(b)

Section. 22-143. Records.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records or information obtained pursuant to any monitoring activity required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the sample; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user and the user has been specifically notified of a long retention period by the superintendent.

Section. 22-144. Compliance Monitoring

Right to enter. : Inspection and Sampling

(a) The superintendent or designated representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, record examining and coping, and performing of any additional duties.

Comment [GA95]: Recommend following EPA's model Ord. template titles.

Comment [GA96]: Delete and start "(a)" below.

(a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.

Comment [GA97]: Recommend using language from EPA's model Ord.

(b) The superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operation.

(c) The superintendent may require the users to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all 20 times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated internally at a frequency of once per year.

Comment [GA98]: delete

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of [the Superintendent] and shall not be replaced. The costs of clearing such access shall be born by the User.

Comment [GA99]: recommend using EPA's model Ord. language.

(e) Any unreasonable delays in allowing the superintendent or designated representative access to the user's premises shall be violations of this article. The superintendent may seek issuance of a search warrant from the appropriate courts to gain entry to a user's facility to verify compliance with this article, or any permit or order issued hereunder, or to protect the public health, safety, and welfare of the community.

(f) Search Warrants

If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City 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, the Superintendent may seek issuance of a search warrant from the [insert name of appropriate Court] of [the City or State].

Comment [GA100]: Recommend including this enforcement option per EPA's model Ord.

Section. 22-145. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permits, and monitoring programs, and from the superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request may be asserted at the time of submission of the information or date. When requested and demonstrated by the user furnishing a report that such information

should be held confidential, the portions of a report 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.**

Comment [GA101]: Recommend including language from EPA's model Ord.

Section. 22-146. Publication of users in significant noncompliance of the pretreatment program.

The superintendent shall publish annually, in the largest daily newspaper published in the City of Magnolia, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined ~~by 40 CFR 403.3(4)~~ **in Section 22-105.Q**;

Comment [GA102]: Correct typo

Comment [GA103]: Recommend using your Ord definition since EPA has the wrong citation.

(2) Technical Review Criteria (TRC) violation, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined ~~by 40 CFR 403.3(4)~~ **in Section 22-105.Q**, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oil, and grease, and 1.2 for all other pollutants except pH);

Comment [GA104]: Recommend using your Ord definition since EPA has the wrong citation.

(3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long term average, instantaneous limit, or narrative ~~24~~ Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

Comment [GA105]: delete

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(5) Failure to meet , within ninety (90) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(6) Failure to provide within forty five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

Comment [GA106]: recommend including per EPA's model Ord.

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation of implementation of the local Pretreatment program.

Section. 22-147. Administrative enforcement remedies.

Notification of Violation When the superintendent finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any

Comment [GA107]: EPA's model Ord. differentiates between Administrative Enforcement Remedies and Judicial Enforcement Remedies. These two Sections' "sections" should be delineated under the appropriate "Remedy".

other pretreatment standard or requirement, the superintendent may serve upon the user a written “Notice of Violation.” Within ten (10) working days from 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 user to the superintendent. Submission of this plan in no way relieves the user of liability for any violation occurring before or after the receipt of the “Notice of Violation.” Nothing in this section shall limit the authority of the superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

Section. 22-148. Consent administrative order.

The superintendent may enter into a consent administrative order, assurances of ~~voluntary~~ compliance, or other similar documents establishing an agreement with any users responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the superintendent. The consent administrative order shall have the same force and effect as the administrative orders issued pursuant to this article and shall be judicially enforceable.

Comment [GA108]: recommend deleting per EPA’s model Ord. language as compliance is mandatory, not voluntary.

Section. 22-149. Show cause hearing.

The superintendent may order a user which has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why ~~22~~ the proposed enforcement action would not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Comment [GA109]: delete

Section. 22-150. Compliance order.

When the superintendent finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may issue an order to the user responsible for the discharge directing the user to come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenance are installed and properly operated. Compliance order also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section. 22-151. Cease and Desist Orders

When the Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User’s past violations are likely to recur, the Superintendent may issue an order to the User directing it to cease and desist all such violations and directing the User to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section. 22-152. Emergency Suspensions

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

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User’s failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in [Section 10.8](#) of this ordinance are initiated against the User.

Comment [GA110]: check for proper Ord. citation.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to [the Superintendent] prior to the date of any show cause or termination hearing under [Sections 10.3 or 10.8](#) of this ordinance.

Comment [GA111]: check for proper Ord. citations.

