

A GENERAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, AMENDING CHAPTER 28 ARTICLE VIII OF THE NEVADA CITY CODE PERTAINING TO WASTEWATER PRETREATMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI, THAT:

Section 1. Chapter 28, Article VIII Wastewater Pretreatment is hereby amended to read as follows:

Sec. 28-77. - Applicability and purpose.

- (1) This article shall apply to all nondomestic users of the City publicly-owned treatment works (POTW), which discharge directly, or indirectly into the POTW's sanitary sewer system. In addition, it should be unlawful for any nondomestic user located outside the City limits to continue discharges to the POTW except as provided in Section 28-90(d). This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City and enables the City to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR part 403).
- (2) The objectives of this article are to:
 - (a) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (b) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the systems;
 - (c) Improve the opportunity to recycle and reclaim wastewater and sludge from the system; and
 - (d) Provide for equitable distribution of the cost of the operation, maintenance, and improvement of the municipal wastewater system.
 - (e) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (f) To enable the City of Nevada to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.
- (3) This article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic

users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

- (4) This article shall apply to the City and to persons outside the City who are, by contract or agreement with the City, connected to the City sewer. Except as otherwise provided herein, the wastewater treatment plant City Manager shall administer, implement and enforce the provisions of this article.

Sec. 28-78. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the Missouri Department of Natural Resources.

Authorized representative of industrial user.

- (a) If the User is a corporation:

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

(2) 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.

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

- (c) 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.

- (d) The individuals described in paragraphs (a) through (c), 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.

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

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sec. 28- 80 and 28-81 [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.

Categorical Pretreatment Standard or Categorical Standard means 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 means an Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

City means the City of Nevada.

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

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

Control authority means the City of Nevada.

Control Mechanism means an individual wastewater permit or its legal equivalent issued by the Control Authority. (Refer to 28-90(g))

Cooling water means the water discharges from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

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

Daily Maximum Limit means 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.

Duly Authorized Representative must be an individual having responsibility for the overall operation of the facility or the Pretreatment Program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Approval Authority. For the purposes of this ordinance the Industrial Pretreatment Coordinator is the Duly Authorized Representative.

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

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

Grab sample means 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.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

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

Industrial user means a source of indirect discharge.

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

Interference means a discharge which alone or in conjunction with a discharge from other sources both:

- (a) Inhibits or disrupts the POTW treatment processes or operations, or its sludge processes, use or disposal; and therefore
- (b) Is a cause of violation of any requirements of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder, or more stringent state or local regulations: Section 405 of the Clean Water Act (33 USC 1251 et seq.); the Solid Waste Disposal Act (SWDA; 42 USC § 6901 et seq.), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA; 42 USC § 6972 et seq.), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 USC § 6901 et seq.); the Clean Air Act (33 USC § 1251 et seq.); the Toxic Substances Control Act (15 USC § 2601 et seq.); and the Marine Protection, Research and Sanctuaries Act (33 USC § 1401 et seq.).

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

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

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

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

National categorical pretreatment standard or pretreatment standard means any regulations containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC § 1347) which applies to a specific category of industrial users.

National pollution discharge elimination system or NPDES permit means a permit issued pursuant to section 402 of the Act (33 USC § 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of Section 307(b) of the Act of 40 CFR 403.5.

New source means:

- (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility or installation totally replaces the process discharge of pollutants at an existing source; or
 - (3) The production of wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of this section but

otherwise alters, replaces or adds to existing process or production equipment.

- (c) The construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (i) Begun or caused to begin as part of a continuous on-site construction program;
 - (ii) Any placement, assembly or installation of facilities or equipment;
 - (iii) 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
 - (iv) 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 for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

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

Operator means the person responsible for the overall operation of a facility.

Owner means the person who owns a facility or part of a facility.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means 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. The masculine gender shall include the feminine gender and the singular shall include the plural where indicated by the context.

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

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharges into water.

Pretreatment or treatment means 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 discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes; process changes or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

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

Publicly owned treatment works (POTW) means a treatment works as defined by Section 212 of the Act (33 USC § 1292) which is owned in this instance 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. For the purposes of this article, the term "POTW" shall also include any sewers that convey wastewaters to the POTW from indirect dischargers outside the City who are, with the City, users of the City's sewer system.

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

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Shall, may. The term "shall" is mandatory; the term "may" is permissive.

Significant industrial user means all dischargers subject to categorical pretreatment standards under 40 CFR chapter I, subchapter N; or any industrial user of the City's wastewater disposal system who:

- (a) Has a process wastewater discharge flow of 25,000 gallons or more per average work day of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
- (b) City 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) Has in his waste's toxic pollutants as defined pursuant to Section 307 of the Act or state statutes and rules; or
- (d) Is found by the City, state control agency or the U.S. Environmental Protection Agency (EPA) to have a significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the

system.

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

- (a) The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- (b) The Industrial User annually submits the certification statement required in Sec. 28-100(p)(2) [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
- (c) The Industrial User never discharges any untreated concentrated wastewater.

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

Slug Load or Slug Discharge means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Sec. 28-80 or Sec. 28-81 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Standard industrial classification (SIC) means a classification pursuant to the "Standard Industrial Classification Manual" issued by the executive office of the President, office of management and budget, 1972.

State means the State of Missouri.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

Total Suspended Solids or Suspended Solids means 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 means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency

under 33 USC 1317(a) (a portion of the federal Water Pollution Control Act, 33 USC 1251 et seq., commonly referred to as the "Clean Water Act" or "CWA") or other acts.

User means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with what may already be present, whether treated, or untreated, which is contributed into or permitted to enter the POTW.

Wastewater contribution permit means as set forth in Sec. 28-95.

