

ORDINANCE NO. 69-97

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION, CONSTRUCTION, MAINTENANCE, AND CONNECTION OF BUILDING SEWERS; THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND FOR OTHER PURPOSES, ALL PERTAINING TO THE SEWER LINES AND SYSTEM WITHIN THE JURISDICTION OF THE CITY OF FORT SMITH, ARKANSAS

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

Section 1: Definitions

When used in this Ordinance, the following terms shall have the stated meanings.

- A. "The Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- B. "Authorized Representative of IU" shall mean (as per 403.12(1)(1))
 - (1) By a responsible corporate officer, if the Industrial User submitting the reports required by paragraphs (b), (d) and (e) of this section is a corporation. For the purpose of the paragraph, a responsible corporate officer means (i) a president, secretary, treasurer, or 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 (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars); if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) By a general partner or proprietor if the Industrial User submitting the reports required by paragraphs (b), (d) and (e) of this section is a partnership or sole proprietorship respectively.
 - (3) By a duly authorized representative if the individual designated in paragraph (1)(1) or (1)(2) of this section if:
 - (i) The authorization is made in writing by the individual described in paragraph (1)(1) or (1)(2); or,
 - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(iii) The written authorization is submitted to the Control Authority.

- C. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20° degrees C expressed in milligrams per liter (mg/L).
- D. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.
- E. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- F. "COD" (denoting Chemical Oxygen Demand) means measure of the oxygen consuming capacity of inorganic and organic matter present in the wastewater expressed in mg/L as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.
- G. "Collector Building Sewer" shall mean a sewer on private property, privately maintained, which serves more than one building sewer. Collector building sewers shall be constructed with manholes at grade changes, changes in alignment and at termini, and with a diameter of at least six (6) inches, and such sewers shall be located outside building walls and footings.
- H. "Composite Method (Sample)" a composite sample may be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.
- I. "Control Authority" shall refer to the City Administrator or his designated agent.
- J. "Environmental Protection Agency (EPA)" shall mean the U.S. Environmental Protection Agency or a duly authorized official of that agency.
- K. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- L. "Grab Sample" a grab sample is an individual sample collected over a period of time not exceeding 15 minutes. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

- M. "Indirect Discharge" shall mean the discharge or the introduction of non-domestic pollutants from any source regulated under Section 307 (b) or (c) of the Act (33 U.S.C. 1317), into the POTW including holding tank waste discharged into the system.
- N. "Industrial User" shall mean a source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- O. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.
- P. "Inspector" shall mean the person or persons duly authorized by the Control Authority to inspect and approve the installation of the building sewers and their connections to the public sewer system.
- Q. "Interference" shall mean the inhibition or disruption of the POTW treatment process or operations which contributes to a violation of any requirement of the City's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Federal Water Pollution Control Act, (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State Sludge Management Plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- R. "National Categorical Pretreatment Standard (NCPS)" shall mean any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.6 or the latest revision thereof.
- S. "National Pollutant Discharge Elimination System Permit" shall mean a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342) as issued by the Arkansas Department of Pollution Control and Ecology.
- T. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- U. "New Source" the term "New Source" means 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 or production equipment that causes the discharge of pollutants at an existing source; or,
 - (3) The production of wastewater generating processes at the building, structure,

facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

- V. "Pass Through" the term 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 or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation).
- W. "Pretreatment or Treatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state 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, or process changes, or by any other means, except as prohibited by 40 CFR Section 403.6 (d).
- X. "Owner" shall mean the "person" or "persons" who possess any interest in the structure or property to which such ownership relates.
- Y. "Person" shall mean any individual, firm, company, association, society, corporation, or group.
- Z. "pH" shall mean the logarithm of the reciprocal of the gram ionic hydrogen equivalents per liter of solution.
- AA. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in dimension.
- BB. "Public Sewer" shall mean a sewer in which all owners of abutting properties have substantially equal right and which is controlled by the City.
- CC. "Publicly Owned Treatment Works (POTW)" shall mean a treatment works as defined by the Act, (33 U.S.C. 1292) which is owned by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this Ordinance, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the City of who are, by contract or agreement with the City, Users of the City's POTW.
- DD. "Sanitary Sewer" shall mean a sewer in which sewage is carried, and to which storm, surface and groundwaters are not intentionally admitted.
- EE. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industries.