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

Section. 22-153. Termination of Discharge

In addition to the provisions in [Section 5.6](#) of this ordinance, any User who violates the following conditions is subject to discharge termination:

Comment [GA112]: Check for proper Ord. citation.

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 characteristics prior to discharge;

D. Refusal of reasonable access to the User’s premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the Pretreatment Standards in [Section 2](#) of this ordinance.

Comment [GA113]: Check for proper Ord. citation.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the User.

Comment [GA114]: Check for proper Ord. citation.

Section. 22-154. Judicial Enforcement Remedies

Injunctive Relief

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

Comment [GA115]: EPA's model Ord. differentiates between Administrative and Judicial Enforcement Remedies. These two Sections' "sections" should be delineated under the appropriate "Remedy". It would appear cleaner.

Comment [GA116]: Recommend including these enforcement options per EPA's model Ord.

Civil fines.

(a) When the superintendent finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may recommend to the city council that legal action be commenced against the user in a court of competent jurisdiction to collect a civil penalty, not exceeding one thousand dollars (\$1,000.00) per day for each noncompliance incident. Such legal action shall be commenced only after a resolution authorizing such action has been adopted by majority vote of the city council. In case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

The Superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

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 User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Comment [GA117]: Recommend including per EPA's model Ord.

(b) Users deciding to appeal the fines must file a written request with the superintendent within ten (10) days of being notified of the fine. The superintendent may make arrangements for a hearing on the matter to discuss the monetary fine.

Section. 22-155. Criminal Prosecution

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

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

C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$1,000 per violation, per day, or imprisonment for such term as allowed by State law, or both.

D. In the event of a second conviction, a User shall be punished by a fine of not more than \$1,000 per violation, per day, or imprisonment for such term as allowed by State law, or both.

Section. 22-156. Emergency suspension of service.

~~(A)~~ The superintendent may immediately suspend a user's discharge privileges, after informal notice to the user, whenever such suspension is necessary to halt an actual or threatened discharge which reasonable appears to present or cause an imminent or ~~22~~ substantial endangerment of the health or welfare of person. The superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, which threatens to interfere with the operation of the city's wastewater system, or which presents, or may present an endangerment to the environment.

~~(B)~~ A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contributions. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize damage to the city's wastewater system, its receiving stream, or endangerment to any individuals. The Superintendent may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

Section. 22-157. Termination of discharge.

Any user who violates any section of this article or the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volumes, constituents, and characteristics prior to discharge;

Comment [GA118]: The Pretreatment Regs in 40 CFR 403 require civil or criminal penalties. Most AR cities have chosen both. The above language has been taken from EPA's model Ord. and another AR Pretreatment City.

Comment [GA119]: This would be an Administrative Enforcement Remedy.

Comment [GA120]: delete

Comment [GA121]: check for correct Ord. citation.

Comment [GA122]: check for correct Ord. citation.

Comment [GA123]: recommend using the rest of EPA's model Ord. language.

Comment [GA124]: This would be an Administrative Enforcement Remedy.

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards of this article.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 22-149 of this ordinance why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the User.

Comment [GA125]: Recommend using EPA's model Ord. language.

Section. 22-158. Bypass

For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to [the Superintendent], at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case by case basis if the oral report has been received within twenty four (24) hours.

D. Bypass

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

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

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

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

(2) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

Comment [GA126]: Recommend including per EPA's model Ord. language.

Section. 22-139. Injunctive relief.

~~When the superintendent finds that a user had violated, or continues to violate, any provision of this article, A wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may petition the appropriate court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrain or compel the specific performance of the wastewater discharge permit, order, or other requirements imposed by this article on activities of the user. The superintendent may also seek such other actions as are appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition of injunctive relief shall not be a bar against, or a prerequisite for taking any other action against the user.~~

Comment [GA127]: Delete. Moved up to Sec. 22-154

Section. 22-140. Criminal prosecution.

~~A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement 24 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) per violation per day, or imprisonment for not more than one year or both. Such criminal prosecution shall be commenced only after a resolution authorizing such action has been adopted by majority vote of the city council."~~

Comment [GA128]: Delete. Moved up to Sec. 22-155.

Section. 22-159. Severability

If any provision, paragraph, word or section of this ordinance is invalidated by any Court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

Section. 22-160. Repeal of Prior Ordinance

All Ordinances and parts of Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section. 22-161. Effective Date

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by Arkansas State law.

Comment [GA129]: Recommend including per EPA's model Ord. language, but will defer to Magnolia's City attorney.

PASSED AND APPROVED this _____ day of _____, 2012.

Parnell Vann , Mayor

Rachel Waller, City Clerk