

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 25 OF THE FORT SMITH MUNICIPAL CODE, ARTICLE VI SEWERS AND SEWAGE DISPOSAL, DIVISION 1 GENERALLY; ESTABLISHING DIVISION 2 PRETREATMENT REGULATIONS AND PERMITS; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND, FOR OTHER PURPOSES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, that:

SECTION 1: Chapter 25, Article VI, Section 25-181 of the Fort Smith Municipal Code is hereby repealed as stated and is renamed Abbreviations and Definitions and replaced with the following language:

- (a) The following abbreviations, when used in this division, shall have the designated meanings:

BOD - Biochemical Oxygen Demand
BMP - Best Management Practice
CFR - Code of Federal Regulations
CIU - Categorical Industrial User
COD - Chemical Oxygen Demand
EPA - U.S. Environmental Protection Agency
gpd - gallons per day
mg/l - milligrams per liter
NPDES - National Pollutant Discharge Elimination System
POTW - Publicly Owned Treatment Works
RCRA - Resource Conservation and Recovery Act
SIU - Significant Industrial User
SIC - Standard Industrial Classification
TSS - Total Suspended Solids
U.S.C - United States Code

- (b) Unless a provision explicitly states otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated.

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

Approval Authority. Refers to the Director of Arkansas Department of Environmental Quality (ADEQ) or a delegated representative.

Authorized Representative of the User.

- (1) If the User is a corporation:

- a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit {optional}] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a 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 subsections (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 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 Fort Smith.

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

Best Management Practices or BMPs 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 (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

Building Sewer. The extension from the building drain to the public sewer or other place of disposal.

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, Parts 405 - 471.

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

COD (denoting Chemical Oxygen Demand). The measure of the oxygen consuming capacity of inorganic and organic matter present in the wastewater expressed in mg/L as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Collector Building Sewer. A sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termini, and with a diameter of at least six (6) inches, and such sewers shall be located outside building walls and footings.

Composite Method (Sample). A composite sample may be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.

Control Authority. Refers to the City Administrator or his or her designated agent.

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.

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.

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

Garbage. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

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.

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

Industrial User. A source of indirect discharge, which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

Industrial Wastes. The liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

Inspector. The person or persons duly authorized by the Control Authority to inspect and approve the installation of the building sewers and their connections to the public sewer system.

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

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

National Categorical Pretreatment Standard (NCPS). Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.6 or the latest revision thereof.

National Pollutant Discharge Elimination System Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342) as issued by the Arkansas Department of Pollution Control and Ecology.

Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

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:

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (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 contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

Owner. The "person" or "persons" who possess any interest in the structure or property to which such ownership relates.

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, are a cause of a violation of any requirement of the City's NPDES Permit, including an increase in the magnitude or duration of a violation.

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

pH. The logarithm of the reciprocal of the gram ionic hydrogen equivalents per liter of solution.

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

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.

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

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

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Division 2 of this article.

Properly Shredded Garbage. The wastes from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in dimension.

Public Sewer. A sewer in which all owners of abutting properties have substantially equal right and which is controlled by the City.

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]. 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.

Sanitary Sewer. A sewer in which sewage is carried, and to which storm, surface and groundwaters are not intentionally admitted.

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

Sewage. A combination of the water-carried wastes from residences, business buildings, institutions and industries, i.e., human excrement and gray water (household showers, dishwashing operations, etc.).

Sewage Treatment Plant. Any arrangement of devices and structures used for treating sewage.

Sewage Works. All facilities for collecting, pumping, treating and disposing of sewage.

Sewer. A pipe or conduit for carrying sewage.

Shall is mandatory; May is permissive.

Significant Industrial User (SIU). A Significant Industrial User is:

- (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 Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Division 2 of this article. 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.

Storm Drain (sometimes termed "storm sewer"). A sewer, which carries storm and surface water and drainage, but excludes sewage and untreated industrial wastes, other than non-contact cooling water.

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

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.

Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of the Clean Water Act, Section 307 (a) or other acts.

User. Any person or entity, who contributes, causes or permits the contribution of wastewater into the City's POTWs.

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.

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

Wastewater Contribution Permit shall mean a permit to discharge to the City's wastewater treatment systems as outlined in Division 2 of this article.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

SECTION 2: The first sentence of Chapter 25, Article VI, Section 25-182 is hereby amended to include the following clause added to the end of said sentence:

... as further regulated under this article.