- FF. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
- GG. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.
- HH. "Sewer" shall mean a pipe or conduit for carrying sewage.
- II. "Shall" is mandatory; "May" is permissive.
- JJ. "Significant Industrial User (SIU)" shall mean any Industrial or Commercial User of the City's wastewater disposal systems who:
- (1) Is a discharger subject to categorical pretreatment standards; or,
 - (2) Has a discharge flow of 25,000 gallons or more per average work day of processed wastewater; or,
 - (3) Has a flow greater than 5% or more of the average dry weather hydraulic or organic capacity of the wastewater treatment system; or,
 - (4) Is designated as such by the Control Authority on the basis that the User has a reasonable risk for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or,
 - (5) Has in the wastes discharged to the City toxic pollutants as defined pursuant to Section 307 of the Act, or Arkansas Statutes or Rules of the Arkansas Department of Pollution Control and Ecology (ADPC&E); or,
 - (6) Is found by the City, ADPC&E or the EPA to have 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.
- KK. "Slug" shall mean any discharge of water, sewage, or industrial wastes which in concentration of any given constituent or in quantity or flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
- LL. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface water and drainage, but excludes sewage and untreated industrial wastes, other than non-contact cooling water.
- MM. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

- NN. "Toxic Pollutant" shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of the Clean Water Act, Section 307 (a) or other acts.
- OO. "User" shall mean any person who contributes, causes or permits the contribution of wastewater into the City's POTWs.
- PP. "Wastewater Contribution Permit" shall mean a permit to discharge to the City's wastewater treatment systems as outlined in Section 8 of this Ordinance.
- QQ. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 2: Scope

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

Section 3: Use of Public Sewers Required

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable wastes.
- B. It shall be unlawful to discharge any sewage or other polluted waters to any natural outlet within the City, or in any area under the jurisdiction of the City, except where suitable treatment has been provided in accordance with a valid, current National Pollutant Discharge Elimination System Permit covering such discharges. The Control Authority may immediately discontinue water service to the User or Owner of any property where an unlawful discharge exists until such discharge of any sewage or polluted waters is properly eliminated.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.
- D. The owner of all houses or structures used for human occupancy, employment, recreation, or other purposes, situated within the City and located within three hundred (300) feet of a public sewer shall, at his own expense, both install suitable toilet facilities therein and connect such facilities to such accessible public sewer by means of gravity or pumped connection as approved by the Control Authority.

E. Other than building sewers and collector building sewers, all sewers constructed by owners to connect the building drains of structures to a public sewer shall be located within public easements or rights of way, shall be constructed by such owner to the standards required by the Control Authority for public sewers and shall be subject to use by other Users of the public sewers if permitted by the Control Authority. No sewer shall be constructed within any public easement or right of way nor connected to a public sewer without approval by the Control Authority, which approval shall include the discretion to require any one of multiple possible routes and or construction pursuant to the policy of Section 3, of Ordinance 2973, as amended.

Section 4: Private Sewage Disposal

A. Where a public sanitary sewer is not available under the provisions of Section 3 D., the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Section.

B. Before commencement of construction of a private sewage disposal system, the owner shall obtain written approval by the Control Authority and any other State, Federal, or local authority. The owner shall make application for approval in writing and the application shall be supplemented by any plans, specifications, and other information as are deemed necessary by the Control Authority.

C. The type, capacities, locations and layout of private sewage disposal systems shall comply with all recommendations of the State Department of Health of the State of Arkansas and the Pollution Control Commission.

D. When a public sewer becomes available as defined in Section 3 D. above, and the private sewage disposal system of such structure which was installed prior to the availability of such public sewer functions improperly, the owner of such structure shall connect the building sewer to the public sewer pursuant to the provisions of Section 3 D. above and the private sewage disposal system shall be cleaned of sludge and filled with clean gravel or dirt.

Section 5: Building Sewers and Connections

A. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb, any public sewer or appurtenance thereof without first obtaining a written permit from the Control Authority. No permit shall be issued to allow any person to tie his property to the sewer system until the tie-on fee prescribed by Section 3 of Ordinance No. 2973, as presently amended and as may be amended in the future, is paid.

B. The classes of building sewers, connections and associated procedures for applying for sewer services shall be as further described in Ordinance No. 2973, as presently amended and as may be amended in the future.

C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building except as follows:

- (1) Where multiple buildings are constructed in an apartment complex or condominium on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels, the

individual buildings may be connected to a "collector building sewer" provided that only one person is responsible for maintenance of the building sewer.

