

ORDINANCE NO. 328

**AN ORDINANCE AMENDING TITLE 10, CHAPTER 10.04,
SECTION 10.04.04, PARAGRAPH B OF THE GREENLAND
MUNICIPAL CODE; DECLARING AN EMERGENCY TO
EXIST AND FOR OTHER PURPOSES.**

WHEREAS, the cities of Greenland and Fayetteville have entered into a new fifteen (15) year Sewer Contract effective 01-01-2018;

WHEREAS, such contract calls for Greenland to adopt the same standards, rules and regulations for all users of the Greenland sewer system as apply to all users of the Fayetteville system;

WHEREAS, the previous long-term sewer contract between Fayetteville and Greenland was adopted in 1993 and many of the rules, standards and regulations adopted by Greenland in obedience to the previous long-term contract are now outdated and incomplete by current Fayetteville standards;

WHEREAS, it is vital to the safe operation and effectiveness of the Fayetteville Water Resource Recovery Facility (hereinafter WRRF) that the Discharge and Pretreatment Regulations for the Greenland Sewer System (hereinafter GSS) be brought current; and,

WHEREAS, compliance with the Clean Water Act (33 U.S.C. Sec. 1251 et seq) and the General Pretreatment Regulations (40 CFR 403) is required to protect water resources and the health of all citizens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF GREENLAND, ARKANSAS, that:

Section 1: Effective with the passage of this Ordinance, Paragraph B. of Section 10.04.04 of Chapter 10.04 of Title 10 shall read as follows:

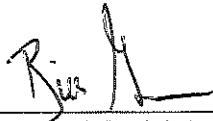
“B. That the Discharge and Pretreatment Regulations attached hereto as 'Exhibit A' and made a part hereof is hereby adopted by reference. Said Discharge and Pretreatment Regulations shall be codified as an Exhibit to this paragraph with reference numbers in substantially the same form as shown on attached 'Exhibit A'”

Section 2: That the reference numbers shown on 'Exhibit A' have no relevance to other parts of the Greenland Municipal Code and are adopted solely to aid in relating the provisions of 'Exhibit A' to the relevant sections of the Fayetteville Code.

Section 3: That Chapter 10.04 of Title 10, and Section 10.04.04 of the Greenland Municipal Code is not amended except as expressly provided above; all other paragraphs of Section 10.04.04 are hereby ratified and confirmed.

Section 4: That the Greenland City Council hereby determines that passage and immediate effectiveness of this Ordinance is necessary to adequately and properly protect the health, safety and welfare of the inhabitants of the City and therefore an emergency is hereby declared, and this Ordinance shall be in full force and effect immediately upon its passage and approval.

PASSED AND APPROVED this 12 day of MARCH, 2018.



BILL GROOM, Mayor

ATTEST:



STEPHANIE SHARP, Recorder-Treasurer

'Exhibit A'

DISCHARGE AND PRETREATMENT REGULATIONS

51.070 - Purpose

This article sets forth standards and requirements for users of the Greenland Sewer System (GSS) and the Water Resource Recovery Facility (WRRF) for the City of Fayetteville and enables the city to comply with all applicable federal and state laws, including Clean Water Act (33 U.S.C. §1251 et seq.) and the General Pretreatment Regulations (40 CFR 403). The objectives of this article are:

- (A) To prevent the introduction of pollutants into the WRRF that will interfere with its operation or contaminate its resulting biosolids;
- (B) To prevent the introduction of pollutants into the WRRF which will pass through the WRRF, inadequately treated, into receiving waters or otherwise be incompatible with the WRRF;
- (C) To protect both WRRF personnel who may be affected by wastewater and biosolids in the course of their employment and the general public;
- (D) To improve opportunities for reuse and recycling of wastewater and biosolids from the WRRF;
- (E) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the WRRF;
- (F) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other federal or state laws to which the WRRF is subject; and
- (G) To provide for penalties for violations of the regulations established herein.
- (H) To encourage pollution prevention through waste minimization, source reduction, reuse practices, recycling, and water and energy conservation.