SECTION 3: Chapter 25, Article VI, Section 25-186 of the Fort Smith Municipal Code is hereby repealed as stated and replaced with the following language:

- (a) No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage,

non-contact cooling water or unpolluted industrial process waters into any sanitary sewer but such waters shall be discharged into such sewers as are specifically designated as storm sewer or into a natural outlet. The discharge into any storm sewer or into natural outlet of any waters, which may have a deleterious effect upon the receiving stream, is prohibited.

- (b) **Specific Prohibitions.** No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW, or will have an adverse effect on the receiving stream, or will violate any of the provisions of this article. These general provisions apply to all Users of the City's POTWs whether or not the User is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements.

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

- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to , wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or to be injurious in any other way to the POTW or to the operation thereof. Prohibited materials include, but are not limited to; gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and other substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.
- (2) Any wastewater having a pH less than 6.0 or having a pH greater than 12.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (3) Any solid or viscous material, which could cause an obstruction to the flow in the sewer or in any way, interferes with the treatment process. Examples of such materials include, but are not limited to; ashes, wax, paraffin, cinders, sand, mud, straw, shavings, wood and sawdust, bones, paunch manure, hair, hides or fleshings, entrails, whole blood, feathers, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds and residues from grinding operations, acetylene generation sludge, chemical residues, acid residues, plastics, tar, asphalt residues, and food processing bulk solids or any discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (4) Pollutants, including chlorine and oxygen demanding pollutants (BOD,

etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a slug load have a flow rate or concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

- (5) Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature that raises the wastewater temperature of the influent to the POTW to more than 104 degrees F (40 degrees C).
- (6) Any noxious or malodorous liquids, toxic gases, vapors or fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair or are sufficient potentially to cause acute worker health and safety problems.
- (7) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- (8) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourth (3/4) horsepower (0.76 horsepower metric) or greater shall be subject to review and approval by the Control Authority.
- (9) Any substance which will cause the POTW to violate its NPDES Permit or the receiving stream water quality standards.
- (10) Any substance that may cause the POTW's effluent, or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the ACT, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or Arkansas State criteria applicable to the sludge management method being used.
- (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

- (12) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulation.
 - (13) Any wastewaters containing materials which exert or cause unusual concentrations of solids or composition; as for example, unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues, or, unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate.
 - (14) Trucked or hauled pollutants, except that such pollutants may be discharged by permitted haulers into selected treatment plants only at locations designated for this purpose.
 - (15) Any wastewater, which either alone or in conjunction with other sources causes a hazard to human life, creates a public nuisance or causes the POTW's effluent to fail toxicity tests.
- (c) **Hazardous waste discharge.** An industrial user shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) days of the effective date established by 40 CFR 403.12(p).
- (d) **Storage of dangerous materials.** The storage of any material in areas served by public sewers or in areas draining into the city sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage works or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human beings or animals, or the receiving stream shall be subject to review by the Control Authority, who at their discretion may require reasonable safeguards to prevent discharge or leakage of such material into the sewers.
- (e) **Rejection or control of waste discharge.** If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the

substances or possess the characteristics enumerated in the preceding subsections and which, in the judgment of the Control Authority may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may (1) reject the wastes, (2) require pretreatment to an acceptable condition for discharge in the public sewers, and/or (3) require control over the quantities and rates of discharge.

If the Control Authority requires pretreatment or equalization of waste flows into the public sewer, the design and installation of the plants and equipment shall be subject to the review and approval of the Control Authority and subject to the requirements of all applicable codes, ordinances and laws.

- (f) Grease oil and grit interceptors. Grease, oil and grit interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amount or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Control Authority and shall be located as to be readily and easily accessible for cleaning and inspection.

SECTION 4: Chapter 25, Article VI, Section 25-188 of the Fort Smith Municipal Code is

hereby repealed as stated and replaced with the following language:

- (a) Application for wastewater contribution permit users required to obtain a wastewater contribution permit shall complete and file with the Control Authority an application in the form prescribed by the Control Authority. Proposed new users shall apply for such permit at least ninety (90) days prior to connecting to or contributing to the POTW. Upon receipt of the application, the Control Authority will evaluate the data furnished and, if the data is acceptable, may issue a wastewater contribution permit. Pretreatment program charges and fees, as required pursuant to the provisions of Division 2, Section 25-216, shall be eighty-two dollars (\$82.00) per month and sampling and analysis fees per monitoring sample for each Industrial User shall be as follows:

Sampling and analysis fees:	
metals digestion	\$ 10.00 each sample
metals analysis	\$ 20.00 each analyte
BOD ₅	\$ 30.00 each sample
COD	\$ 20.00 each sample
TSS	\$ 15.00 each sample
oil & grease	\$ 35.00
total Cyanide	\$ 40.00
flash point	\$ 40.00
pH	\$ 9.00
grab collection	\$ 10.00
composite collection	\$100.00

resampling required by violation as identified above

- (b) In the event that the Control Authority determines that an outside laboratory should be utilized for the analysis of any parameter identified in paragraph (a) above, the actual cost of analysis by the outside laboratory shall be borne by the Industrial User.