- (2) Temporary buildings, mobile homes, or similar portable structures may be connected to a building sewer installed to serve a previously constructed permanent building provided that both the permanent and temporary buildings are located on the same lot.

E. Old building sewers, or portions thereof, may be used in connection with new buildings only when they are found on examination and test by the Inspector to meet all requirements of this Ordinance.

F. The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe jointing, testing and back-filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City and the State of Arkansas.

G. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and back-filling shall be performed in accordance with current American Society for Testing Materials specifications, except that no backfill shall be placed until the work has been inspected by the Inspector.

H. No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

I. The connection of the building sewer into the public sewer shall conform to the building and plumbing codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Control Authority before installation.

J. The applicant for the building sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be accomplished under the supervision of the Inspector.

K. All excavations for building sewer installation shall be adequately guarded with barricades and warning lights so as to warn the public of hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Control Authority.

Section 6: Use of Public Sewers

A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, non-contact cooling water or unpolluted industrial process waters into any sanitary sewer but such waters shall be discharged into such sewers as are specifically designated as storm sewer or into a natural outlet. The discharge into any storm sewer or into natural outlet of any waters which may have a deleterious effect upon the receiving stream is prohibited.

B. No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW, or will have an adverse effect on the

receiving stream, or will violate any of the provisions of this Ordinance. These general provisions apply to all Users of the City's POTWs whether or not the User is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements. A User shall not contribute any of the following substances to any POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or to be injurious in any other way to the POTW or to the operation thereof. At no time shall any substance with a closed cup flashpoint of less than 140 degrees F be allowed to enter the sanitary sewer system. Prohibited materials include, but are not limited to; gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and other substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.
- (2) Any wastewater having a pH less than 6.0 or having a pH greater than 11.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (3) Any solid or viscous material which could cause an obstruction to the flow in the sewer or in any way interfere with the treatment process. Examples of such materials include, but are not limited to; ashes, wax, paraffin, cinders, sand, mud, straw, shavings, wood and sawdust, bones, paunch manure, hair, hides or fleshings, entrails, whole blood, feathers, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds and residues from grinding operations, acetylene generation sludge, chemical residues, acid residues, plastics, tar, asphalt residues, and food processing bulk solids or any discharge of petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (4) Any pollutants, including chlorine and oxygen demanding pollutants, 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 concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- (5) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature that raises the wastewater temperature of the influent to the POTW to more than 40° degrees C (104° degrees F), and in no case any wastewater with a temperature in excess of 65° degrees C (150° degrees F) measured as it enters the POTW.
- (6) Any noxious or malodorous liquids, toxic gases, vapors or fumes, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (7) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment

standard.

- (8) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourth (3/4) horsepower (0.76 horsepower metric) or greater shall be subject to review and approval by the Control Authority.
- (9) Any substance which will cause the POTW to violate its NPDES Permit or the receiving stream water quality standards.
- (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the ACT, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or Arkansas State criteria applicable to the sludge management method being used.
- (11) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (12) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulation.
- (13) Any wastewaters containing materials which exert or cause unusual concentrations of solids or composition; as for example, unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues, or, unusual concentrations of dissolved solids such as, but not limited to, sodium chloride, calcium chloride and sodium sulfate.
- (14) Any septic tank sludge, except that such sludge may be discharged by permitted haulers into selected treatment plants only at locations designated for this purpose.
- (15) Any wastewater which causes a hazard to human life or creates a public nuisance.

C. Federal Categorical Pretreatment Standards

The Federal Categorical Pretreatment Standards for new and existing sources set forth in 40 CFR, Subchapter N, Parts 401 through 471 for the particular category of User will determine the characteristics of permissible waste discharges and the degrees of pretreatment required. In cases where this Ordinance imposes more stringent requirements, or where no EPA guidelines exist, the provisions of this Section shall apply. Upon promulgation of the Federal Categorical Pretreatment

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

D. Specific Pollutant Limitations

- (1) No person shall discharge or cause to be discharged into the City sewer system any

wastewater containing substances with levels measured at any time in excess of the limits established by the User's wastewater contribution permit or in excess of the further provisions of this section. Each User's permit will establish specific pollutant limitations based upon the following maximum allowable headworks loadings (MAHL) at the POTW treatment plants.