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

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Sec. 28-79. - Abbreviations.

The following abbreviations shall have the designated meanings.

BOD	Biochemical Oxygen Demand
BMP	Best Management Practice
BMR	Baseline Monitoring Report
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
gpd	gallons per day
IU	Industrial User
L	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
NSCIU	Non-Significant Categorical Industrial User

POTW	Publicly Owned Treatment Works
SIC	Standard industrial classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
SWDA	Solid Waste Disposal Act, 42 USC 6901, et seq.
USC	United States Code
TSS	Total suspended solids

Sec. 28-80. - General discharge 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 such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements.

Sec. 28-81. - Specific discharge prohibitions.

(a) A user may not contribute the following substances to any POTW:

- (1) 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. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307 (a) of the Act.
- (2) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other waste, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (3) 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 noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

- (4) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.
- (5) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit.
- (6) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation.
- (7) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable state or federal regulations.
- (8) Pollutants which create a fire or explosive 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.
- (9) Any oil (petroleum based, biodegradable, cutting oil, products of mineral oil origin) in amounts causing pass through or interference.
- (10) Trucked or hauled waste except when discharged at a designated discharge point designated by the City Manager.
- (11) Discharges with temperatures above 104 degrees F. (40°C) when they reach the POTW, or hot enough to interfere with biological treatment processes at the POTW.
- (12) Any wastewater having a pH of less than 5.0 and greater than 9.5 or otherwise causing corrosive structural damage to the POTW or equipment;
- (13) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems
- (14) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (15) Solid or viscous substances in amounts which will cause obstruction of the flow in the system resulting in interference, but in no case solids greater than one-half inch in any direction.
- (16) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water,

Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the City Manager.

- (17) Sludges, screenings, or other residues from the pretreatment of industrial wastes.
 - (18) Medical wastes, except as specifically authorized by the City Manager in an individual wastewater discharge permit.
 - (19) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.
 - (20) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.
 - (21) Fats, oils or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.
- (b) Any waste discharges containing the following pollutants to such a degree that the monthly average total mass loading from all SIU's exceed the quantity specified below. The City Manager will distribute the permit limitations in pounds per day for all users that meet the definition of S.I.U. as defined by city ordinance. At the discretion of the City Manager, equivalent monthly average pollutant concentrations may be imposed. All metallic pollutants are for total metals and based on a 24-hour composite sample unless otherwise authorized by the City Manager. The Table of Masses is as follows:

Total Mass Allowable (lbs) from S.I.U.'s (Monthly Average)

Pollutant	Maximum Allowable Industrial Loading (lbs/day)
BOD ₅	1,900
TSS	1,400
Ammonia	133
Molybdenum	0.06

- (c) When the City Manager determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the City Manager shall:

- (1) Advise the user of the impact of the contribution of the POTW; and
- (2) Develop effluent limitations for such user to correct the interference with the POTW.

Sec. 28-82. – National categorical pretreatment standards.

- (a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Manager may impose equivalent concentration or mass limits in accordance with Section 28-82 (e) and (f). [Note: See 40 CFR 403.6(c)]. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. [Note: See 40 CFR 403.6(c)(2)]
- (c) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the City Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- (d) A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section.
 - (1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.
 - (2) Criteria.
 - (i) Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
 - (ii) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless

appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

- (iii) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
 - (iv) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.
- (3) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City Manager. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Section below.
- (4) To be eligible for equivalent mass limits, the Industrial User must:
- (v) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
 - (vi) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - (vii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - (viii) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - (ix) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
- (5) An Industrial User subject to equivalent mass limits must:
- (i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

- (ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - (iii) Continue to record the facility's production rates and notify the City Manager whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (f)(1)(iii) of this Section. Upon notification of a revised production rate, the City Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - (iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs (f)(1)(i) of this Section so long as it discharges under an equivalent mass limit.
- (6) When developing equivalent mass limits, the City Manager:
- (i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
 - (ii) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - (iii) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 28-87. The Industrial User must also be in compliance with Section 28-111 (c) regarding the prohibition of bypass.
- (e) The City Manager may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the City Manager.
- (f) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- (g) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the

average and the maximum equivalent limitation.

- (h) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the City Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the City Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

Sec. 28-83. -Local Limits.

- (a) The City Manager is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- (b) The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following maximum 24-hour concentrations (unless otherwise noted).

Pollutant of Concern	Equivalent Local Limit (mg/L)
Silver	0.080
Arsenic	0.11
Cadmium	0.080
Cyanide	0.19
Chromium	5.53
Copper	1.18
Mercury	0.05
Molybdenum	Refer to 28-81(b)
Nickel	1.10
Lead	0.22
Selenium	0.23
Zinc	4.00
Hex Chrome	0.24
BOD5	Refer to 28-81(b)
TSS	Refer to 28-81(b)
Ammonia-N	Refer to 28-81(b)

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The City Manager may impose mass limitations in addition to the concentration-based limitations above.

- (c) The City Manager may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Sec. 28-80 and 28-81.

Sec. 28-84. - State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

Sec. 28-85 - City's right of revision and variances.

The City reserves the right to grant variances and establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this Article.

Sec. 28-86. -Dilution.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the City or the state. The City Manager may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

Sec. 28-87.- Pretreatment of wastewater

- (a) Pretreatment facilities.
- (b) Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Sections 28-80 through 28-82 of this ordinance within the time limitations specified by EPA, the State, or the City Manager, 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 City Manager for review, and shall be acceptable to the City Manager 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 City under the provisions of this ordinance. Additional Pretreatment Measures.
 - (1) Whenever deemed necessary, the City Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary

to protect the POTW and determine the User's compliance with the requirements of this ordinance.