SECTION 5: Chapter 25, Article VI, Section 25-189 of the Fort Smith Municipal Code is hereby repealed (the codifier should preserve this section number for future use as needed).

SECTION 6: Chapter 25, Article VI, Division 2 should be titled as Pretreatment Regulations and Permits and the following language is added to the previously reserved sections within that division:

Section 25-206: Scope

The scope of this division shall include general requirements and prohibitions in respect to establishing regulations limiting the discharge of all wastes into the sanitary sewer system which could or would cause damage or obstruction of the sewage collection system, which would damage or interfere with the operation of the sewage treatment plants, which would be detrimental to the quality of the effluent and/or the environment, which would contaminate the resulting sludge preventing the opportunity to recycle or reclaim them, or which would cause unreasonable maintenance, attention and expense to either the collection system or the treatment facilities of the POTW and shall apply to all Users of the sanitary sewer system. Further, this division provides enforcement actions and penalties for violations of the regulations established herein.

Section 25-207: General Provisions

(a) Purpose and Policy

This division sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for the City of Fort Smith and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] sections 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this division are:

- (1) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

- (3) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- (6) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and with any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This division shall apply to all Users of the Publicly Owned Treatment Works. The division authorizes the issuance of individual wastewater discharge permits or general permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(b) Abbreviations

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

BOD	- Biochemical Oxygen Demand
BMP	- Best Management Practice
CFR	- Code of Federal Regulations
CIU	- Categorical Industrial User
COD	- Chemical Oxygen Demand
EPA	- U.S. Environmental Protection Agency
gpd	- gallons per day
mg/l	- milligrams per liter
NPDES	- National Pollutant Discharge Elimination System
POTW	- Publicly Owned Treatment Works
RCRA	- Resource Conservation and Recovery Act
SIU	- Significant Industrial User
SIC	- Standard Industrial Classification
TSS	- Total Suspended Solids
U.S.C	- United States Code

(c) Definitions

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

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

Approval Authority. Refers to the Director of Arkansas Department of Environmental Quality (ADEQ) or a delegated representative.

Authorized Representative of the User.

- (1) If the User is a corporation:
 - a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater contribution permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a 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 subsections (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 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 Fort Smith.

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

Best Management Practices or BMPs 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 (b)]. BMPs include

treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

Building Sewer. The extension from the building drain to the public sewer or other place of disposal.

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, Parts 405 - 471.

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

COD (denoting Chemical Oxygen Demand). The measure of the oxygen consuming capacity of inorganic and organic matter present in the wastewater expressed in mg/L as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Collector Building Sewer. A sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termini, and with a diameter of at least six (6) inches, and such sewers shall be located outside building walls and footings.

Composite Method (Sample). A composite sample may be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.

Control Authority. Refers to the City Administrator or his or her designated agent.

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.

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.

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

Garbage. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

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.

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

Industrial User. A source of indirect discharge, which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

Industrial Wastes. The liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

Inspector. The person or persons duly authorized by the Control Authority to inspect and approve the installation of the building sewers and their connections to the public sewer system.

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

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

National Categorical Pretreatment Standard (NCPS). Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.6 or the latest revision thereof.

National Pollutant Discharge Elimination System Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342) as issued by the Arkansas Department of Pollution Control and Ecology.

Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

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:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (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 contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

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.

Owner. The "person" or "persons" who possess any interest in the structure or property to which such ownership relates.

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, are a cause of a violation of any requirement of the City's NPDES Permit, including an increase in the magnitude or duration of a violation.

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

pH. The logarithm of the reciprocal of the gram ionic hydrogen equivalents per liter of solution.

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

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.

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

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

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 25-209 (a) of this division.

Properly Shredded Garbage. The wastes from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in dimension.

Public Sewer. A sewer in which all owners of abutting properties have substantially equal right and which is controlled by the City.

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. 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.

Sanitary Sewer. A sewer in which sewage is carried, and to which storm, surface and groundwaters are not intentionally admitted.