This article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

51.071 - Applicability

This article shall apply to all users of the GSS and the WRRF.

51.072 - Administration

Except as otherwise provided herein, Fayetteville, as the operator of the GSS, shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon Greenland may be delegated by the city to his/her authorized representative, the City of Fayetteville.

51.073 - Abbreviations

The following abbreviations shall have the designated meanings:

See table.

BOD	Biochemical Oxygen Demand
BMP	Best Management Practice
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
EPA	U.S. Environmental Protection Agency
gpd	Gallons Per Day
NPDES	National Pollutant Discharge Elimination System
NAICS	North American Industrial Classification System
RCRA	Resource Conservation and Recovery Act
TSS	Total Suspended Solids
SIU	Significant Industrial User
SNC	Significant Noncompliance
U.S.C.	United States Code
WRRF	Water Resource Recovery Facility

51.074 - Definitions

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

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

Approval authority. Arkansas Department of Environmental Quality.

Authorized signatory or authorized or duly authorized representative of the user.

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, 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 requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: A general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility: A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- (4) The individuals described in paragraphs one (1) through three (3) above may designate another 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.

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 51.075(B) (1) and (2). 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. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.

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

Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with §§307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Article N, Parts 405—471.

Categorical Industrial User (CIU). An industrial user subject to a categorical pretreatment standard or categorical standard.

City. The Mayor of Greenland or his/her duly authorized representative, or the City of Fayetteville, the Fayetteville Mayor or City Council or its duly authorized representative. The city is the control authority as defined in 40 CFR 403.3(f)(1).

Control authority. The city.

Composite sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the city.

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

Daily maximum limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic waste. Liquid and water-carried waste generated by a typical household or waste comprised of waste equivalent to that generated by a typical household - human excrement and gray water (household showers, dishwashing operations, etc.). This does not include waste from commercial or industrial processes whether generated at a household or other premises.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or its authorized representative.

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

Grab sample. An individual sample collected over a period of time not to exceed fifteen (15) minutes.

Hauled wastewater. Wastewater that is loaded to a tanker truck, a portable tank or other container and conveyed to another location for discharge. Hauled wastewater includes, but is not limited to, septic tank waste and portable toilet waste.

Indirect discharge or discharge. The introduction of pollutants into the WRRF from any nondomestic source.

Industrial user. A discharger into the WRRF of nondomestic wastewater.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WRRF, its treatment processes or operations or its biosolids processes, use or disposal and therefore, is a cause of a violation of the city's NPDES permit or a cause of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: §405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in

any state biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

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

Local limit. 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).

May. Discretionary or permissive.

Monthly average. 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. 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.

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

National Pollutant Discharge Elimination System (NPDES) permit. A permit issued to a WRRF or other discharger pursuant to §402 of the Act.

New source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under §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:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of §(1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin as part of a continuous onsite construction program:
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

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

Pass through. A discharge which exits the WRRF into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

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

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

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

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

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

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the WRRF. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements. Any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a user.

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, narrative BMPs, and local limits.

Prohibited discharge standards or prohibited discharges. Prohibitions against the discharge of certain substances; these prohibitions appear in §51.075(B) of this article.

Qualified professional. A person who is proven to be competent or suited for a specific position or task.

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

Shall. Mandatory.

Significant industrial user.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the WRRF (excluding sanitary, noncontract cooling, and boiler blowdown wastewater); or
 - (b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the WRRF treatment plant; or
 - (c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the WRRF's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in two (2) has no reasonable potential for adversely affecting the WRRF'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 a 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. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this article or any discharge of a nonroutine, episodic

nature, including but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the city's regulations, local limits or permit conditions.

Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

State. State of Arkansas.

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

Surcharge. A service charge in addition to the normal monthly rate which shall be assessed to the significant industrial users who discharge into the city system wastewater having an average BOD concentration in excess of 300 milligrams per liter or an average TSS concentration in excess of 300 milligrams per liter.

