

TITLE 10

UTILITIES

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CHAPTER 10.04

SEWER REGULATIONS

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10.04.01 Purpose and policy This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the city of Sherwood, Arkansas and enables the Utility to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 *et seq.*), and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works which will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the Publicly Owned Treatment Works; and
- F. To enable the Utility to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements and any other federal or state laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all industrial and commercial users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial and commercial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. No. 1794, Sec. 1.)

10.04.02 Administration Except as otherwise provided herein, the Director of the the Sherwood Waste Water Utility shall administer, implement and enforce the provisions of this

ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to a duly authorized Utility employee. (Ord. No. 1794, Sec. 1.2.)

10.04.03 Abbreviations The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
l – Liter
mg – milligrams
mg/L – Milligrams per liter
NPDES – National Pollutant Discharge Elimination System
O&M – Operation and Maintenance
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIC – Standard Industrial Classifications
SIU – Significant Industrial User
SNC – Significant Non-compliance
SWDA – Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
TSS – Total Suspended Solids
U.S.C. – United States Code
(Ord. No. 1794, Sec. 1.3)

10.04.04 Definitions Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, 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 The Arkansas Department of Pollution Control and Ecology (ADEQ).

Authorized Representative of the Industrial User

A. If the industrial user is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
 2. The manager of one or more manufacturing, production, or operation 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 wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the industrial user is a partnership, or sole proprietorship, a general partner or proprietor, respectively;
- C. If the industrial user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- D. The individuals described in paragraphs 1-3 above may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Utility.

Biochemical Oxygen Demand (BOD) The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, 5 days at 200 centigrade expressed in terms of mass and concentration [milligrams per liter (mg/l)].

Best Management Practices or BMPs Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 (A) and (B). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Categorical Pretreatment Standard or Categorical Standard Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 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 I, Subchapter N, Parts 405-471.

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

City The city of Sherwood, Arkansas.

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

Color The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

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.

Control Authority The Sherwood Waste Water Utility as operated by the Sherwood Wastewater Utility Committee.

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 terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Director The Director of the Sherwood Waste Water Utility who shall be the authorized administrative representative of the Wastewater Utility Committee.

Easement shall mean an acquired legal right for the specific use of land owned by others.

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

Existing source Any source of discharge that is not a “new source.”

Extra-jurisdictional Located outside the city limits of the city of Sherwood, Arkansas.

Grab sample A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Headworks analysis shall mean an evaluation of the volume and pollutants being received at the entering or influent sewers for a particular wastewater treatment plant.

Indirect discharge or discharge The introduction of pollutants into the POTW from any non-domestic source.

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

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

Inter-jurisdictional Located in another city but serviced by the Sherwood Waste Water Utility.

Local limit Specific wastewater discharge limits developed and enforced by the Utility upon industrial or commercial facilities who discharge wastewater to the Utility's sanitary sewer system.

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.

Monthly average The sum of all "daily discharges" measured during a calendar month divided by the number of "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.

NPDES shall mean the National Pollutant Discharge Elimination System permits program as administered by the United States Environmental Protection Agency and/or the state of Arkansas.

New Source

- A. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307 (c) of the Act which will be, applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 3. 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.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of 10.04.01 (2) or (3) above but otherwise alters, replaces or adds to existing process or production equipment.
- C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
1. Begun or caused to begin as part of a continuous onsite construction program;
 - a. Any placement, assembly, or installation of facilities or equipment; or,
 - b. 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
 2. 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 which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

Pass through A discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Utility's NPDES permit including an increase in the magnitude of 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 or their agencies.

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

Pollutant Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rack, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, (COD), toxicity, odor).

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

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

Pretreatment standards or standards Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges Absolute prohibitions against the discharge of certain substances; these prohibition; appear in 10.04.05 of this ordinance.

Public sewer Shall mean a common sewer controlled by a governmental agency or public utility.

Publicly Owned Treatment Works or POTW A "treatment works" as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the state or municipality. 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 term also means the municipal entity having jurisdiction over the users and responsibility for the operation and maintenance of the treatment works.

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

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

Sewer system Shall mean the Sherwood Waste Water Utility as operated by the Wastewater Utility Committee of the city of Sherwood, Arkansas.

Significant industrial user (SIC) Significant industrial user is:

- A. An industrial user subject to categorical pretreatment standards.
- B. An industrial user that:
 1. discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);
 2. contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 3. is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW'S operation or for violating any pretreatment standard or requirement.

Slug load of slug discharge Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 10.04.05 of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

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

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

Superintendent The person designated by the Utility to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a duly authorized representative, also known as pretreatment coordinator.

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

Toxic pollutant One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.

Treatment plant effluent Any discharge of pollutants from the POTW into waters of the state.

Unpolluted Water is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

Upsets shall mean an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth due to factors beyond the reasonable control of the discharger, and excluding noncompliance caused by operations error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

Utility shall mean the sewer system, wastewater treatment works, and the operation and administration of said sewer system and wastewater treatment works as operated by the Wastewater Utility Committee of the city of Sherwood, Arkansas.

User For the purpose of this ordinance is an industrial or commercial user: a source of indirect discharge.

Wastewater Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Utility Committee Shall mean the Wastewater Utility Committee of the city of Sherwood, Arkansas, and shall mean that public authority created by Ord. No. 1334, as amended, of the city of Sherwood, Arkansas, and Act 132 of 1933 of the General Assembly of the state of Arkansas for the purpose of operating, maintaining, and controlling the public sanitary sewers within its jurisdiction.