- (2) The City Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the City Manager, shall comply with the City's Oil and Grease Management Program, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with City requirements by the User at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(c) Accidental discharges/Slug Control Plans.

- (1) *Facilities to prevent accidental discharge.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. Alternatively, the City Manager may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
 - (i) Description of discharge practices, including nonroutine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the City Manager of any accidental or Slug Discharge, as required by Sec. 28-100(f) of this ordinance; and
 - (iv) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to,

inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

- (2) *Approval of accidental discharge procedures.* No user who desires to contribute wastewater to the POTW after the effective date of the ordinance from which this article is derived shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.
- (3) *Immediate notice.* All categorical and noncategorical industrial users shall notify the wastewater treatment plant immediately of all discharges that could violate the standards and prohibitions included in sections 28-81, 28-82, and 28-83. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
- (4) *Written notice.* Within five days following an accidental discharge, the user shall submit to the City Manager 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 the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.
- (5) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (6) The City Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The City Manager may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the City Manager may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
 - (i) Description of discharge practices, including nonroutine batch discharges;
 - (ii) Description of stored chemicals;

- (iii) Procedures for immediately notifying the City Manager of any accidental or Slug Discharge, as required by Section 28-100 (f) of this ordinance; and
 - (iv) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (d) Hauled Wastewater.
- (1) Septic tank waste may be introduced into the POTW only at locations designated by the City Manager, and at such times as are established by the City Manager. Such waste shall not violate Sec. 28-80 to Sec. 28-82 of this ordinance or any other requirements established by the City. The City Manager may require septic tank waste haulers to obtain individual wastewater discharge permits.
 - (2) The City Manager may require haulers of industrial waste to obtain individual wastewater discharge permits. The City Manager may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The City Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
 - (3) Industrial waste haulers may discharge loads only at locations designated by the City Manager. No load may be discharged without prior consent of the City Manager. The City Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The City Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
 - (4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 28-88. - Charges and fees.

- (a) The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:
 - (1) Fees for wastewater discharge permit applications 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 and certification statements submitted by Users;
 - (3) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (4) Fees for filing appeals;
 - (5) Fees to recover administrative and legal costs (not included in (2) above) associated with the enforcement activity taken by the City Manager to address IU noncompliance; and
 - (6) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.
- (b) Fees for surcharges are hereby adopted as follows:
 - (1) If the biochemical oxygen demand (BOD) exceeds 250 mg/l, an additional monthly charge of \$0.42 per pound of BOD shall be applied. The minimum charge for exceeding this limit shall be \$100.00.
 - (2) If the total suspended solids (SS) exceed 300 mg/l, an additional monthly charge of \$0.35 per pound shall be applied. The minimum charge for exceeding this limit shall be \$100.00.
 - (3) There shall be an administrative fee for processing necessary documentation when BOD and SS limits are exceeded. The fee to process such documentation shall be based upon the average hourly rate of pay for the director of the wastewater treatment plant and will be actual cost of time spent preparing documentation.
- (c) Any user who discharges any toxic pollutants which cause an increase in the cost of managing the effluent of the sludge from the City's treatment works, or any user who discharges any substance which, singly or by interaction with other substances, causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each user shall be as determined by the responsible plant operating personnel and approved by the City council.
- (d) These fees relate solely to the matters covered by this article and are separate

from all other fees chargeable by the City.

Sec. 28-89. - Wastewater dischargers.

It shall be unlawful to discharge without a permit to any natural outlet within the City, or in any area under the jurisdiction of said City, and/or to the POTW any wastewater except as authorized by the City Manager in accordance with the provisions of this article.

Sec. 28-90. - Permit requirements.

- (a) *Notification of nature of wastewater.* All nondomestic users must notify the City Manager of the nature and characteristics of their wastewater prior to commencing their discharge. The City Manager is authorized to prepare a form for this purpose and may periodically require Users to update this information.
- (b) *Discharge of wastewater prohibited without permit.* It shall be unlawful for significant industrial users to discharge wastewater, either directly or indirectly, into the City's sanitary sewer system without first obtaining an industrial user pretreatment permit from the City Manager. Any violation of the terms and conditions of an industrial user pretreatment permit shall be deemed a violation of this chapter. Obtaining an industrial user pretreatment permit does not relieve a permittee of its obligation to obtain other permits required by federal, state or local law.
- (c) *Other industrial users.* The City Manager may require that other industrial users, including liquid waste haulers, obtain industrial user pretreatment permits as necessary to carry out the purposes of this chapter.
- (d) *Existing connections.* Any significant industrial user which discharges nondomestic waste into the sanitary sewer system prior to the effective date of the ordinance from which this section is derived and who wishes to continue such discharges in the future, shall within 90 days after said date apply to the City for an industrial user pretreatment permit and shall not cause or allow discharges to the POTW to continue after 180 days from and after the effective date of the ordinance from which this section is derived except in accordance with a permit issued by the City Manager.
- (e) *New connections.* Any significant industrial user proposing to begin or recommence discharging nondomestic wastes into the sanitary sewer system must obtain a pretreatment permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least 180 days prior to the anticipated start-up date.
- (f) *Other Control Mechanisms.* Other control mechanisms may be used to fulfill the purpose of Individual Wastewater Permits for Users that discharge into collection systems that are not operated by the City but are connected to the City's POTW.

When this occurs, these control mechanisms shall fulfill the purpose and requirements of Individual Wastewater Discharge Permits provided they satisfy the requirements of Sec. 28-91.

- (g) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 28-108 and 28-111 of this Ordinance. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

Sec. 28-91. - Permit application.