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

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by EPA under §307 (33 U.S.C. §1317) of the Act.

Treatment plant's effluent. The discharge from the wastewater treatment plant into the receiving stream.

User. Any person who contributes or permits the contribution of wastewater into the WRRF.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions.

Wastewater treatment plant. That portion of the WRRF which is designed to provide treatment of municipal sewage and compatible industrial waste.

Water Resource Recovery Facility (WRRF). A "treatment works," as defined by §212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The WRRF is the publicly owned treatment works or POTW as defined in 40 CFR 403.3(q).

51.075 - General Sewer Use Requirements

(A) Wastewater generated by development located in 100-year floodplain not to be transported or treated by facilities constructed under EPA Project No. C-050366-01 for 50 years.

(1) For the purpose of this section area of existing development shall mean an area which, at the EPA issued a finding of no significant impact for EPA Project No. C-050366-01 was:

(a) Occupied by existing structures or facilities;

- (b) Substantially surrounded by existing structures or facilities and which serves no significant independent natural floodplain function; or
 - (c) Characterized by substantial investment in public infrastructure but which is only partially occupied by structures or facilities.
- (2) No wastewater generated by development located in the 100-year floodplain shall be transported or treated by facilities constructed under EPA Project No. C-050366-01 for a period of fifty (50) years from January 1, 1987, except that service may be provided to:
- (a) Areas of existing development in a floodplain;
 - (b) Commercial or public facilities which by nature must be located in a floodplain;
 - (c) Areas of projected growth if the environmental information document for EPA Project No. C-050366-01 demonstrates that proposed development will be consistent with the floodplain management criteria for flood-prone areas (44 CFR 60.3) of the Federal Emergency Management Agency (FEMA) and will have no significant impacts on natural functions and values of the floodplain; or
 - (d) An area of projected growth if an environmental impact statement demonstrates that there is no practicable alternative to such growth, that such growth will be consistent with the floodplain management criteria for flood-prone areas (44 CFR 60.3) of FEMA, and that the benefits of such growth outweigh its environmental costs.

(B) *Prohibited Discharge Standards.*

- (1) *General Prohibitions.* No person shall introduce or cause to be introduced into the WRRF any pollutant or wastewater which causes, or has the potential to cause, pass through or interference. These general prohibitions apply to all users of the WRRF whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.
- (2) *Specific Prohibitions.* No person shall introduce or cause to be introduced into the WRRF the following pollutants, substances, or wastewater:
- (a) Pollutants which create a fire or explosive hazard in the WRRF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 ° Fahrenheit (60 ° C) using the test methods specified in 40 CFR 261.21;
 - (b) Wastewater having a pH less than 5.0 or more than 12.4, or otherwise causing corrosive structural damage to the WRRF or equipment;
 - (c) Solid or viscous substances including, but not limited to, fats, oil or grease of animal or vegetable in amounts which will cause obstruction of the flow in the WRRF resulting in interference but in no case solids greater than (½) inch in any dimension;
 - (d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the WRRF;

- (e) Wastewater having a temperature greater than 150° Fahrenheit (65° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° Fahrenheit (40° C);
- (f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WRRF in a quantity that may cause acute worker health and safety problems;
- (h) Trucked or hauled pollutants, except at discharge points designated by the city in accordance with §51.076(D) of this article;
- (i) Any liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye, wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal or state regulations and approved by the city;
- (l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (n) Medical wastes or pharmaceutical drugs, except as specifically authorized by the city;
- (o) Wastewater causing, alone or in conjunction with other sources, the WRRF to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;
- (p) Any substance which may cause the WRRF's effluent or other product of the WRRF such as residues, biosolids or scums, to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;
- (q) Detergents, surface-active agents, or other substances which may cause excessive foaming in the WRRF;
- (r) Any material into a manhole through its top unless specifically authorized by the city.
- (s) Non-flushable wipes, non-dispersible wipes, and non-biodegradable wipes including, but not limited to, baby wipes, paper towels, dusting wipes, cleaning wipes, and disposable mop heads.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the WRRF.