Wastewater Treatment Plant or Treatment Plant That portion of the POTW designed to provide treatment of municipal sewage and industrial/commercial waste.
(Ord. No. 1794, Sec. 1.4)

10.04.05 Prohibited discharge standards

- A. General prohibitions No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement.
- B. Specific prohibitions No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140⁰ F (60⁰ C) using the test methods specified in 40 CFR 261.21.
 2. Wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment.
 3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case, solids greater than ½ inch in any dimension.
 4. Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
 5. Wastewater having a temperature 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 104⁰F (40⁰C)

6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
7. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Trucked or hauled pollutants, except at discharge points designated by the Utility in accordance with 10.04.14 of this ordinance.
9. Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance and repair.
10. Wastewater which imparts color which cannot be removed by the treatment process, such as but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the Utility's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
12. Storm water, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director.
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes.
14. Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit.
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
16. Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.

17. Fats, oils or greases of animal or vegetable origin in concentrations greater than 100 mg/L.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW. (Ord. No. 1794, Sec. 2.1)

10.04.06 National categorical pretreatment standards No user subject to the national categorical pre-treatment standards shall introduce or cause to be introduced into the POTW waste water in violation of any national categorical pre-treatment standards found at 40 C.P.R. Chapter 1, Subchap. N, Parts 405-471 which are hereby incorporated and made a part hereof as if set forth word for word, and as may be amended from time to time. (Ord. No. 1794, Sec. 2.2)

10.04.07 Local limits The Wastewater Utility Committee of Sherwood shall adopt and impose local limits for any and all users of the system. These limits are established in the city's pretreatment program. The local limits shall be technically based limits predicated on the capability of the respective treatment facility to receive and to treat the wastewater load, or headworks loading, and to (1) meet the required discharge standards, to (2) prevent interference with the function and efficiency of the various treatment processes, and to (3) prevent contamination of the treatment plant waste sludges which would prevent their ultimate disposal by landfill, land application incineration, etc.

Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At his discretion, the Director may impose mass imitations in addition to or in place of the concentration based limitations.

The Director may also establish and require Best Management Practices (BMPs), by ordinance or wastewater permits to implement local limits and the requirements of 10.04.05. (Ord. No. 1794, Sec. 2.3)

10.04.08 Utility right of revisions The Utility reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in 10.04.01 of this ordinance or the general and specific prohibitions in 10.04.05 of this ordinance. (Ord. No. 1794, Sec. 2.4)

10.04.09 Special agreement The Utility reserves the right to enter into special agreements with users setting out special terms under which they may discharge to this POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. (Ord. No. 1794, Sec. 2.5)

10.04.10 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 Director 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. (Ord. No. 1794, Sec. 2.6)

10.04.11 Pretreatment facilities Users shall provide necessary wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in 10.04.05 above within the time limitations specified by the EPA, the state, or the Director 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 Utility for review, and shall be acceptable to the Utility 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 the facility as necessary to produce an acceptable discharge to the Utility under the provisions of this ordinance. (Ord. No. 1794, Sec. 3.1)

10.04.12 Additional pretreatment measures

- A. Whenever deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Director, 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 Utility 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 his expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Ord. No. 1794, Sec. 3.2)

10.04.13 Accidental discharge/slug control plans The Director shall evaluate whether each SIU needs an accidental discharge/slug control plan or other action to control slug discharges. The Director 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. An accidental discharge/control slug plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges.
- B. Description of stored chemicals.
- C. Procedures for immediately notifying the POTW of any accidental or slug discharge as required by Section 10.04.36 of this ordinance.
- D. 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 run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response. (Ord. No. 1794, Sec. 3.3)

10.04.14 Hauled wastewater procedure The Wastewater Utility Committee may, but shall not be required to, permit the introduction of trucked or hauled pollutants into the POTW pursuant to such rules and regulations as it deems necessary, but subject to the following:

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate 10.04.02 of this ordinance or any other requirements established by the Utility. The Director may require septic tank waste haulers to obtain wastewater discharge permits. The Director may prohibit the disposal of hauled septic tank waste.
- B. The Director may require haulers of industrial waste to obtain wastewater discharge permits. The Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The discharge of hauled industrial waste is subject to all other requirements of this ordinance. The Director may prohibit the disposal of hauled industrial waste.
- C. Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Utility may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. No. 1794, Sec. 3.4)

10.04.15 Tenant responsibility Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance. (Ord. No. 1794, Sec. 3.5)

10.04.16 Wastewater survey When requested by the Director, a user must submit information on the nature and characteristics of its wastewater. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information. Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of this ordinance. (Ord. No. 1794, Sec. 4.1)

10.04.17 Wastewater discharge permit requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director.
- B. The Director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subject the wastewater discharge permittee to the sanctions set out in Section 10 through 12 of this ordinance. 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. (Ord. No. 1794, Sec. 4.2)

10.04.18 Wastewater discharge permitting: new connections Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin. (Ord. No. 1794, Sec. 4.3)

10.04.19 Wastewater discharge permitting extra-jurisdictional industrial users
(with approval from the Sherwood City Council)

- A. Any existing significant industrial user located beyond the city limits shall submit a wastewater discharge permit application, in accordance with 10.04.20, within one hundred eighty (180) days of the effective date of this ordinance. New significant industrial users located beyond the city limits shall submit such applications to the City Council one hundred eighty (180) days prior to any proposed discharge into the POTW.
- B. Alternately, the Director may enter into an inter-jurisdictional agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user. (Ord. No. 1794, Sec. 4.4)