- (a) Users required to obtain a wastewater contribution permit shall complete and file with the City an application in the form prescribed by the City and accompanied by a fee in the amount of \$500.00 per permit cycle. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
 - (1) Identifying information
 - (i) Name, address and location, if different from the address, including the name of the operator and owner;
 - (ii) Contact information, description of activities, facilities, and plant production processes on the premises;
 - (2) Standard industrial classification (SIC) code of both the industry as a whole and any process for which federal categorical standards have been promulgated;
 - (3) Wastewater constituents and characteristics, including, but not limited to, any pollutants in the discharge which are limited to any pollutants in the discharge which are limited by federal, state or local standards. Sampling and analysis will be undertaken in accordance with 40 CFR part 136;
 - (4) Time and duration of contribution;
 - (5) Daily maximum, daily average and monthly average wastewater flow rates, including daily, monthly and seasonal variations, if any in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e));
 - (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, floor drains and appurtenances by the size, location and elevation;

- (7) Description of operations:
- (i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
 - (ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (iv) Type and amount of raw materials processed (average and maximum per day);
 - (v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - (vi) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on [40 CFR 403.12(e)(2)].
- (8) Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state and local standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards and the shortest schedule by which the user will provide such additional pretreatment. The completion date in the schedule shall not be later than the compliance date established for the applicable pretreatment standards. The following conditions shall apply to the schedule:
- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, beginning operation and conducting routine operation, etc.).
 - (b) No increment referred to in subsection (a)(9)(a) of this section shall exceed nine months, nor shall the total compliance period exceed 18 months.
 - (c) Not later than 14 days following each date in the schedule and final date for compliance, the user shall submit a progress report to the City Manager including, as a minimum, whether or not it complied with the increment of

progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the City Manager.

- (10) Each product produced by type, amount, process or processes and rate of production;
 - (11) Type and amount of raw materials processed (average and maximum per day);
 - (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of the pretreatment system;
 - (13) A list of environmental control permits held by or for the facility
 - (14) Measurement of Pollutants:
 - (a) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the City Manager of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Sec. 28-100 (j) of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City Manager or the applicable Standards to determine compliance with the Standard.
 - (e) Sampling must be performed in accordance with procedures set out in Sec. 28- 100 (j) of this ordinance.
 - (15) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Sec. 28-100 (d)(2).
 - (16) Any other information as may be deemed by the City to be necessary to evaluate the permit application.
- (b) All wastewater discharge permit applications, User Reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in 28- 100(p)(1).

- (c) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the City Manager prior to or together with any reports to be signed by an Authorized Representative.
- (d) A facility determined to be a Non-Significant Categorical Industrial User by the City Manager must annually submit the signed certification statement in 28-100(p)(2).
- (e) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

Sec. 28-92. - Pretreatment permit contents.

Pretreatment permits shall include such conditions as are reasonably deemed necessary by the City Manager to prevent pass through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW collection system or plant.

- (a) Permits must contain, but need not be limited to, the following:
 - (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
 - (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Sec. 28-96 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
 - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
 - (5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Sec. 28-100(d)(2).
 - (6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 - (7) Requirements to control Slug Discharge, if determined by the City Manager to

be necessary.

- (8) Any grant of the monitoring waiver by the City Manager must be included as a condition in the User's permit or other control mechanism.
- (b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;
 - (2) Limits on the average and/or maximum concentration, mass or other measure of identified wastewater constituents or properties;
 - (3) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;
 - (4) Development and implementation of spill control plans or other special conditions including additional management practices necessary to adequately prevent accidental, unanticipated or routine discharges;
 - (5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (6) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (7) Requirements for installation and maintenance of inspection and sampling facilities, including flow measurement devices;
 - (8) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules;
 - (9) A statement that indicates, at a minimum, the wastewater discharge permit issuance date, expiration date, and effective date;
 - (10) Requirements for submission of technical reports or discharge reports;
Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City Manager and affording the City Manager or his representatives' access thereto;
 - (11) Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW;
 - (12) Requirements for notification of excessive, accidental or slug discharges;
 - (13) Other conditions as deemed appropriate by the City Manager to ensure compliance with this article, and state and federal laws, rules and regulations;

- (14) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.
 - (15) City Manager Other conditions as deemed appropriate by the City Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (c) The City Manager will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City Manager may issue a wastewater discharge permit subject to terms and conditions provided herein.

Sec. 28-93. - Permit issuance process.

- (a) *Permits duration.* Permits shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A permit may be issued for a period of less than five years at the discretion of the City Manager. Each permit will indicate a specific date upon which it will expire. The user shall apply for permit reissuance of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or the permit requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (b) *Public notification.* The City Manager will publish, in an official government publication and/or newspaper of general circulation, notice of intent to issue a pretreatment permit at least 14 days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.
- (c) *Permit Decisions.* The City Manager will evaluate the data furnished by the User and may require additional information. Within forty-five (45) days of receipt of a complete permit application, the City Manager will determine whether to issue an individual wastewater discharge permit. The City Manager may deny any application for an individual wastewater discharge permit.
- (d) *Permit appeals.* The City Manager will provide public notice of final permit decisions. Any person, including the industrial user, may petition to appeal the terms of the permit within 30 days of the notice.
 - (1) Failure to submit timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (2) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to be placed in the permit.

- (3) The effectiveness of the permit shall not be stayed pending a reconsideration by the Board
- (4) If the City Manager fails to act within 90 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decision must do so by filing a complaint with the Circuit Court of Vernon County within thirty (30) days of notification from the city to the permit holder.

Sec. 28-94. - Permit modifications.