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

Sewage. A combination of the water-carried wastes from residences, business buildings, institutions and industries. i.e., human excrement and gray water (household showers, dishwashing operations, etc.).

Sewage Treatment Plant. Any arrangement of devices and structures used for treating sewage.

Sewage Works. All facilities for collecting, pumping, treating and disposing of sewage.

Sewer. A pipe or conduit for carrying sewage.

Shall is mandatory; May is permissive.

Significant Industrial User (SIU). A Significant Industrial User is:

- (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 Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 25-209 (a) of this division. 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.

Storm Drain (sometimes termed "storm sewer"). A sewer, which carries storm and surface water and drainage, but excludes sewage and untreated industrial wastes, other than non-contact cooling water.

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

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.

Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of the Clean Water Act, Section 307 (a) or other acts.

User. Any person or entity, who contributes, causes or permits the contribution of wastewater into the City's POTWs.

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.

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

Wastewater Contribution Permit shall mean a permit to discharge to the City's wastewater treatment systems as outlined in section 25-211 of this division.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 25-208: Use of Public Sewers Required

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other

objectionable wastes.

(b) It shall be unlawful to discharge any sewage or other polluted waters to any natural outlet within the City, or in any area under the jurisdiction of the City, except where suitable treatment has been provided in accordance with a valid, current National Pollutant Discharge Elimination System Permit covering such discharges. The Control Authority may immediately discontinue water service to the User or Owner of any property where an unlawful discharge exists until such discharge of any sewage or polluted waters is properly eliminated.

Section 25-209: General Sewer Use Requirements

(a) Prohibited Discharge Standards

- (1) **General Prohibitions.** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, non-contact cooling water or unpolluted industrial process waters into any sanitary sewer but such waters shall be discharged into such sewers as are specifically designated as storm sewer or into a natural outlet. The discharge into any storm sewer or into natural outlet of any waters, which may have a deleterious effect upon the receiving stream, is prohibited.
- (2) **Specific Prohibitions.** No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW, or will have an adverse effect on the receiving stream, or will violate any of the provisions of this division. These general provisions apply to all Users of the City's POTWs whether or not the User is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements.

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

- a. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to , wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or to be injurious in any other way to the POTW or to the operation thereof. Prohibited materials include, but are not limited to; gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and other

substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.

- b. Any wastewater having a pH less than 6.0 or having a pH greater than 12.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- c. Any solid or viscous material, which could cause an obstruction to the flow in the sewer or in any way, interferes with the treatment process. Examples of such materials include, but are not limited to; ashes, wax, paraffin, cinders, sand, mud, straw, shavings, wood and sawdust, bones, paunch manure, hair, hides or fleshings, entrails, whole blood, feathers, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds and residues from grinding operations, acetylene generation sludge, chemical residues, acid residues, plastics, tar, asphalt residues, and food processing bulk solids or any discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- d. Pollutants, including chlorine and oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a slug load have a flow rate or concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- e. Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature that raises the wastewater temperature of the influent to the POTW to more than 104 degrees F (40 degrees C).
- f. Any noxious or malodorous liquids, toxic gases, vapors or fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair or are sufficient potentially to cause acute worker health and safety problems.
- g. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.
- h. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourth

(3/4) horsepower (0.76 horsepower metric) or greater shall be subject to review and approval by the Control Authority.

- i. Any substance which will cause the POTW to violate its NPDES Permit or the receiving stream water quality standards.
- j. Any substance which may cause the POTW's effluent, or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the ACT, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State of Arkansas criteria applicable to the sludge management method being used.
- k. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- l. Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.
- m. Any wastewaters containing materials which exert or cause unusual concentrations of solids or composition; as for example, unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues, or, unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate.
- n. Trucked or hauled pollutants, except that such pollutants may be discharged by permitted haulers into selected treatment plants only at locations designated for this purpose.
- o. Any wastewater, which either alone or in conjunction with other sources causes a hazard to human life, creates a public nuisance or causes the POTW's effluent to fail toxicity tests.

(b) National Categorical Pretreatment Standards

The Federal Categorical Pretreatment Standards set forth in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 are hereby incorporated. In cases where this division imposes more stringent requirements, or where no EPA guidelines exist, the provisions of this section shall apply.

Upon promulgation of the Federal Categorical Pretreatment Standards for a particular subcategory of User, the Federal standard, if more stringent than limitations imposed under this division for sources in that subcategory, shall immediately supersede the specific limitations imposed under this division.