10.04.20 Wastewater discharge permit application contents

- A. All users required to obtain a wastewater discharge permit must submit a permit application. The Director may require users to submit all or some of the following information as part of a permit application:
 - 1. Identifying information
 - a. The name and address of the facility, including the name of the operator and owner.
 - b. Contact information, description of activities, facilities, and plant production processes on the premises;
 - 2. Environmental permits A list of any environmental control permits held by or for the facility.
 - 3. Description of operations
 - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - c. Number and type of employee, hours of operation, and proposed or actual hours of operation;
 - d. Type and amount of raw materials processed (average and maximum per day);

- e. Site plan, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- 4. Time and duration of discharges;
- 5. The location for monitoring all wastes covered by the permit;
- 6. Flow measurement Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- 7. Measurement of pollutants
 - a. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 10.04.40 of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Director or the applicable standards to determine compliance with the standard.
 - e. Sampling must be performed in accordance with procedures set out in 10.04.41 of this ordinance.
- 8. Any other information as may be deemed necessary by the Director to evaluate the permit application.
- B. Incomplete or inaccurate application will not be processed and will be returned to the user for revision. (Ord. No. 1794, Sec. 4.5)

10.04.21 Application signatories and certifications

- A. All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain

the certification statement in 10.04.44.

- B. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports to be signed by an authorized representative. (Ord. No. 1794, Sec. 4.6)

10.04.22 Wastewater discharge permit decisions The Director will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Director will determine whether to issue a wastewater discharge permit. The Director may deny any application for a wastewater discharge permit. (Ord. No. 1794, Sec. 4.7)

10.04.23 Wastewater discharge permit duration A wastewater discharge permit 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 Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. No. 1794, Sec. 5.1)

10.04.24 Wastewater discharge permit contents A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

- A. Wastewater Discharge permits must contain the following conditions:
1. A statement that indicates wastewater discharge permit issuance date, expiration date and effective date.
 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the Utility in accordance with 10.04.27 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
 3. Effluent limits, including Best Management Practices, based on applicable pretreatment standards.
 4. Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling

location, sampling frequency, and sample type based on federal, state, and local law.

5. Statement of applicable civil, criminal, and administrative 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.
6. Requirements to control slug discharge, if determined by the Director to be necessary.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the instantaneous, average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
7. 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.

8. Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations. (Ord. No. 1794, Sec. 5.2)

10.04.25 Wastewater discharge permit appeals Any person including the industrial user, may petition the Utility to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. 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 permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Utility fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider wastewater discharge permit, not issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review. (Ord. No. 1794, Sec. 5.3)

10.04.26 Wastewater discharge permit modification The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
- B. 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.
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the Utility's POTW, Utility personnel, or the receiving waters.
- E. Violation of any terms or conditions of the wastewater discharge permit.

- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the wastewater discharge permit.
- I. To reflect a transfer of the facility ownership and/or operation to a new owner or operator where requested in accordance with 10.04.07. (Ord. No. 1794, Sec. 5.4)

10.04.27 Wastewater discharge permit transfer Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days' advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

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

Failure to provide advance notice of a transfer renders the wastewater discharge permit void on the date of facility transfer. (Ord. No. 1794, Sec. 5.5)

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

- A. Failure to notify the Utility of significant changes to the wastewater prior to the changed discharge.
- B. Failure to provide prior notification to the Utility of changed condition pursuant to Section 10.04.35.
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsifying self-monitoring reports and certification statements.

- E. Tampering with monitoring equipment.
- F. Refusing to allow the Utility timely access to the facility premises and records.
- G. Failure to meet effluent limitations.
- H. Failure to pay fines.
- I. Failure to pay sewer charges.
- J. Failure to meet compliance schedules.
- K. Failure to complete a wastewater survey or the wastewater discharge permit application.
- L. Failure to provide advance notice of the transfer of a permitted facility.
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations, or transfer of business ownership. All wastewater discharge permits issued to a user are void upon the issuance of a new wastewater discharge permit to that user. (Ord. No. 1794, Sec. 5.6)

10.04.29 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 10.04.24 a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.(Ord. No. 1794, Sec. 5.7)

10.04.30 Municipal wastewater discharge permits In the event another municipality contributes all or a portion of its wastewater to the POTW, the POTW may require such municipality to apply for and obtain a municipal wastewater discharge permit or an inter-jurisdictional agreement.

- A. A municipal wastewater discharge permit application shall include:
 - 1. A description of the quality and volume of the wastewater at the point(s) where it enters the POTW.
 - 2. An inventory of all industrial users discharging to the municipality.
 - 3. Such other information as may be required by the Director.

- B. A municipal wastewater discharge permit or inter-jurisdictional agreement shall contain the following conditions:
1. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as those set out in 10.04.07.
 2. A requirement for the municipal user to submit a revised industrial user inventory on at least an annual basis.
 3. A requirement for the municipal user to
 - a. conduct pretreatment implementation activities including user permit issuance, inspection and sampling, and enforcement; or
 - b. authorize the POTW to take or conduct such activities on its behalf.
 4. A requirement for the municipal user to provide the Utility with access to all information that the municipal user obtains as part of its pretreatment activities.
 5. Limits on the nature, quality, and volume of the municipal user wastewater at the point where it discharges to the POTW.
 6. Requirements for monitoring the municipal user's discharge.
- C. Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Section 10 through 12. (Ord. No. 1794, Sec. 5.8)

10.04.31 Baseline monitoring reports

- A. 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 industrial users currently discharging to or schedule to discharge to the POTW, shall submit to the Utility 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 industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the Utility a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

- B. Users described above shall submit the information set forth below:
1. All information required in Section 10.04.20 (A)(1)(a), Section 10.04.20(A)(2), Section 10.04.20(A)(3)(a), and Section 10.04.20(A)(6).
 2. Measurement of pollutants
 - a. The user shall provide the information required in 10.04.20(7)(a) through (d).
 - b. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - d. Sampling and analysis shall be performed in accordance with Section 10.04.40.
 - e. The Utility may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 3. Compliance certification A statement reviewed by the user's authorized representative as defined in Section 10.04.04(C) 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.
 4. 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 10.04.32 of this ordinance.