- (a) The City Manager may modify the permit for good cause, including, but not limited to, the following:
 - (1) To incorporate any new or revised federal, state or local pretreatment standards or requirements.
 - (2) To address material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character since the time of the individual wastewater permit issuance.
 - (3) A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 - (4) Information indicating that the permitted discharge poses a threat to the City's collection and treatment systems, POTW personnel or the receiving waters.
 - (5) Violation of any terms or conditions of the permit.
 - (6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
 - (7) Revision of or grant of variance from such categorical standards pursuant to 40 CFR 403.13 and 40 CFR 403.15.
 - (8) To correct typographical or other errors in the permit.
 - (9) To reflect transfer of the facility ownership and/or operation to a new owner/operator.
 - (10) Upon request of the permittee, provided that such request does not create a violation of any applicable requirements, standards, laws or rules and regulations.

- (b) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

Sec. 28-95. - Permit conditions.

- (a) Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:
 - (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
 - (2) Limits on the average and maximum wastewater constituents and characteristics.

Sec. 28-96. - Permit transfer.

Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the City Manager:

- (a) The permittee must give at least 30 days advance notice to the City Manager.
- (b) The notice must include a written certification by the owner which:
 - (1) States that the new owner has no immediate intent to change the facility's operations and processes.
 - (2) Identifies the specific date on which the transfer is to occur.
 - (3) Acknowledges full responsibility for complying with the existing permit.
- (c) Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

Sec. 28-97. - Revocation of permit.

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

- (a) Failure of a user to factually report to the City Manager the wastewater constituents and characteristics of the user's discharge;
- (b) Failure of the user to report to the City Manager significant changes in operations or wastewater constituents and characteristics;
- (c) Failure to provide prior notification to the City Manager of changed conditions pursuant to Sec. 28-100(e) of this ordinance;
- (d) Misrepresentation or failure to fully disclose all relevant facts in the wastewater

- discharge permit application;
- (e) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
 - (f) Violation of conditions of the permit;
 - (g) Failure to pay fines;
 - (h) Failure to pay sewer charges;
 - (i) Tampering with monitoring equipment or falsifying self-monitoring reports and certification statements;
 - (j) Failure to meet compliance schedule.
 - (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
 - (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - (m) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

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

Sec. 28-98 - Permit reissuance.

The user shall apply for permit reissuance by submitting a complete permit application a minimum of 180 days prior to the expiration of the user's existing permit.

Sec. 28-99. - Continuation of expired permits.

An expired permit will continue to be effective and enforceable until the permit is reissued if:

- (a) The industrial user has submitted a complete permit application at least 90 days prior to the expiration of date of the user's existing permit.
- (b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

Sec. 28-100 Industrial reporting requirements.

- (a) *Baseline report.* Within 180 days after the effective date of a categorical

pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the City Manager a report which contains the information listed in 40 CFR 403.12(b)(1)—(7). At least 90 days prior to commencement of discharge, new sources and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City Manager a report which contains information such as listed in 40 CFR 403.12(b)(1)—(5). New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable categorical pretreatment standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

Users described in (a) above shall submit the following information:

(1) Measurement of pollutants.

- (a) The User shall provide the information required in Section 28-91 (14) (a) through (d).
- (b) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- (d) Sampling and analysis shall be performed in accordance with Sec. 28-100(j);
- (e) The City Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- (f) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

- (2) Compliance Certification. A statement, reviewed and certified by the User's Authorized Representative as defined in Sec. 28-78 indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
 - (3) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Sec. 28- 100(b)of this ordinance.
 - (4) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Sec. 28-100(p) of this ordinance and signed by an Authorized Representative as defined in Sec. 28-78.
- (b) *Compliance Schedule Progress Reports.* The following conditions shall apply to the compliance schedule required Sec. 28-100(a)(3) of this article:
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - (2) No increment referred to above shall exceed nine (9) months;
 - (3) The User shall submit a progress report to the City Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
 - (4) In no event shall more than nine (9) months elapse between such progress reports to the City Manager.
- (c) *Reports on Compliance with Categorical Pretreatment Standard Deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the City Manager a report containing information such as described in 28-91(a)(5) and (14) and 28-100(a)(1) which would

include the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be reviewed and certified by a qualified professional. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Sec. 28-82, See 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Sec. 28-100(p) of this ordinance. All sampling will be done in conformance with Sec. 28-100(k).

(d) Periodic compliance reports.

- (1) Except as specified in Sec. (d)(2) all Significant Industrial Users must, at a frequency determined by City Manager submit no less than twice per year June and December reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the City Manager or the Pretreatment Standard necessary to determine the compliance status of the User.
- (2) The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:
 - (i) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
 - (ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the

waiver can be granted for each subsequent individual wastewater discharge permit. See Section 28-91 (a)(15).

- (iii) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (iv) The request for a monitoring waiver must be signed in accordance with Section 28-78 and include the certification statement in Section 28-91 (c), see (40 CFR 403.6(a)(2)(ii)).
 - (v) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - (vi) Any grant of the monitoring waiver by the City Manager must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the City Manager for 3 years after expiration of the waiver.
 - (vii) Upon approval of the monitoring waiver and revision of the User's permit by the City Manager, the Industrial User must certify on each report with the statement in Section 28-100 (p)(2) below, that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.
 - (viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 28-100 (d)(1), or other more frequent monitoring requirements imposed by the City Manager and notify the City Manager.
 - (ix) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.
- (3) All periodic compliance reports must be signed and certified in accordance with Section 28-100 (q) (1) of this ordinance.
- (4) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not

be grounds for the User to claim that sample results are unrepresentative of its discharge.

- (5) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Manager, using the procedures prescribed in Section 28-100 (k) of this ordinance, the results of this monitoring shall be included in the report.
- (6) Users that send electronic (digital) documents to the City to satisfy the requirements of this Section must be emailed in pdf format.