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

(c) Local Limits

- (1) No person shall discharge or cause to be discharged into the City sewer system any wastewater containing substances with levels measured at any time in excess of the limits established by the User's wastewater contribution permit or in excess of the further provisions of this section. Each User's permit will establish specific pollutant limitations based upon the maximum allowable headworks loadings (MAHL) at the POTW treatment plants.
- (2) No person shall discharge, or cause to be discharged, any wastewater containing greases, oils, fats or waxes whether emulsified or not, in concentrations in excess of one hundred fifty (150) mg/L for all substances. Substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred four (104) degrees F are prohibited. Discharge of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause pass through or interference are also prohibited.
- (3) No person shall discharge, or cause to be discharged, any wastewater containing materials which exert or cause BOD5 concentrations in excess of 450 mg/L or 180 ppd or suspended solids concentrations in excess of 430 mg/L or 180 ppd whichever results in the higher mass emission.
- (4) The Control Authority may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits, to implement local limits and pretreatment requirements.

All significant Industrial Users must, at a minimum, sample for all parameters required in their discharge permit at the indicated frequency. Additionally, the SIU shall report the results of all analyses by the 15th day of the following month.

Upon identification of a violation, all SIUs shall immediately report any non-compliance to the Control Authority and shall resample for those parameters found to be in violation as required by 40 CFR 403.12 (g). The results of any such repeat analyses must also be immediately reported to the Control Authority.

(d) City's Right of Revision

The City of Fort Smith reserves the right to establish, by ordinance or in wastewater

discharge permits, more stringent standards or requirements on discharges to the POTW(s).

(e) Special Agreements

Nothing in this section shall be construed as preventing any special agreement or arrangement between the Control Authority and any User of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or User charges as may be applicable. However, any such "Special Agreements" shall not waive any Federal or State standards and requirements designed to protect the POTW, the sludge use and disposal, and the receiving stream from pass through or interference.

(f) Compliance by Dilution

No User shall 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 the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

(g) Pretreatment Facilities

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

(h) Accidental Discharges

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division. Upon request by the Control Authority, a detailed plan showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for their review and approval. In the case of any accidental discharge, it is the responsibility of the User immediately to telephone and notify the POTW of the incident. The notification shall include the cause of the discharge, the location of the discharge, type of waste, concentration and volume and corrective actions taken. The User shall submit to the Control Authority, within seven (7) days following the accidental discharge, a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage or

other liability, which may be incurred as a result of damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liabilities, which may be imposed pursuant to this article.

At least once every two (2) years, the Control Authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Control Authority may require any User to develop, submit for approval, and implement such a plan.

(i) Accidental Discharge/Slug Discharge Control Plans

The Control Authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Control Authority may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges.

(j) Hazardous Waste Discharge

An Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within one hundred eighty (180) days of the effective date established by 40 CFR 403.12 (p).

(k) Storage of Dangerous Materials

The storage of any material in areas served by public sewers or in areas draining into the City sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage works or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human beings or animals, or the receiving stream shall be subject to review by the Control Authority, who, at his or her discretion, may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

(l) Rejection or Control of Waste Discharge

If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the substances or possess the characteristics enumerated in

the preceding subsections and which, in the judgment of the Control Authority, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may (1) reject the wastes, (2) require pretreatment to an acceptable condition for discharge into the public sewers, and/or (3) require control over the quantities and rates of discharge.

If the Control Authority requires pretreatment or equalization of waste flows into the public sewer, the design and installation of the plants and equipment shall be subject to the review and approval of the Control Authority and subject to the requirements of all applicable codes, ordinances and laws.

(m) Grease, Oil and Grit Interceptors

Grease, oil and grit interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the Control Authority and shall be located as to be readily and easily accessible for cleaning and inspection.

(n) Flow Equalizing Facilities

Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(o) Sampling and Measurement Manhole

When required by the Control Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary matters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.

Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Control Authority. The manhole shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

(p) Analytical Requirements

All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this division shall be determined in accordance with the latest Federal Standard which is currently prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be

performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority, Approval Authority or other parties approved by EPA.

(q) 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. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by the User with applicable pretreatment standards and requirements.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence on hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, COD, and TSS analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas the pH's and oil and grease tests are determined from grab samples taken periodically).