5. Signature and report certification All baseline monitoring reports must be certified in accordance with 10.04.44(A) of this ordinance and signed by an authorized representative as defined in Section 10.04.04(C). (Ord. No. 1794, Sec. 6.1)

10.04.32 Compliance schedule progress report The following conditions shall apply to the schedule required by 10.04.31(B) (4) of this ordinance:

- A. 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) .
- B. No increment referred to above shall exceed nine (9) months.
- C. The user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.
- D. In no event shall more than nine (9) months elapse between such progress reports to the Director. (Ord. No. 1794, Sec. 6.2)

10.04.33 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 POTW, any user subject to such pretreatment standards and requirements shall submit to the Utility a report containing the information described in 10.04.20(A)(6) and (7) and 10.04.31(B) (2) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 10.04.06, 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 10.04.44 of this ordinance. All sampling will be done in conformance with 10.04.41 (Ord. No. 1794, Sec. 6.4)

10.04.34 Periodic compliance reports

- A. Any significant user subject to a pretreatment standard shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such 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 Director or the pretreatment standard necessary to determine the compliance status of the User.
- B. All periodic compliance reports must be signed and certified in accordance with 10.04.44 of this ordinance.
- C. 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.
- D. If a user subject to the reporting requirement in and of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the POTW using the procedures prescribed in 10.04.41 of this ordinance, the results of this monitoring shall be included in the report. (Ord. No. 1794, Sec. 6.4)

10.04.35 Report of changed conditions Each user is required to notify the Director of any 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.

- A. The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 10.04.20 of this ordinance.
- B. The Director may issue a wastewater discharge permit under 10.04.22 of this ordinance or modify an existing wastewater discharge permit under Section 10.04.26 of this ordinance in response to changed conditions or anticipated changed conditions.

- C. For purposes of this requirement flow increases of ten (10) percent or greater, and the discharge of any previously unreported pollutants, shall be deemed significant. (Ord. No. 1794, Sec. 6.5)

10.04.36 Reports of potential problems

- A. 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, a slug discharge, or a slug load which may cause potential problems for the POTW, the user shall immediately telephone and notify the Utility of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user, unless waived by the Director, shall 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 POTW, 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 by this ordinance.
- C. 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, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant industrial users are required to notify the Utility immediately of any changes at its facility affecting the potential for a slug discharge. (Ord. No. 1794, Sec. 6.6)

10.04.37 Reports from users Any users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Utility as the Director may require. (Ord. No. 1794, Sec. 6.7)

10.04.38 Notice of violation/repeat sampling and reporting If sampling performed by an user indicates a violation, the user must notify the Control Authority within twenty-four (24) hours of becoming aware of the incident or violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation. Re-sampling by the industrial user is not required if the POTW performs sampling at the user's facility at least once a month, or if the

POTW performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the POTW receives the results of this sampling, or if the POTW has performed the sampling and analysis in lieu of the industrial user. (Ord. No. 1794, Sec. 6.8)

10.04.39 Notification of the discharge of hazardous waste

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the 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, an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 10.04.35. 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 10.04.01, 10.04.33, and 10.04.34 above.
- B. Dischargers are exempt from the requirements of paragraph (A) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261-30(d) and 261.33 (e) . Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 262-33 (e) , requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste the user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law. (Ord. No. 1794, Sec. 6.9)

10.04.40 Analytical requirements All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA. (Ord. No. 1794, Sec. 6.10)

10.04.41 Sample collection Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. The Director may use a grab sample(s) to determine non-compliance with pretreatment standards.

- A. Except as indicated in Section B and C below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Utility, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Utility, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- B. Samples for oil and grease, temperature, pH cyanide, total phenols, sulfides and volatile organic chemicals must be obtained using grab collection techniques.

- C. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in 10.04.31 and 10.04.33 (40 CFR 403.12(b) and (d)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs 10.04.34 (40 CFR 403.12(e) and 403.12(h)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements. (Ord. No. 1794, Sec. 6.11)

10.04.42 Date of receipt of reports Written reports will be deemed to have been submitted on the date received. (Ord. No. 1794, Sec. 6.12.)

10.04.43 Record keeping Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under 10.04.06. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Utility, or where the user has been specifically notified of a longer retention period by the Director. (Ord. No. 1794, Sec. 6.13)

10.04.44 Certification statements The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with 10.04.22; users submitting baseline monitoring reports under 10.04.31(B)(5); users submitting reports on compliance with the categorical pretreatment standard deadlines under 10.04.33; users submitting periodic compliance reports under 10.04.34(B). The following certification statement must be signed by an authorized representative as defined in 10.04.04(C).

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.” (Ord. No. 1794, Sec. 6.14)

10.04.45 Inspection and sampling The Utility shall have the right to enter the facilities of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Director or his representatives 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.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the Utility, state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- B. The Utility, state, and EPA 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.
- C. The Utility may require the user to install sampling/monitoring station and equipment as necessary. The Utility shall have safe and unrestricted access to the sampling/monitoring station at all times. 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 every six (6) months to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the industrial user.
- E. Unreasonable delays in allowing Utility personnel access to the user's premises shall be a violation of this ordinance. (Ord. No. 1794, Sec. 7.1)

10.04.46 Search warrants If the Director has been refused access to a building, structure or property or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Utility designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the Utility Attorney, the District Court Judge of the city of Sherwood, Arkansas, shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer of the city of Sherwood, Arkansas. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant. (Ord. No. 1794, Sec. 7.2)

10.04.47 Confidential Information Information and data on an user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from Utility 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 Utility, 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. (Ord. No. 1794, Sec. 8.)