Maximum Allowable Headworks Concentrations

Pollutant	"P" Street POTW MAHL (lbs/day)	Massard POTW MAHL (lbs/day)
BOD	19246.15	15637.50
TSS	20850.00	13900.00
Oil & Grease	3626.09	3336.00
Cyanide	8.11	19.02
Arsenic		1.23
Cadmium	0.54	0.39
Chromium	13.65	14.78
Copper	21.53	16.94
Lead	4.59	3.70
Mercury	0.05	0.04
Molybdenum	1.40	1.02
Nickel	14.51	25.87
Selenium	1.02	0.74
Silver	9.23	3.41
Zinc	81.12	33.88

- (2) No person shall discharge, or cause to be discharged, any wastewater containing greases, oils, fats or waxes whether emulsified or not, in concentrations in excess of one hundred fifty (150) mg/L for all substances. Substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred four (104) degrees F are prohibited. Discharge of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause pass through or interference are also prohibited.
- (3) No person shall discharge, or cause to be discharged, any wastewater containing materials which exert or cause BOD5 concentrations in excess of 450 mg/L or 180 ppd or suspended solids concentrations in excess of 430 mg/L or 180 ppd whichever results in the higher mass emission.

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

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

E. Special Agreements

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

F. Compliance by Dilution

No User shall increase the use of process water or, in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

G. Accidental Discharges

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Upon request by the Control Authority, a detailed plan showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for their review and approval. In the case of any accidental discharge, it is the responsibility of the User to immediately telephone and notify the POTW of the incident. The notification shall include the cause of the discharge, the location of the discharge, type of waste, concentration and volume and corrective actions taken. The User shall submit to the Control Authority within seven (7) days following the accidental discharge a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liabilities which may be imposed pursuant to this Ordinance.

H. Hazardous Waste Discharge

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

I. Storage of Dangerous Materials

The storage of any material in areas served by public sewers or in areas draining into the City sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage

works or in any other way have a deleterious effect upon these works or treatment processes, or constitute a hazard to human beings or animals, or the receiving stream shall be subject to review by the Control Authority, who at their discretion may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

J. Rejection or Control of Waste Discharge

If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the substances or possess the characteristics enumerated in the preceding subsections and which, in the judgement of the Control Authority may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Control Authority may (a) reject the wastes, (b) require pretreatment to an acceptable condition for discharge into the public sewers, and/or (c) require control over the quantities and rates of discharge.

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

K. Grease, Oil and Grit Interceptors

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

L. Flow Equalizing Facilities

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

M. Sampling and Measurement Manhole

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

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

N. Analyses

All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest Federal Standard which is currently 40 CFR Part 136 or equivalent methods approved by the EPA and shall be determined at the

control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been provided, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence on hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, COD, and TSS analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas the pH's and oil and grease tests are determined from grab samples taken periodically).

Section 7: Septic Tank Truck Discharge Permit

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

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

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

The septic tank discharge permit fee shall be \$500.00 per year from date of issuance.

Section 8: Wastewater Contribution Permit

A. The purpose of this Section is:

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

B. All SIUs who wish to connect to or to contribute to the POTW shall obtain a Wastewater Contribution Permit before connecting or contributing to the POTW. At the direction of the Control Authority, the Wastewater Contribution Permit may contain:

- (1) Limits on maximum and average wastewater characteristics based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits and State and local law; or,
- (2) Limits on average and maximum rate and time of discharge, or requirements for flow regulation and equalization, requirements for installation and maintenance on inspection and sampling facilities; or,
- (3) Specifications for monitoring programs which will include sampling locations, frequency of sampling, number, types and parameters for tests and reporting/compliance schedules; or,
- (4) Self-monitoring, sampling, reporting, notification, and record keeping requirements, including an identification of the pollutants to be monitored; or,
- (5) Statements of applicable civil and criminal penalties for violation of pretreatment standards and requirements and, where required, any applicable compliance schedules; or,
- (6) Other conditions as deemed necessary by the Control Authority to insure compliance with the Ordinance. All costs of sampling and testing for the monitoring program are to be borne by the User.

C. Application for Wastewater Contribution Permit

Users required to obtain a Wastewater Contribution Permit shall complete and file with the Control Authority an application in the form prescribed by the Control Authority. Proposed new Users shall apply for such permit at least ninety (90) days prior to connecting to or contributing to the POTW. Upon receipt of the application, the Control Authority will evaluate the data furnished and, if the data is acceptable, may issue a Wastewater Contribution Permit. The fee for the permit shall be \$82.00 per month and \$68.00 per monitoring sample for each SIU.