- a. Except as indicated in subsection 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 Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, 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. Composite samples for other parameters unaffected by the compositing procedures, as documented in approved EPA methodologies, may be authorized by the Control Authority as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits. [see 40 CFR 403.12(g)(3)]
- 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 ninety (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 Control Authority may authorize a lower minimum. For the reports required by 40 CFR 403.12(e) and 403.12(h), the Control Authority shall require the number

of grab samples necessary to assess and assure compliance by Industrial Users with applicable pretreatment standards and requirements. (see 40 CFR 403.12(g)(4))

Section 25-210: Septic Tank Truck Discharge Permit

All persons owning vacuum or "septic tank" pump trucks, or other liquid transport trucks, who wish to discharge septic tank, portable toilet, seepage pit, interceptor or cesspool contents, industrial liquid waste or other liquid wastes to the POTW shall first have a valid vacuum truck discharge permit. All applicants for the vacuum truck discharge permit shall complete the application form, pay the appropriate permit fee, receive a copy of this division governing discharge of wastes to sewer and shall agree, in writing, to abide by this division and all other applicable environmental regulations.

Trucks hauling industrial waste shall discharge only after reporting the source and composition of the waste to the POTW at the authorized discharge site. The Control Authority may deny discharge rights in the event the waste is in violation of the provisions of this division. Trucks hauling only septic tank, portable toilet, seepage pit, interceptor or cesspool contents are exempted from the above reporting requirement. However, discharge of these wastes is also restricted to a site(s) authorized by the Control Authority.

Additionally, the septic tank truck hauler must maintain a daily log of operations, which shall include the name, address and telephone number of person(s) requesting service. The approximate volume of each load is to be logged at the time of service in this log. At the end of each quarter, (March, June, September and December) copies of such log are to be forwarded to the Control Authority.

Section 25-211: Wastewater Contribution Permit

(a) The purpose of this section is:

- (1) To protect the operation of the POTW;
- (2) To prevent inadequately treated pollutants from passing through the POTW;
- (3) To insure the City's compliance with all aspects of its NPDES Permits, including those aspects dealing with operations to recycle, reclaim or dispose of the sludge generated at the City's POTWs.

(b) All SIUs that wish to connect to or to contribute to the POTW shall obtain a Wastewater Contribution Permit before connecting or contributing to the POTW. At the direction of the Control Authority, the Wastewater Contribution Permit may contain any or all of the following:

- (1) Limits on maximum and average wastewater characteristics, including Best Management Practices, based on applicable general pretreatment standards in 40

CFR part 403, categorical pretreatment standards, local limits and State and local law;

- (2) Limits on average and maximum rate and time of discharge, or requirements for flow regulation and equalization, requirements for installation and maintenance on inspection and sampling facilities;
- (3) Specifications for monitoring programs which will include sampling locations, frequency of sampling, number, types and parameters for tests and reporting/compliance schedules;
- (4) Self-monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of the pollutants to be monitored;
- (5) Statements of applicable civil and criminal penalties for violation of pretreatment standards and requirements and, where required, any applicable compliance schedules;
- (6) Other conditions as deemed necessary by the Control Authority to insure compliance with the division. All costs of sampling and testing for the monitoring program are to be borne by the User.
- (7) Requirements to control slug discharge, if determined by the Control Authority to be necessary.

(c) Application for Wastewater Contribution Permit

Users required to obtain a Wastewater Contribution Permit shall complete and file with the Control Authority an application in the form prescribed by the Control Authority. Proposed new Users shall apply for such permit at least ninety (90) days prior to connecting to or contributing to the POTW. Upon receipt of the application, the Control Authority will evaluate the data furnished and, if the data is acceptable, may issue a Wastewater Contribution Permit.

(d) Modification of Wastewater Contribution Permit Restrictions

Within nine (9) months of the promulgation of the National Categorical Pretreatment Standard, the Wastewater Contribution Permit of Users subject to that standard shall be revised to require compliance with such standard within the time frame prescribed by the Standard. Any User with an existing Wastewater Contribution Permit shall submit to the Control Authority, within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard, the following information:

- (1) The nature and concentration of any pollutants in the discharge which are limited by such Standard;
- (2) A statement regarding whether such Standard is being met on a consistent basis

and, if not, whether additional operations and maintenance and/or additional pretreatment is required to meet such Standard;

- (3) If additional pretreatment and/or operation and maintenance will be required to meet such Standard, the shortest possible schedule by which the User will provide such additional pretreatment and/or operation and maintenance and the completion date shall be no later than the compliance date established for such Standard.

The User shall submit this information in a format as directed by the Control Authority. Any User that is subject to a National Categorical Pretreatment Standard and that has not previously submitted an application for a Wastewater Contribution Permit, shall submit said application within one hundred eighty (180) days after the promulgation of the applicable pretreatment standard.