(e) Reports of Changed Conditions

Each User must notify the City Manager of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- (1) The City Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Sec. 28-91 of this ordinance.
- (2) The City Manager may issue an individual wastewater discharge permit under Sec. 28-98 of this ordinance or modify an existing wastewater discharge permit under Sec. 28-95 of this ordinance in response to changed conditions or anticipated changed conditions.

(f) Reports of Potential Problems, including Slug Loading

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the City Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- (2) Within five (5) days following such discharge, the User shall, unless waived by the City Manager, submit a detailed written report describing the cause(s) 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 might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (3) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees,

who could cause such a discharge to occur, are advised of the emergency notification procedure.

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

(g) Reports from Unpermitted Users

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

- (h) Imposition of limitations; frequency of monitoring.* The City Manager may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsections (a), (b) and (c) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the result of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the City Manager, of pollutants contained therein which are limited by the applicable pretreatment standards. With the exception of the requirements of 40 CFR 403.12, the frequency of monitoring by the City or by industrial users has been left to the discretion of the City. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR part 136 and amendments thereto, or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.
- (i) Demonstration of continued compliance.* If sampling performed by an industrial user indicates a violation, the user shall notify the City Manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Manager within 30 days after becoming aware of the violation. The industrial user is not required to repeat the sampling and analysis if the City performs sampling at the industrial user at a frequency of at least once per month or if the City performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
- (j) Analytical Requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical

Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City Manager or other parties approved by EPA.

- (k) *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.
 - (1) Except as indicated in Section (2) and (3) 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 City Manager. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
 - (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
 - (3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sec. 28-100(a) and (c) [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 City Manager may authorize a lower minimum. For the reports required by paragraphs Sec. 28-100(d) (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.
- (l) *Notice of Violation/Repeat Sampling and Reporting.* If sampling performed by a User indicates a violation, the User must notify the City Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City

Manager within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

- (m) *Hazardous waste discharge notification.* The industrial user shall notify the POTW, the EPA regional waste management division director, and the 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 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 in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. Any notification under this subsection need be submitted only once for each hazardous waste discharge and must take place no later than one hundred and eighty (180) days after the discharge commences. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements in subsections (a), (b) and (d) of this section
- (1) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
 - (2) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the City Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (3) In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

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

(n) *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.

(o) *Recordkeeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Sec. 28-83(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the City Manager.

(p) *Certification Statements.*

(1) Certification of Permit Applications, User Reports and Initial Monitoring Waiver—
The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Sec. 28-91(c); Users submitting baseline monitoring reports under Sec. 28-100(a), see 40 CFR 403.12 (l); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Sec. 28-100(c), See 40 CFR 403.12(d); Users submitting periodic compliance reports required by Sec. 28-100 (d), See 40 CFR 403.12(e) and (h), and Users submitting an initial request to forego sampling of a pollutant on the basis of Sec. 28-100(d)(2)(See 40 CFR 403.12(e)(2)(iii). The following certification statement must be signed by an Authorized Representative as defined in Sec. 28-78:

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

This statement must be signed by the principal executive officer or director having

responsibility for the overall operation of the discharging facility. A duly authorized representative may be designated to sign if approved in writing by the principal executive officer or director.

- (2) Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the City Manager pursuant to Sec. 28-78 and 28-91(d) must annually submit the following certification statement signed in accordance with the signatory requirements in 28-78. This certification must accompany an alternative report required by the City Manager:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR Chapter I, Subchapter N, Parts 405-471, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 28-78;

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
(c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

- (3) Certification of Pollutants Not Present -Users that have an approved monitoring waiver based on Sec. 28-100(d)(2) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User. See 40 CFR 403.12(e)(2)(v)

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR ____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of __ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Sec. 28-100(d)(1).”

Sec. 28-101. - Monitoring facilities.

- (a) Users are required, at their own expense, to provide the City with monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in public rights-of-way not obstructed by landscaping or parked vehicles.
- (b) The City reserves the right to require the user to install a suitable control manhole in the building sewer with all necessary appurtenances for observation, sampling and measurement of wastes. If required, the manhole shall be accessibly and safely located, and construction must meet approval of the wastewater director and public works director.
- (c) Regardless of the location of the approved monitoring facility, ample room must be supplied in or near the facility to allow accurate sampling and preparation of samples for analysis. The user is responsible for safety and accessibility of the monitoring facility.
- (d) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction of a suitable facility shall be completed within 90 days following written notification by the City.

Sec. 28-102. - Inspection, sampling and records retention.

The City shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater permit or order issued hereunder. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their purposes of inspection, sampling, records examination or in the performance of any of their duties including documentation with audio and/or visual media for the purposes identified herein.

- (a) The City, approval authority and EPA shall have the right to set up on the user's

property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations.

- (b) Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (c) The City Manager may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a minimum per the manufacturer's recommendation to ensure their accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the City Manager and shall not be replaced. The costs of clearing such access shall be born by the User.
- (e) Unreasonable delays in allowing the City Manager access to the User's premises shall be a violation of this ordinance. If the City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City Manager may seek issuance of a search warrant from the Circuit Court of Vernon County, Missouri.
- (f) Industrial users shall retain for a minimum of three years any records of monitoring activities and results, whether or not such monitoring activities are required by this article and shall make such records available for inspection and copying by the local, state or federal control authorities. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user and the POTW, state or federal authorities.

Sec. 28-103.- Pretreatment.

- (a) Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be

submitted to the City for review and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

- (b) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

Sec. 28-104. - Confidential information.