10.04.48 Publication of users in significant non-compliance The Utility shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in Section 2.
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each Pollutant Parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by Section 2 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 Section 2 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Utility determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Utility'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 thirty (30) 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.
- H. Any other violation(s) which may include a violation of Best Management Practices, which the Utility determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. No. 1794, Sec. 9)

10.04.49 Non-compliance incident Whenever the Director or his designated agent finds that any user has violated or is violating this ordinance, a waste water discharge permit or order issued hereunder, or any other pre-treatment standard or requirement, the Director or his agent may notify the user of non-compliance. Depending on the severity of the violation, per the enforcement response, this notification may be oral or written. Within five (5) days of the receipt of the notice of the non-compliance incident if oral, or within fifteen (15) days of the receipt of the notice of the non-compliance incident if written, the User must notify the Utility of the reason for the non-compliance and the steps taken to prevent any recurrence. Submission of this information in no way relieves the user of liability for any violations occurring before or after receipt of the notice of the non-compliance incident. Nothing in this section shall limit the authority of the Utility to take any action, including emergency actions or any other enforcement action, without first issuing a notice of a non-compliance incident. (Ord. No. 1794, Sec. 10.1)

10.04.50 Notification of violation Whenever the Director or his designated agent finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director or his agent may serve upon said user a written Notice of Violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. 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 Utility to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. (Ord. No. 1794, Sec. 10.2)

10.04.51 Consent orders The Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance. Time schedules mandating procedures which would bring the User into compliance may be incorporated which shall be expressly stated to be subject to enforcement by withdrawal of the user's wastewater discharge permit or termination of POTW service. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.04.52 and 10.04.53 below and shall be judicially enforceable. (Ord. No. 1794, Sec. 10.3)

10.04.52 Show cause hearing Any user may by written notice served on the Director within five (5) days of receipt of any notice of violation or order (other than a consent order as described in 10.04.52) issued hereunder may request a show cause hearing at which the user shall be given an opportunity to show cause why the notice or order should be rescinded or modified. If the user does not request such a hearing or in the event the Director feels it necessary, the Director may order any user which causes or contributes to violation (s) of this ordinance, waste water discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear and show cause why a proposed enforcement action should not be taken. The hearing shall be conducted and any notices required shall be given as shall be set forth in the Enforcement Response Plan as approved by The Wastewater Treatment Committee and as may be amended by them from time to time. Such notice may be served on any authorized representative of the user as defined in 10.04.04(C) and required by 10.04.21(A). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. (Ord. No. 1794, Sec. 10.4)

10.04.53 Compliance orders When the Director finds that a user has violated or continues to violate any provision of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within thirty (30) days or other such specified time. If the user does not come into compliance within thirty (30) days or such other time provided, the user's discharge permit shall be withdrawn and sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders 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 pretreatment standard or requirement, nor does a compliance order release 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 to taking any other action against the user. (Ord. No. 1794, Sec. 10.5)

10.04.54 Cease and desist orders When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, any order

issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements.
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or prerequisite for taking any other action against the user.(Ord. No. 1794, Sec. 10.6)

10.04.55 Administrative penalties

- A. Any user who has found to have violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, any other pretreatment standard or requirement, an order of the city or the Wastewater Treatment Committee or the Director or who negligently fails to comply with any provisions of this ordinance or the orders, rules, regulations and permits issued hereunder, may be assessed an administrative penalty of not more than one Thousand Dollars (\$1,000.00) for each offense. Each day on which a violation occurs or continues shall be a separate and distinct offense. In the case of a monthly or other long-term average discharge limit, the penalty shall accrue for each business or operational day during the period of the violation. The Wastewater Treatment Committee shall, in determining the amount of the penalty, take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained by the user in allowing the violating, the timing and nature of any corrective actions taken by the user, the compliance history of the user and any other facts as justice requires.
- B. In addition to the administrative penalties provided for herein, the Utility may recover from the user in violation, any damages suffered by the POTQ and reasonable attorneys' fees, costs, and other expenses in investigating any violation, preparing any orders, or providing any hearings as a result of such violation.
- C. Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. No. 1794, Sec. 10.7)

10.04.56 Emergency suspensions The Director may immediately suspend a user's discharge permit, after informal notice to the user, whenever such suspension is necessary in order 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 Director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.04.57 are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director, prior to the date of any show cause or termination hearing under Sections 10.04.52 and 10.04.57.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (Ord. No. 1794, Sec. 10.7)

10.04.57 Termination of discharge In addition to those provisions in Section 10.04.28 of this ordinance, any user who violates the following conditions is subject to discharge permit termination.