D. Modification of Wastewater Contribution Permit Restrictions

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

- (1) The nature and concentration of any pollutants in the discharge which are limited by such Standard;
- (2) A statement regarding whether such Standard is being met on a consistent basis and, if not, whether additional operations and maintenance and/or additional pretreatment is required to meet such Standard;
- (3) If additional pretreatment and/or operation and maintenance will be required to meet such Standard, the shortest possible schedule by which the User will provide such additional pretreatment and/or operation and maintenance and the completion date shall be no later than the compliance date established for such Standard.

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

E. Wastewater Contribution Permits Duration

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

F. Permit Transfer

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

G. Provisions for Fraud and False Statements

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

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

Section 9: Reporting Requirements

A. 90 Day Compliance Report

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

B. Compliance Schedule Reports

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

C. Self Monitoring Reports

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

D. Publication

The City shall annually publish in a local newspaper with the largest daily circulation in the area a list of the Users which were significant violators of Pretreatment Standards or their Wastewater Contribution Permits during the previous twelve (12) months. Significant violators shall be defined by the most current Federal Regulations. The notification shall also include a summary of any enforcement action taken against the violator during the same twelve (12) months.

Section 10: Protection from Damage

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

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

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

Section 11: Powers and Authorities of Inspectors

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

B. A User may request that specific information which must be submitted to the City be kept confidential. A statement notifying the User that the information submitted with each Wastewater Contribution Permit Application and Industrial Waste Questionnaire shall be available to the public without restriction, shall be included on each questionnaire. The statement also notifies the User that the City will follow the

requirements of 40 CFR Part 2 in its evaluation and approval or denial of each Users request for confidentiality. Generally, to be considered as confidential, information would have to meet one or more of the following criteria:

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

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

C. While performing the necessary work on a private property referred to in Section 11 A., such duly authorized person shall observe all safety rules applicable to the premises.

Section 12: Penalties

A. Any person determined to be guilty of a violation of any provision of Section 3 or Section 10 of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to the penalties and fines set forth in Section 1.8 of the Fort Smith Code of Ordinances.

B. Any person found in violation of any of the provisions of this Ordinance, except Section 10, shall be served by the Control Authority with written notice stating the nature of the violation, describing the penalty applicable to the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The User may deliver to the Control Authority, within five (5) days of receipt of such notice, a written request for a hearing before the Control Authority at which hearing the User shall be given an opportunity to show cause why the notice should be rescinded or modified.

Any notice issued pursuant to this sub-section may provide one or more of the following penalties:

- (1) An administrative penalty of not more than \$1,000.00 for each violation of the Ordinance, and each day of a continuing violation may be deemed a separate violation; and,
- (2) A compliance directive with time schedule mandating procedures which would bring the User into compliance with this Ordinance within the designated time schedule, which compliance directive with schedule shall be expressly stated to be subject to enforcement by withdrawal of the User's discharge permit or termination of POTW service upon non-compliance with the compliance directive with schedule; and,
- (3) A withdrawal of the User's discharge permit and termination of POTW service to the User.

The Control Authority shall be guided by the City of Fort Smith Pretreatment Program Enforcement

Management Plan, which was adopted by the Control Authority on the effective date of this Ordinance, and confirmed hereby, in (1) the initial issuance of penalties set forth in notices issued pursuant to this sub-section and (2) in the administrative adjustment or amendment to any such penalty as a result of a hearing requested by the User pursuant to the provisions of this sub-section. No action to withdraw a User permit shall be final until the Control Authority has given notice of and conducted the show cause hearing provided for in the Enforcement Management Plan.

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

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

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

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

Section 13: Validity

A. All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed. Specifically, Ordinance No. 46-91 is repealed and the provisions of this Ordinance are intended to replace same. Code of Ordinance Sections 31-93 and 31-94, originally adopted by Ordinances No. 3557 and 2973, as amended, are not repealed by the adoption of this Ordinance.

B. The codifier of the City's Ordinances shall codify the provisions of this Ordinance in the Code of Ordinances of the City in lieu of the provisions of Ordinance No. 3740 as Division 1 of Article IV of Chapter 31.

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

Section 14: Emergency Clause

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

PASSED AND APPROVED this _____ day of November 1997.

APPROVED:

Mayor

ATTEST:

City Clerk