- (C) *Categorical Pretreatment Standards or Categorical Standards.* 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. Users must comply with the categorical pretreatment standards. Categorical pretreatment standards are hereby incorporated.
- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
 - (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
 - (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
 - (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (D) *Local Limits.* To protect against pass through and interference, no industrial user may discharge or cause to be discharged into the WRRF any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the city as required by Part III in City of Fayetteville NPDES permits No. AR0020010 and AR0050288 authorized by 40 CFR 403.5 (c) and approved by the approval authority. TBLLs based on calculated maximum allowable industrial loadings are located in the City's Pretreatment Program, Part 2. At the discretion of the city, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the city, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The city may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered local limits and pretreatment standards. When new local limits are implemented or revised, the City will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3).
- (E) *Right of Revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the WRRF.
- (F) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

51.076 - Pretreatment of Wastewater

- (A) *Pretreatment Facilities.* Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all pretreatment standards, local limits, and the prohibitions set out in §51.075(B) of this article within the time limitations specified by EPA, the state, or the city, 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 for review, and shall be acceptable by the city 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 article.
- (B) *Additional Pretreatment Measures.*
- (1) Whenever deemed necessary, the city may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocated and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WRRF and determine the user's compliance with the requirements of this article.
 - (2) The city may require any person discharging into the WRRF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
 - (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, 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 type and capacity approved by the city and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.
 - (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
 - (5) At the city's discretion and when deemed necessary the industrial user shall have a licensed wastewater treatment operator on duty at all times when treating and discharging regulated wastewater to the city's collection system. Said operator shall meet the license or level of operator qualifications deemed necessary for proper treatment per Arkansas Pollution Control and Ecology Commission's Regulation #3.
- (C) *Accidental Discharge/Slug Control Plans.* The city shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan or other action to control slug discharges. The city 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 may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:
- (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;

- (3) Procedures for immediately notifying the city of any accidental or slug discharge, as required by §51.079(F) of this article. Such notification must also be given for any discharge which would violate any of the prohibited discharges in §51.075(B) of this article; and
 - (4) 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.* Hazardous waste will not be accepted by truck or liquid waste hauler at the WRRF.
- (1) Domestic waste haulers are required to submit an application to discharge liquid wastes. This application must be accompanied by a fee in accordance with §51.137(G). Hauled domestic waste may be introduced into the WRRF only at locations approved by the city and at such times as are established by the city. Such wastes shall not violate §51.075 of this article or any other requirements established by the city. A fee must be paid for each domestic waste load in accordance with §51.137(G). The city may require the domestic waste haulers to obtain wastewater discharge permits.
 - (2) The city may require haulers of industrial waste to obtain wastewater discharge permits. The city may require generators of hauled industrial waste to obtain wastewater discharge permits. The city also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
 - (3) If the industrial waste is from a categorical user, the hauled wastewater must include waste analysis proving it meets the required limitations of its respective category.
 - (4) Domestic waste haulers and industrial waste haulers may only discharge loads at locations designated by the city. No load may be discharged without prior consent of the city. The city may collect samples of each hauled load to ensure compliance with applicable standards. The city may require the hauler to provide a waste analysis of any load prior to discharge.
 - (5) Domestic waste and 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 waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. For industrial waste, the form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
 - (6) Any waste not deemed domestic by the city will be handled on a case by case basis at the discretion of the city.

51.077 - Wastewater Discharge Permit Application

- (A) *Wastewater Analysis.* When requested by the city, a user must submit information on the nature and characteristics of the user's wastewater within thirty (30) days of request, unless

otherwise specified. The city is authorized to prepare a form for this purpose and may periodically require users to submit or update the information.

(B) *Wastewater Discharge Permit Requirement.*

- (1) No significant industrial user shall discharge wastewater into the WRRF without first obtaining a wastewater discharge permit from the city, except a significant industrial user that has filed a timely application pursuant to §51.077(C) of this article may continue to discharge for the time period specified therein.
- (2) The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in §51.082 through §51.084 of this article. Obtaining a 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.