- A. Violation of wastewater discharge permit conditions.
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge.
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- E. Violation of the prohibited discharge standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.04.52 of this ordinance why the proposed

action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. No. 1794, Sec. 10.8)

10.04.58 Injunctive relief Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, The Wastewater Utility Committee may commence or may recommend to the City Council that the City Attorney commence action for appropriate legal and/or equitable relief in any court of competent jurisdiction 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 ordinance on activities of the industrial user. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user. In the event time is of the essence, The Wastewater Utility Committee or the Director may immediately petition or may request that the City Attorney immediately petition, a court of competent jurisdiction for the issuance of a preliminary or permanent injunctions both, as may be appropriate to restrain or compel activities of the user. (Ord. No. 1794, Sec. 11.1)

10.04.59 Civil penalties

- A. A user who has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, an order of the city or The Wastewater Utility Committee or the Director, or who negligently fails to comply with any provisions of this ordinance or the orders, rules, regulations and permits issued thereunder, may, upon recommendation by The Wastewater Utility Committee to the City Council, be fined not more than One Thousand Dollars (\$1,000.00) for each offense. Jurisdiction to determine such penalties shall be in the City District Court or other court of appropriate jurisdiction. Each day on which a violation shall occur or continue shall be a separate and distinct offense. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business or operational day during period of the violation.
- B. In addition to the civil penalties provided for herein, the city may recover on behalf of the Utility, from the user in violation, any damages suffered, reasonable attorneys, fees, court costs, court reporter's fees and other expenses of litigation in any action in law or equity against any person or other entity.
- C. The City Attorney shall petition the Court to impose, assess and recover all civil penalties, legal fees, and costs together with damages if appropriate in determining the amount of the penalty, The Wastewater Utility Committee in its recommendation for civil penalties, the City Council and the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any

economic benefit gained by the user in allowing the violation, the timing and nature of any corrective actions taken by the User, the compliance history of the user and any other facts as justice requires.

- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user. (Ord. No. 1794, Sec. 11.2)

10.04.60 Criminal prosecution

- A. The Wastewater Utility Committee may recommend to the City Council that the City Attorney criminally prosecute in a court of competent jurisdiction any user who knowingly or negligently violates any provision of this ordinance, its wastewater discharge permit or any orders issued hereunder or any pretreatment standard or requirement. If so prosecuted the user shall, upon conviction, be guilty of a misdemeanor, and be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) per violation per-day or imprisonment for not more than six (6) months, or both.
- B. The Wastewater Utility Committee may recommend to the City Council that the City Attorney criminally prosecute in a court of competent jurisdiction any user who knowingly or negligently makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or its wastewater discharge permit, or who falsified, tampers with, or knowingly or negligently renders inaccurate any monitoring or sampling device, wastewater sample or other methods required under this ordinance. If so prosecuted, the user shall, upon conviction, be guilty of a misdemeanor, and be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than six (6) months or both.
- C. Each day on which a violation shall occur or continue shall be a separate and distinct offense. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business or operational day during the period of violation. (Ord. No. 1794, Sec. 11.3)

10.04.61 Remedies non-exclusive The provisions in Sections 10 through 12 are not exclusive remedies. The Utility reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Utility's enforcement response plan. However, the Utility may take other action against any user when the circumstances warrant. Further, the Utility is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently. (Ord. No. 1794, Sec. 11.4)

10.04.62 Performance bonds The Director may decline to reissue a wastewater discharge permit to any user who has failed to comply with the provisions of this ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Utility, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance. (Ord. No. 1794, Sec. 12.1)

10.04.63 Liability insurance The Director may decline to reissue a wastewater discharge permit to any user who has failed to comply with the provisions of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless that user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge. (Ord. No. 1794, Sec. 12.2)

10.04.64 Public nuisances Any violation of this ordinance, wastewater discharge permits, or orders issued hereunder, or any pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the Utility for any costs incurred in removing, abating or remedying said nuisance. (Ord. No. 1794, Sec. 12.4)

10.04.65 Upset

- A. For the purpose 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.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C) are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and the user can identify the cause(s) of the upset.
 - 2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance

procedures.

3. The user has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days.
 - a. A description of the indirect discharges and cause of noncompliance.
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time for noncompliance is expected to continue.
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. 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.
- F. Users shall control production or 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.

10.04.66 Prohibited discharge standards Users shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in 10.04.04 of this ordinance if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. 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
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Utility was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements. (Ord. No. 1794, Sec. 13.2)

10.04.67 Bypass

- A. For the purposes of this section:
1. "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.
 2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C. Bypass notifications
1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass if possible.
 2. A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- D. Bypass
1. Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.
 - c. The user submitted notices as required under paragraph (C) of this section.
2. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (D) (1) of this section. (Ord. No. 1794, Sec. 13.3)

10.04.68 Wastewater rates/surcharge costs Wastewater rates and surcharge rates are addressed in the Sherwood Wastewater Utility Rate Ordinance. (Ord. No. 1794, Sec. 14.)

10.04.69 Pretreatment charges and fees The Utility may adopt reasonable fees for reimbursement of costs of setting and operating the Utility's pretreatment program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications.
- B. 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.
- C. Fees for reviewing and responding to accidental discharge procedures and construction.
- D. Fees for filing appeals.
- E. Fees to recover administrative and legal costs (not included in 10.04.68(B)) associated with the enforcement activity taken by the Utility to address user non-compliance; and
- E. Other fees as the Utility may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the Utility. (Ord. No. 1794, Sec. 15.1)

10.04.70 Wastewater Operator created A new position of Wastewater Operator is hereby created in the Engineering Department. The Budget Ordinance shall be amended to transfer \$17,127 from the General Fund to the Engineering Department. (Ord. No. 1384, Secs. 1-2.)

10.04.71 Acquisition of land The city hereby appropriates the sum of \$25,000.00 plus closing costs from the Indianhead Lake Sewer fund for the purchase of the approximate 4.1 acres of land adjacent to the Indianhead Lake Sewer Plant currently owned by Mr. Bill Tack. (Ord. No. 1479, Secs. 1-2.)

10.04.72 Abandonment of existing utility An ordinance abandoning an existing utility and drainage easement for part of Lot A-2R, Indianhead Lakes Estates Subdivision. (Ord. No. 1588, Sec. 1.)