(e) Wastewater Contribution Permits Duration

Wastewater Contribution Permits shall be issued for a specific period of time, not to exceed five (5) years. The User shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limits or requirements in section (b) (6) are modified or other just cause exists. The User shall be informed of any proposed changes in the User's Permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permit Nontransferability

Wastewater Contribution Permits are issued to a specific User for a specific operation and therefore are not to be transferred or reassigned or sold to a new owner, new User, different premises or new or changed operation without prior written approval of the Control Authority.

(g) Provisions for Fraud and False Statements

As per 40 CFR 403.12(n): "Provisions Governing Fraud and False Statements": the reports and other documents required to be submitted or maintained under this section shall be subject to:

- (1) The provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;
- (2) The provisions of Section 309(c)(4) of the ACT, as amended, governing false statements, representation or certification;
- (3) The provisions of Section 309(c)(6) regarding responsible corporate officers.

Section 25-212: Reporting Requirements

(a) 90 Day Compliance Report

Within ninety (90) days following the date for final compliance with any National Categorical Pretreatment Standard (NCPS), or, in the case of a new source, following commencement of the introduction of wastewater in the POTW, any SIU subject to the NCPS, whether they are initially constructing a pretreatment facility or adding to an existing facility, shall submit to the Control Authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated process and the average and maximum daily flows, by month, for those process units which are limited by the NCPS. The report shall state whether the applicable Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the SIU into compliance with the applicable Pretreatment Standards or requirements. These reports must also contain a certification statement as outlined in 40 CFR 403.6 (a) (2) (ii).

(b) Periodic Compliance Reports

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

(c) Compliance Schedule Reports

Any SIU subject to a compliance schedule shall submit compliance reports at the dates and at the times required by the Control Authority. Compliance reporting shall detail all progress made towards compliance with the schedule as accepted by the Control Authority.

(d) Self Monitoring Reports

All SIUs (categorical and non-categorical) must submit to the Control Authority at least once every six (6) months (or dates established by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. The reports shall be based on sampling and analysis performed in the period covered by the report, and, where possible, performed in accordance with the techniques described in 40 CFR Part 136.

(e) 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.

(f) Significant Industrial Users

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

(g) Record Keeping

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established in section 25-211 (b)(1). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Control Authority, or where the User has been specifically notified of a longer retention period by the Control Authority.

(h) Publication

The Control Authority shall publish annually, in a newspaper of general circulation within Sebastian County, a list of the Users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. Significant violators shall be defined by the most current Federal Regulations and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in section 25-209;**
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by section 25-209 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);**
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by section 25-209 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;**

- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (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;
- (7) Failure accurately to report noncompliance; or
- (8) Any other violation(s), which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Section 25-213: Protection from Damage

(a) No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.

(b) No person, without first obtaining written consent from the Control Authority, shall cover any manhole on a public sewer with earth or paving, or otherwise render it inaccessible.

(c) No person, without first obtaining written consent from the Control Authority, shall remove the earth cover from a public sewer to the extent that less than two (2) feet of earth cover remains over or around the pipe. In no circumstance shall the earth cover be removed or graded to the extent that the earth cover may become unstable causing a slide or slough which exposes or damages the public sewer.

Section 25-214: Powers and Authorities of Inspectors

(a) The Control Authority, Inspectors, representatives retained by the City and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter the properties of any User for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this division. The Control Authority or their representative shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. Authorized personnel shall have authority to inspect and copy records pertaining to the discharge of wastewater to

the collection system.

(b) A User may request that specific information which must be submitted to the City be kept confidential. A statement notifying the User that the information submitted with each Wastewater Contribution Permit Application and Industrial Waste Questionnaire shall be available to the public, without restriction, shall be included on each questionnaire. The statement also notifies the User that the City will follow the requirements of 40 CFR Part 2 in its evaluation and approval or denial of each Users request for confidentiality. Generally, to be considered as confidential, information would have to meet one or more of the following criteria:

- (1) It would have to divulge substances, devices, or processes that are patented or for which patents are being sought. This pertains to manufacturing processes, product development, and waste treatment.
- (2) It would have to divulge financial data.
- (3) The User would have to employ processes or produce substances that the nature of which is "Classified" (for military, Federal Intelligence, nuclear power, and some space exploration industries).

Where confidentiality is granted, confidential material shall be removed from the files available for public inspection and kept under control of the Control Authority.