(C) *Wastewater Discharge Permitting; Existing Connections.* Any non-permitted user required to obtain a wastewater discharge permit, who was discharging wastewater into the WRRF prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the city for a wastewater discharge permit in accordance with §51.077(E) of this article, and shall not cause or allow discharges to the WRRF to continue after one hundred eighty (180) days of the effective date of this article except in accordance with a wastewater discharge permit issued by the city.

(D) *Wastewater Discharge Permitting; New Connections.* Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the WRRF must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §51.077(E) of this article, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(E) *Wastewater Discharge Permit Application Contents.* All users required to obtain a wastewater discharge permit must submit a permit application accompanied by a fee in accordance with 51.137(H). The city may require a user to submit as part of an application the following information:

- (1) The information required by §51.079(A)(2) of this article;
- (2) A comprehensive description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals (not just trade names) used or stored at the facility which are, or could accidentally or intentionally be, discharged to the WRRF. A qualified professional must certify to the accuracy of this process narrative;
- (3) Number of employees, hours of operation, and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes, and rate of production;

- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Comprehensive site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location, and elevation, and all points of discharge. A qualified professional must certify to the accuracy of this schematic(s);
- (7) Time, average gallons per day discharged and duration of discharges; and
- (8) Any other information as may be deemed necessary by the city to evaluate the wastewater discharge permit application.
- (9) Pollution prevention (P2) activities such as source reduction, waste minimization, environmental management systems, water and energy conservation, and use of less toxic alternatives.

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

- (F) *Application Signatories and Certification.* All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly 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 there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- (G) *Wastewater Discharge Permit Decisions.* The city will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the city will determine whether or not to issue a wastewater discharge permit. The city may deny any application for a wastewater discharge permit.

51.078 - Wastewater Discharge Permit Issuance Process

- (A) *Wastewater Discharge Permit Duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the city. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (B) *Wastewater Discharge Permit Contents.* Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the City to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate biosolids management and disposal, and protect against damage to the WRRF.
 - (1) Wastewater discharge permits must contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
 - (b) A statement that the wastewater discharge permit is nontransferable except in accordance with §51.078 (E).
 - (c) Effluent limits, including best management practices, based on applicable pretreatment standards;
 - (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
 - (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
 - (f) Requirements to control slug discharge, if determined by the city to be necessary.
- (2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (b) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (c) Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WRRF;
 - (e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (f) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (g) Other conditions as deemed appropriate by the city to ensure compliance with this article, and federal and state laws, rules, and regulations.
 - (h) A licensed wastewater operator as deemed necessary on duty at all times of treatment and discharge of regulated wastewater discharge to the city's collection system (per §51.076(B)(5)).

- (C) *Wastewater Discharge Permit Appeals.* A permittee may petition the City to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of issuance of the discharge permit.
- (1) Failure to submit a 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 wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the city fails to act within thirty (30) days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.
- (D) *Wastewater Discharge Permit Modification.* The city may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:
- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - (3) A change in the WRRF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating the permitted discharge poses a threat to the WRRF, WRRF personnel, the receiving waters, or threats to the WRRF's beneficial biosolids use;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit;
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with 51.078(E).
- (E) *Wastewater Discharge Permit Transfer.* Wastewater discharge permits may be transferred to a new owner or operator if the permittee gives at least seven (7) days advance notice to the city, provides a copy of the existing permit to the new owner or operator, and the city approves the wastewater discharge permit transfer. The notice to the city must include a written certification by the new owner or operator which:
- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

(F) *Wastewater Discharge Permit Revocation.* The city may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the city of changed conditions pursuant to §51.079(E) of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring or other reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the city timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application; or
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(G) *Wastewater Discharge Permit Re-Issuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with §51.077(E) of this article, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

(H) *Regulation of Waste Received from Other Jurisdictions.*

- (1) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the WRRF, the city shall enter into an interjurisdictional agreement with the contributing jurisdiction; enter into an agreement with, or permit, users located in another jurisdiction; or both. Certain hauled wastewater may be exempted from the requirements of this paragraph with specific authorization by the city.