CHAPTER 10.08

WATER AND SEWER RATES

Sections:

10.08.01	Water rates
10.08.02	Sewer rates
10.08.03	Special fee
10.08.04	Powers of Sewer Committee
10.08.05	City will monitor
10.08.06	Vacant property
10.08.07	Monthly bills
10.08.08	Financial management system
10.08.09	New position

10.08.01 Water rates. The following rates and charges which the City Council of the city of Sherwood, Arkansas, hereby finds and declares are fair, reasonable and necessary minimum rates be and they are hereby fixed as rates to be charged for water services to be rendered by the system.

- A. **MONTHLY WATER RATES.** The water usage of each customer shall be determined each month by water measurement, and the amount to be paid by each customer shall be computed on the basis of the following schedule of rates:

For the first 2,000 gallons of water consumption per month,
or portion thereof \$4.95 (minimum)

For the next 3,000 gallons of water consumption per month,
or portion thereof 1.65 per 1,000 gallons

For the next 5,000 gallons of water consumption per month,
or portion thereof 1.55 per 1,000 gallons

For the next 15,000 gallons
of water consumption per month,
or portion thereof 1.45 per 1,000 gallons

For all water consumption in
excess of 25,000 gallons 1.35 per 1,000 gallons

- B. Customers whose water connection is located outside the corporate limits of the city shall, in addition to the above charges, pay a monthly surcharge of Five Dollars and Fifty Cents (\$5.50) per meter.

- C. Each owner of a fire hydrant (including the city), shall pay a charge of Twenty-Five Dollars (\$25.00) per year per hydrant.
- D. For water delivered to a portable tank truck, there shall be a charge of Three Dollars and Fifty Cents (\$3.50) per 1,000 gallons.
- E. TAPPING FEE. There shall be a tapping fee of One Hundred Dollars (\$100.00) or the cost of making the connection, whichever is greater, for each connection to the water system.
- F. METER DEPOSIT. Each customer who hereafter connects with the water system shall pay a meter deposit in the amount of Twenty-Five Dollars (\$25.00) for each meter installed. The meter deposit shall be retained to assure prompt payment of monthly water bills.
- G. RE-CONNECTION CHARGE. In the event any premises are disconnected from the water system, the customer concerned, prior to re-connection, shall pay all delinquent charges, together with a re-connection charge of Ten Dollars (\$10.00) for each re-connection of the premises to the water system.
- H. That none of the facilities or services afforded by the water system shall be furnished without a charge being made therefore.
- I. The operation of the water system shall be on a fully metered basis, that is, that meters shall be installed at each water connection, and all bills for water services shall be rendered in the net amount due. If any water bill is not paid on or before the tenth (10th) day after the bill therefore shall be rendered, a ten percent (10%) penalty shall be added and if any bill is not paid within twenty (20) days after the bill shall be rendered, water service may be disconnected. There shall be no dual connection, that is, there shall be not more than one (1) user on a single meter.

10.08.02 Sewer rates

- A. That the city hereby establishes rates to be charged for services furnished by the system, which the City Council finds and declares to be fair, reasonable and necessary, to be charged to all users who contribute wastewater to the system. The proceeds of such charges so derived will be used for the purpose of operating and maintaining the system, including replacement (“OM&R”). (Replacement is defined as expenditures for obtaining and installing equipment, accessories or appurtenances during the useful life of the system necessary to maintain the capacity and performance for which it was designed and constructed.)
- B. All users of the system shall be charged the following monthly rates per 100 cubic feet (CF) of portions thereof of metered water consumption with the following

minimum charge for 400 CF. All sewer users shall be classified by the City Council as residential, commercial or industrial:

<u>Per 100 CF</u>	<u>400 CF min.</u>
\$3.00	\$12.00

- C. In the case of significant industrial customers (defined as any non-residential customer which normally discharges wastewater to the system in quantities of 25,000 gallons per day or greater or whose wastewater contains or has the potential to contain, toxic pollutants, restricted pollutants, or non-compatible pollutants, when the wastewater characteristics exceed certain parameters), the following penalties shall apply (which penalties may be in addition to any other penalties permitted by law):

Biochemical Oxygen Demand (BOD)

\$0.86 per pound of BOD's discharged for wastewater strength concentrations greater than 250 mg/L, $(\text{BOD} - 250) \times (0.00624) \times (100 \text{ CF})$.

Total Suspended Solids (TSS)

\$0.12 per pound of TSS discharged for waste strength concentrations greater than 250 mg/L, $(\text{TSS} - 250) \times 0.0624 \times (100 \text{ CF})$.

pH

\$1.23 per 100 CF for all discharges for which the pH is greater than 11 or less than 5, i.e. $(100 \text{ CF}) \times (\$1.23)$.

Fats, Oils and Greases (FOG)

\$0.31 per pound of fats, oils and greases for wastewater discharges exceeding 100 mg/L of fats, oils and greases, i.e. $(\text{FOG} - 100) \times (0.00624) \times (100 \text{ CF})$.

Other Limited Parameters:

The following parameters are limited in concentration by the Sewer Committee through regulation.

Cadmium, Chromium, Copper, Cyanide, Lead, Mercury, Nickel, Silver, Zinc, Arsenic, Selenium, Boron, Molybdenum.

A charge of \$0.12 per 100 CF per parameter shall be made for all wastewater exceeding the local discharge limits set by the Sewer Committee as authorized by ordinance, i.e. (100 CF) x (0.12).

The above charges shall be based on sample test results by the utility. A split of any sample used for the purpose of establishing charges shall be made available to the user upon prior written request.

The payment of the above charges shall not be considered justification for discharges in excess of local discharge limits set by the Sewer Committee or compensation for any damages caused by said excessive discharge.