(c) While performing the necessary work on a private property referred to in section 25-214 (a), such duly authorized person shall observe all safety rules applicable to the premises.

Section 25-215: Penalties

(a) Any person determined to be guilty of a violation of any provision of section 25-208 or 25-213 shall be deemed guilty of a misdemeanor and shall be subject to the penalties and fines set forth in Section 1-9 of the Fort Smith Code of Ordinances.

(b) Any person found in violation of any of the provisions of this division, except section 25-213, shall be served by the Control Authority with written notice stating the nature of the violation, describing the penalty applicable to the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The User may deliver to the Control Authority, within five (5) days of receipt of such notice, a written request for a hearing before the Control Authority at which hearing the User shall be given an opportunity to show cause why the notice should be rescinded or modified. Any notice issued pursuant to this subsection may provide one or more of the following penalties:

- (1) An administrative penalty of not more than \$1,000.00 for each violation of the division, and each day of a continuing violation may be deemed a separate

violation; and,

- (2) A compliance directive with time schedule mandating procedures which would bring the User into compliance with this division within the designated time schedule, which compliance directive with schedule shall be expressly stated to be subject to enforcement by withdrawal of the User's discharge permit or termination of POTW service upon non-compliance with the compliance directive with schedule; and,
- (3) A withdrawal of the User's discharge permit and termination of POTW service to the User.

The Control Authority shall be guided by the City of Fort Smith Pretreatment Program Enforcement Management Plan in (1) the initial issuance of penalties set forth in notices issued pursuant to this subsection and (2) in the administrative adjustment or amendment to any such penalty as a result of a hearing requested by the User pursuant to the provisions of this subsection. No action to withdraw a User permit shall be final until the Control Authority has given notice of and conducted the show cause hearing provided for in the Enforcement Management Plan.

(c) Any person violating the provisions of this division shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(d) In enforcement of the penalty of withdrawing a User's discharge permit or terminating POTW service to a User, the Control Authority may discontinue water service to the User.

(e) The City shall have the authority, after notice to the discharger, immediately and effectively to halt or prevent any discharge of pollutants to the sanitary sewer system which reasonably appears to present an imminent danger to the health or welfare of persons, or which threatens to interfere with the operation of the City's treatment facilities.

(f) The listing of penalties in this section shall not preclude other appropriate judicial remedies available with reference to any violation of this article. In particular, the Control Authority may petition any Court of competent jurisdiction to grant injunctive or other legal or equitable relief by reason of a violation. No judicial action against an Industrial User to collect a civil penalty for violation of pretreatment standards or requirements shall be commenced without a prior majority vote of the Board of Directors.

Section 25-216: Pretreatment Charges and Fees

The Control Authority may adopt fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- (1) Fees for wastewater discharge permit application including the cost of processing

such applications;

- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and
- (5) Other fees as the Control Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this division and are separate from all other fees, fines, and penalties chargeable by the Control Authority.

(See charges and fees set forth in section 25-188)

SECTION 7: Validity

A. All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

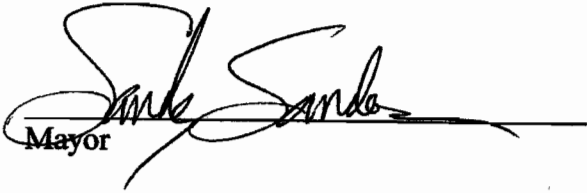
B. Should any portion of this Ordinance be unconstitutional or invalid and so declared by a Court of competent jurisdiction, then the remainder of this Ordinance, and any remaining applications of this Ordinance, shall not be affected by such partial unconstitutionality or invalidity.

SECTION 8: Emergency Clause

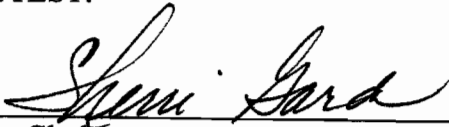
It is hereby determined and declared that an emergency exists by reason of the necessity of establishing reasonable controls over the disposal of waste and wastewaters within the City and with reference to the operation of the City's sewage treatment facilities and that the immediate effect of the provisions of this Ordinance are necessary to preserve the health, safety and welfare of the inhabitants of the City so that it is hereby declared and determined that this Ordinance shall be in full force and effect as of the date of its adoption.

PASSED AND APPROVED this 4th day of October 2011.

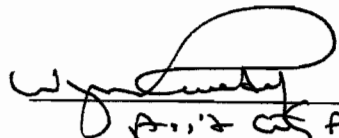
APPROVED:


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


Publish 1 Time
A. J. 's of Albany