- (2) An interjurisdictional agreement, as required by paragraph (1), above, shall contain the following conditions:
- (a) A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in §51.075(D) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance and/or local limits;
 - (b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;
 - (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the city; and which of these activities will be conducted jointly by the contributing jurisdiction and the city;
 - (d) A requirement for the contributing jurisdiction to provide the City with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;
 - (e) A provision insuring the city access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the city; and
 - (f) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

51.079 - Reporting Requirements

(A) Baseline Monitoring Reports.

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the WRRF shall submit to the city a report which contains the information listed in paragraph (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (2) Users described above shall submit the information set forth below.
 - (a) *Identifying Information.* The name and address of the facility, including the name of the operator and owner.
 - (b) *Environmental Permits.* A list of any environmental control permits held by or for the facility.

- (c) *Description of Operations.* A comprehensive narrative description of the nature, average rate of production, all applicable NAICS and standard industrial classifications of the operation(s) carried out by such user. This description should include a comprehensive schematic process diagram which indicates points of discharge to the WRRF from the regulated processes. A qualified professional must certify to the accuracy of this process narrative and wastewater flow schematics.
 - (d) *Flow Measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the WRRF 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). The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
 - (e) *Measurement of Pollutants.*
 - (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §51.079(J) of this article. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
 - (iii) Sampling must be performed in accordance with procedures set out in §51.079(K) of this article.
 - (f) *Certification.* A statement, reviewed by the user's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.
 - (g) *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. 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 §51.079(B) of this article.
 - (h) *Signature and Certification.* All baseline monitoring reports must be signed and certified in accordance with §51.077(F) of this article.
- (B) *Compliance Schedule Progress Report.* The following conditions shall apply to the compliance schedule required by §51.079(A)(2)(g) 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, 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 not 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.
- (C) *Report on Compliance with Categorical Pretreatment Standard Deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WRRF, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in §51.079(A)(2)(d) through (f) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to 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 §51.077(F) of this article.
- (D) *Periodic Compliance Reports.*
- (1) All significant industrial users shall, at a frequency determined by the city but in no case less than every six (6) months, submit a report indicating the nature and 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 or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with §51.077(F) of this article.
 - (2) 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.
 - (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the city, using the procedures prescribed in §51.079(J) and §51.079(K) of this article, the results of this monitoring shall be included in the report.

- (E) *Report of Changed Conditions.* Each user must notify the city of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days before the change.
- (1) The city 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 §51.077(E) of this article.
 - (2) The city may issue a wastewater discharge permit under §51.077(G) of this article or modify an existing wastewater discharge permit under §51.078(D) of this article in response to changed conditions or anticipated changed conditions.
 - (3) For purposes of this requirement, significant changes include, but are not limited to, flow changes of 20% or greater, and the discharge of any previously unreported pollutants.
- (F) *Reports of Potential Problems.*
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the WRRF (including a violation of the prohibited discharge standards in §51.075(B) of this article), the user shall immediately telephone and notify the city 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) business days following such discharge, the user shall, unless waived by the city, 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 may be incurred as a result of damage to the WRRF, natural resources, 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 pursuant to this article.
 - (3) If required by the city, 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 (A), above. Employers shall ensure that all employees are advised of the emergency notification procedure.
 - (4) Significant industrial users are required to notify the city 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 a wastewater discharge permit shall provide appropriate reports as may be required by the city.
- (H) *Notification of Violation/Repeat Sampling and Reporting.*
- (1) If sampling performed by a user indicates a violation, the user must notify the city as soon as possible but no later than twenty-four (24) hours after becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the city within the time period specified by the city but at no time later than thirty (30) days after becoming aware of the violation. The user

may not be required to resample if the city samples between the user's initial sampling and when the user receives the results of this sampling.