- (a) Information data, audio and visual media on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections and sampling activity shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user under applicable state law. Any such request must be asserted at the time of submission of the information, data, audio or visual media. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 will not be recognized as confidential information and shall be available to the public without restriction.
- (b) The City possesses the authority to inspect and copy records maintained by industrial users as required of control authorities by 40 CFR 403.12(1) and (2).

Sec. 28-105. -Emergency Suspensions.

- (a) The City may suspend the wastewater treatment service and/or a wastewater contribution permit after informal notice to the user when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the City to violate any condition of its NPDES

permit.

- (b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall break the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within 15 days of the date of occurrence.

Sec. 28-106. – Publication of Users in Significant Noncompliance

The City Manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, 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. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (c), (d) or (h) of this Section) and shall mean:

- (a) 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 Sec. 28-81 through Sec. 28-84;
- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Sec. 28-81 through Sec. 28-84 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a Pretreatment Standard or Requirement as defined by (Sec. 28-81 through Sec. 28-84 Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the City Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- (d) Any discharge of a pollutant that has caused imminent endangerment to the

- public or to the environment, or has resulted in the City Manager's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (f) 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;
 - (g) Failure to accurately report noncompliance; or
 - (h) Any other violation(s), which may include a violation of Best Management Practices, which the City Manager determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 28-107.-Administrative enforcement remedies.

- (a) *Notification of violation.* Whenever the City finds that any user has violated or is violating this article, wastewater contribution permit, or any prohibition, limitation or requirements contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within or up to a maximum of thirty days as required by the City Manager of the receipt of such notice, a plan for the satisfactory correction thereof, including specific required actions, shall be submitted to the City Manager by the user. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the authority of the City Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
- (b) *Administrative orders.* Administrative Orders are enforcement documents that direct Users to undertake and/or to cease specified activities by specified deadlines. The terms of an AO may or may not be negotiated with Industrial Users. AOs may incorporate compliance schedules, administrative penalties, termination of service, cease and desist, and show cause orders. An Administrative Order are judicially enforceable, and the minimum level of enforcement used to address Significant Noncompliance
- (c) *Consent orders.* The City Manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as compliance orders issued

pursuant to subsection (e) of this section.

- (d) *Show cause hearing.* The City Manager may order any user, who causes or contributes to violation of the ordinance, Pretreatment Standard or Requirement or wastewater permit or order issued hereunder, to show cause why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of the meeting, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing. Service may be made on Authorized Representative of the User as defined in Sec. 28-78 and required by Sec. 28-92(c). Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.
- (e) *Compliance order.* When the City Manager finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued thereunder, or any other Pretreatment Standard or Requirement, the City Manager may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (f) *Cease and desist orders.* When the City Manager finds that an industrial user has violated or continues to violate this article or any permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the industrial user's past violations are likely to recur, the City Manager may issue an order to cease and desist all such violations and direct the industrial user in noncompliance to:
 - (1) Immediately comply with all requirements.
 - (2) Take such appropriate remedial or prevention action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (g) *Administrative fines.*

- (1) When the City Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or orders issued hereunder, or any other Pretreatment Standard or Requirement the City Manager may fine such User in an amount not to exceed \$1,000.00 per violation. Such fines shall be assessed on a per-violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
 - (2) Unpaid charges, fines and penalties shall constitute, after thirty (30) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of five percent (5%) per month. A lien against the individual user's property shall be sought for unpaid charges, fines, and penalties.
 - (3) Industrial users desiring to dispute such fines must file a request in writing for the City Manager to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where the City Manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user. In the event the industrial user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the industrial user. The City Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
 - (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (h) *Emergency suspensions.*
- (1) The City Manager may immediately suspend the wastewater treatment service and/or wastewater permit of an industrial user, after informal notice, whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of the persons, the POTW, or the environment. The City Manager may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment. Any user notified of a suspension of the wastewater treatment service and
 - (2) d/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City Manager shall take such steps as deemed necessary, including immediate severance of the of the sewer connection, to prevent or minimize the damage to the POTW, its receiving stream, or endangerment to any individuals. The City Manager may allow the user to recommence its discharge when the industrial user has demonstrated to the satisfaction of the City Manager that the endangerment has passed, unless the termination proceedings set forth in section 28-108(i) are initiated against the

user

- (3) An industrial user who is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit to the City Manager a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence prior to the date of any show cause or termination hearing described in subsection (d) of this section.

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

(i) *Termination of permit.*

In addition to the provisions in Sec. 28-97 of this ordinance, any User who violates the following condition is subject to discharge termination: City

- (1) Violation of individual wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling;
- (5) Violation of the Pretreatment Standards in Sections 28-80 through 28-82 of this ordinance.

Noncompliant industrial users will be notified of the proposed terminations of their wastewater permit and be offered an opportunity to show cause under Sec. 28-(d) why the proposed action should not be taken. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the User.

Sec. 28-108. - Judicial enforcement remedies.

When the City Manager finds that an industrial user discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the City, the City attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of Vernon County Missouri.

- (a) *Injunctive relief.* Whenever an industrial user has violated or continues to violate the provisions of this article, or permit or order issued hereunder, or any other Pretreatment Standard or Requirement the City Manager, through counsel, may petition the court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, which restrains or compels the specific performance of the individual wastewater permit, order, or other

requirement imposed by this ordinance on the part of the industrial user. The City Manager shall have such remedies to collect these fees as it has to collect other service charges. The City Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(b) *Civil penalties.*

- (1) Any user who is found to have violated an order of the City Council, who willfully or negligently failed to comply with any provision of this article, and the orders, rules, regulations and permits issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City Manager for a civil penalty of not more than \$10,000.00 but at least \$1,000.00 per day for each violation. Each day on which a violation occurs or continues shall be deemed a separate and distinct offense. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In addition to the penalties provided herein, the City may recover reasonable sampling and monitoring costs, attorney's fees, court costs, court reporter's fees, and the cost of any actual damages incurred by the City.
- (2) The City Manager shall petition the court to impose, assess and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.
- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(c) *Criminal prosecution.*

(1) *Violations.*

- (i) Any industrial user who willfully or negligently violates any provision of the ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation per day, or imprisonment for not more than three months, or both.
- (ii) In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day, or imprisonment for not more than three years, or both.