- (2) If the city performed the sampling and analysis in lieu of the industrial user, the city will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(I) *Notification of the Discharge of Hazardous Waste.*

- (1) Any person who commences the discharge of hazardous waste shall notify the City, the EPA Regional Waste Management Division Director, and state hazardous waste authorities (in writing) of any discharge into the WRRF of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the WRRF, the notification shall also contain the following information to the extent such information is known and readily available to the 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 (12) months. All notifications to the city must be made prior to the commencement of the discharge. Notifications of changed conditions must be submitted under section §51.079(E) of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections §51.079(A), (C), and (D) of this ordinance.
- (2) In the case of any new regulations under §3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the city, the EPA Regional Waste Management 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 reporting provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

- (J) *Certification of Permit Applications and User Reports.* The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section §51.077; users submitting baseline monitoring reports under section §51.079(A); users submitting reports on compliance with the categorical pretreatment standard deadlines under section §51.079(C); users submitting periodic compliance reports required by section §51.079(D) (1)—(3). The following certification statement must be signed by an authorized representative as defined in section §51.074:

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.

(K) *Analytical Requirements.*

- (1) 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 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- (2) All independent laboratories performing analyses for users, including, but not limited to, self-monitoring, periodic reports on continuing compliance, baseline monitoring reports and/or split sample verification, shall be certified by the ADEQ Laboratory Certification Program for the specific analysis being performed. The city reserves the right to reject any analysis performed by an independent laboratory that is not duly certified for a particular analysis.

(L) *Sample Collection.*

- (1) 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.
- (2) Except as indicated in subsection three (3) and four (4), below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (3) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- (4) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in §§51.079(A) and (C), 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 may authorize a lower minimum. For the reports required by §51.079(D), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

- (M) *Date of Receipt of Reports.* Written reports will be deemed to have been submitted on the date post-marked. 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.
- (N) *Record Keeping.* Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and 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 51.075(D). 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 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 U.S. EPA, state, or city.

51.080 - Compliance Monitoring

- (A) *Right of Entry; Inspection and Sampling.* 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 article and any wastewater discharge permit or order issued hereunder. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (2) The city shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (3) The city 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 least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to the city upon request.
 - (4) 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 and shall not be replaced. The costs of clearing such access shall be borne by the user.
 - (5) Unreasonable delays in allowing the city access to the user's premises shall be a violation of this article.

- (B) *Search Warrants.* If the city 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 article, 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 article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search warrant from the City District Court.

51.081 - Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. 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 request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

51.082 - Publication Of Users In Significant Noncompliance

The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the city's WRRF, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall 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 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 51.074;
- (B) Technical review criteria (TRC) violations, defined here as those in which 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 51.074 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 51.074 (daily maximum, long term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city or WRRF personnel or the general public;

- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city'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 a 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 determines will adversely affect the operation or implementation of the local pretreatment program.

51.083 - Administrative Enforcement Remedies

- (A) *Notice of Violation.* When the city finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city shall serve upon such user either an informal warning or a written notice of violation. Within five (5) business days of the receipt of the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city. 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 to take any action, including emergency actions or any other enforcement action, without first issuing an informal warning or a notice of violation.
- (B) *Consent Orders.* The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §51.083(D) and §51.083(E) of this article and shall be judicially enforceable.
- (C) *Show Cause Hearing.* The city may order a user which has violated or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) business days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

- (D) *Compliance Orders.* When the city finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance ordinances may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a national 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.
- (E) *Cease and Desist Orders.* When the city finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city may issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
 - (3) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (F) *Administrative Charges.*
- (1) When the city finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may charge such user in an amount not to exceed \$1,000.00. Such fines shall be assessed on a per violation, per day basis. The city may add the costs of administrative enforcement actions, such as notices and orders, to the charge.
 - (2) Users desiring to dispute such charges must file a written request with the city clerk within ten (10) working days of being notified of the charge. The Sewer Committee shall convene a hearing on the matter. In the event the charge is upheld by the Sewer Committee, the city may also add the costs of the appeal, such as notices and orders, to the charge.
 - (3) Issuance of an administrative charge shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (G) *Emergency Suspensions.* The city may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The city may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere

with the operation of the WRRF, or which presents or may present an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection or water service, to prevent or minimize damage to the WRRF, its receiving stream, or endangerment to any individuals. The city may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in §51.083(H) of this article are initiated against the user.
- (2) If necessary, severance of the sewer connection or water service may occur without notice.
- (3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city within five (5) business days.

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

- (H) *Termination of Discharge.* Any user that violates the conditions in §51.078(F) of this article is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §51.083(C) of this article why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user.

51.084 - Judicial Enforcement Remedies

- (A) *Injunctive Relief.* When the city finds that a user has violated (or continues to violate) any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may petition the appropriate court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The city 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) A user which has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.

- (2) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (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 Penalties.*

- (1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one \$1,000.00 per violation, per day.
- (2) A user who willfully or negligently introduces any substance into the WRRF which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty not more than \$1,000.00 per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, 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. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

- (D) *Cost Recovery.* The city may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages or fines incurred by the city.

- (E) *Remedies Nonexclusive.* The remedies provided for in this article are not exclusive. The city 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 within the city's pretreatment program. However, the city may take other action against any user, including but not limiting to, misdemeanor and felony fines and imprisonment when the circumstances warrant.

51.085 - Affirmative Defenses To Discharge Violations

(A) *Upset.*

- (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) 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:
 - (a) An upset occurred and the user can identify the cause(s) of the upset;
 - (b) 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
 - (c) The user has submitted the following information to the city as soon as possible but no later than twenty-four (24) hours after becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) business days:
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and
 - (iv) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - (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.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in §51.075(B)(1) of this article or the specific prohibitions in §51.075(B)(2)(c) through (r), except for §51.075(B)(2)(h), 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:
- (1) 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
 - (2) 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 biosolids use or disposal requirements.

(C) *Bypass.*

(1) For the purposes of this section:

- (a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (b) "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 (C) and (D) of this section.

(3) Notice.

- (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the city, at least ten (10) business days before the date of the bypass, if possible.
- (b) A user shall submit oral notice to the city of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) business 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 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 Prohibited; Exceptions.

- (a) Bypass is prohibited, and the city may take an enforcement action against a user for a bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as required under paragraph (3) of this section.
- (b) The city may approve an anticipated bypass, after considering its adverse effects, if the city determines that it will meet the three conditions listed in paragraph (4)(a) of this section.

51.086 - Miscellaneous Provisions

- (A) *Pretreatment Charges and Fees.* The city may adopt reasonable fees for reimbursement of the costs of development and administration of 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 submitted by users;
 - (3) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (4) Fees for filing appeals; and
 - (5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties, chargeable by the city.
- (B) *Severability.* If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
- (C) *Conflicts.* All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article, are hereby repealed to the extent of the inconsistency or conflict.

51.087 - Surcharge

- (A) Any significant industrial user generating discharge which exhibits none of the characteristics of wastes prohibited in §51.075 but which has an average concentration of surcharge parameters in 51.137(E) in excess of the allowed strengths in 51.137(E) during a 24-hour period, may be required to obtain a discharge permit. Such discharge may, however, be accepted by the WRRF for treatment in accordance with extra strength surcharge requirements in 51.137(E).
- (B) The city reserves the right to review and approve any waters or industrial waste entering the city's sewer system or proposed to be discharged into the system having an average daily flow greater than 10% of the design flow capacity of the plant which will treat the waste. In the event the city's measurement discloses such flow in excess of such capacity, the city shall be under no obligation to receive such flow in excess of 10% of designed capacity and the city's published rate shall not apply to such excess. An owner affected hereby shall be promptly notified of such determination by the city. A special contract, at the city's option, may be made with the user to accommodate such excess flow.

51.088—51.109 - Reserved