(2) *Introduction of substances that causes harm.*

- (i) A User who willfully or negligently introduces any substance into the

POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1000.00 per violation per day, or imprisonment for not more than three months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(3) *Falsifying information.*

- (i) Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other documents filed or required to be maintained pursuant to this article, or wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation per day, or by imprisonment for not more than three months, or by both.
- (ii) In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day, or imprisonment for not more than three years, or both.

The City's ability to assess civil and criminal fines and penalties under Sec. 28-108(c) and this section is dependent on current state law.

Sec. 28-109. – Remedies Nonexclusive.

The remedies provided for in this ordinance are not exclusive. The City Manager may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City Manager may take other action against any User when the circumstances warrant. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant User.

Sec. 28-110.- Supplemental enforcement actions.

(a) *Penalties for Late Reports*

A penalty of \$20 per calendar day shall be assessed to any User for each day that a report required by this ordinance or a permit or order issued hereunder is late beginning seven (7) calendar days after the date the report is due. The penalty per calendar day may continue to increase up to a maximum of \$500 per calendar day at the City Manager's discretion. Actions taken by the City Manager to collect late reporting penalties shall not limit the City Manager's authority to initiate other enforcement actions that may

include penalties for late reporting violations.

(b) Performance Bonds

The City Manager may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Manager to be necessary to achieve consistent compliance.

(c) Liability Insurance

The City Manager may decline to issue or reissue an individual wastewater discharge to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(d) Payment of Outstanding Fees and Penalties.

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

(e) Cost Recovery

If it is determined that an illicit discharge is imminent or has occurred, the actual administrative costs incurred by the City in the enforcement of this ordinance shall be recovered from the responsible party. The City Manager shall submit an invoice to the responsible party reflecting the actual costs and wages and expenses incurred by the City for the enforcement activities undertaken. Failure to pay charges invoiced under this chapter within thirty days of billing shall constitute a violation of this chapter.

(f) Water Supply Severance

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

Sec. 28-111.- Affirmative defenses.

(a) Treatment upsets.

- (1) For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (3), below, are met.
 - (3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and the User can identify the cause(s) of the upset;
 - (ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (iii) The User has submitted the following information to the City Manager within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:
 - (a) A description of the upset, its cause and impact on the discharger's compliance status.
 - (b) The duration of the noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
 - (c) All steps taken or planned to reduce, eliminate and prevent the recurrence of such an upset.
 - (3) City Manager In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
 - (4) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
 - (5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- (b) Prohibited Discharge Standards

- (1) A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Sec. 28-80 of this ordinance or the specific prohibitions in Sec. 28-81 if this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:
 - (i) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
 - (ii) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Treatment bypasses.*
 - (1) For the purposes of this Section,
 - (i) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.
 - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - (2) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this Section.
 - (3) Bypass Notifications
 - (i) If a User knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, at least ten (10) days before the date of the bypass, if possible.
 - (ii) A User shall submit oral notice to the City Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected,

the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Bypass

- (i) A bypass of the treatment system is prohibited City Manager may take an enforcement action again an industrial user unless all of the following conditions are met:
 - a. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - b. There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The industrial user properly notified the City Manager as described in subsection (c)(3) of this section.
- (ii) The City Manager may approve an anticipated bypass, after considering its adverse effects if the City Manager determines that it will meet the three conditions listed in paragraph (4)(i) of this Section.

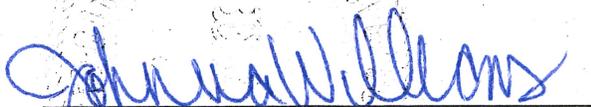
Sec. 28-112 -Miscellaneous Provisions

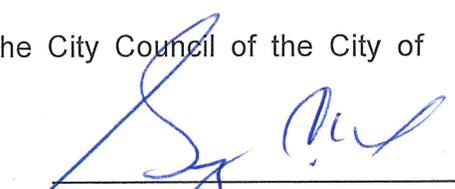
- (a) *Severability*. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force.

Section 2. This ordinance shall be in full fore and effect from and after its date of passage and approval.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this 19th day of May, 2020.

ATTEST:


Johnna Williams, Deputy City Clerk


George Knox, Mayor



April 30, 2020

TO: Mark Mitchell, Interim City Manager

FROM: Dan Scherer, Local Manager (Alliance Water Resources)

RE: **City of Nevada Pretreatment (Industrial User) Ordinance**

Per EPA and MDNR regulations the City of Nevada was required to update its Pretreatment Ordinance. This has been a very painstaking undertaking requiring several steps to get to the final product that is before you tonight. Following is the chronological process we have taken to get to this point:

2016 – WWTP and Collection System Monitoring to Update Local Limits
City Ordinance Update

2019 – Update submitted to MDNR for review (January)

Council endorsement (October)

Formally submitted to MDNR for 90 - day Public Notice (October)

Public Noticed by MDNR and City of Nevada (December)

2020 – Public Notice expires (January)

MDNR approves Ordinance as written (February)

The Public Notices did not receive any comments and the program has been approved by MDNR. The final step in the process is City of Nevada Council approval to incorporate the new Pretreatment Program into the Nevada City Code of Ordinances.

Cc: Gary Johnson, file