D. Users shall be deemed to be within the city sewer system for the purposes of the rates to be charged

1. when they are physically located within the city limits of Sherwood or
2. when they are physically connected to the city of Sherwood collection system for transportation and treatment of raw sewage.

E. The following rate schedule shall be applied to the acceptance of petroleum contaminated waters (defined as any water approved by the utility, pursuant to guidelines established by the Sewer Committee), for disposal in the system that is part of the remediation of a gasoline or diesel contaminated site and/or is a temporary short term discharge(s) into the system:

<u>Quantity (gallons)</u>	<u>Rate (\$/gal.)</u>
For the first 0-5,000	\$.25
For the next 5,001 – 25,000	\$.06
For the next 25,001 or above	\$.006

F. In case of customers obtaining water exclusively from the Waterworks System covering the city of Sherwood (Waterworks System), the computation shall be based upon the water consumption records of the Waterworks System.

G. In the case of customers obtaining water from sources other than the Waterworks System there shall be determined the amount of water obtained by such customers from other sources and the amount so determined shall be used (together with the amount reflected by the Waterworks System records if the customer also obtains water from the Waterworks System) in making the computation.

- H. For residential customers (defined as single family residences or multi-metered, multi-family residences or apartments all of which utilize meters less than one inch) only, the sewer charge each month will be based on the average monthly consumption for the months of October, November, December, January, February and March (winter month period). In the case of residential users, which were not on a meter during the previous winter month period, the rates shall be computed on actual water usage until such time as an average monthly winter usage can be calculated. In the case of other users not on a metered basis, the city shall establish water consumption based on a comparison of the non-metered users with a metered user of a similar class.
- I. None of the facilities or services afforded by the system shall be furnished without a charge being made therefore.
- J. The costs of operation and maintenance for all flows not directly attributable to users (such as infiltration/inflow) shall be distributed among users on the same basis as operation and maintenance charges. (Ord. No. 1850, Sec. 1.)

10.08.03 Special fee In the event any special fee or charge is assessed against the utility by any entity or governmental agency or department which fee is assessed on a per customer or per meter basis, then the Sewer Committee, based upon a finding that the assessment of such fee may affect the effective operation of the system in compliance with all applicable laws and regulations that may be applicable to the utility from time to time, may pass the assessment of such fee to the customer as a line item charge state separately on the customer's monthly bill. (Ord. No. 1850, Sec. 2.)

10.08.04 Powers of Sewer Committee Based upon a finding determining the reasonable costs of evaluating and taking action with respect to permits, license applications and connections of facilities to the system; of implementing, inspecting and enforcing the terms and conditions of permits, licenses and variances thereof; and of any depreciation or continuing operations and maintenance expenses incurred or to be incurred by the utility in operating any facilities, the Sewer Committee shall have the power to establish reasonable fees for connection of facilities to the system and for the initial issuance, annual review and modification of discharge permits or other licenses or permits reasonably required by the Sewer Committee to properly operate the system efficiently and effectively in compliance with all laws and regulations that may be applicable to the utility from time to time. The Sewer Committee may require that any fee assessed pursuant to this section shall be paid prior to the issuance of any permit or license or connection to the system. (Ord. No. 1850, Sec. 3.)

10.08.05 City will monitor

- A. The city will continuously monitor the revenues of the system, including, specifically, the adequacy of its rates and delinquent billings, and will take appropriate steps to remedy any delinquent billings or inadequacy of rates. The

city will make a review annually of the rates and charges of the system.

- B. The city shall at all times fix, charge and collect rates and charges for services furnished by the system, including increasing rates and charges as necessary, which shall provide revenues sufficient to at least:
1. Pay the city's annual costs of OM&R;
 2. Pay annual debt service; and
 3. Provide the necessary bond coverage.
(Ord. No. 1850, Sec. 4.)

10.08.06 Vacant property Vacant, unoccupied but metered property, whether or not using the system, shall be subject to a service charge equal to the minimum monthly charge for the respective class of properties. Vacant, unoccupied and unmetered property not actually using the system shall not be subject to a charge, but the burden of demonstrating vacancy, non-use and lack of meter to the utility, shall rest upon the owner of the property. (Ord. No. 1850, Sec. 5.)

10.08.07 Monthly bills

- A. All bills for sewer services shall be rendered monthly. In the event payment in full is not made on or before the 10th day following the original date of billing, a ten percent (10%) penalty shall be added to the bill. If any sewer charge is not paid within thirty (30) days after the same is due, the customer will be notified in writing by the utility which notice shall state where, during which hours of the day, and before whom disputed bills appropriately may be considered. If the user waives the opportunity to be heard, suit may be brought to collect the amount due, together with the expenses of collection and a reasonable attorney's fee, and/or water and/or wastewater services may be discontinued until such bill is paid.
- B. Any customer who feels that his charge is unjust and inequitable may make written application to the City Engineer requesting a review of his charge. Said written request shall, when necessary, show the actual or estimated average flow and/or strength of his wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made. Review of the request shall be made by the City Engineer and if substantiated, the charges for that customer shall be recomputed based on the revised flow and/or strength data and the new charges shall be applicable to the next billing cycle/period. (Ord. No. 1850, Sec. 6.)

10.08.08 Financial management system A financial management system shall be established and maintained by the city to document compliance with federal regulations pertaining to the revolving loan. The system will account for all revenues generated and expenditures for OM&R.

The city will review the user charges at least annually and revise the rates as necessary to ensure that adequate revenues are generated to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes. (Ord. No. 1850, Sec. 7.)

10.08.09 New position A new position of Wastewater Maintenance & Repair is hereby created in the Sewer Department. The budget ordinance for the city of Sherwood Sewer Fund for the calendar year 2001, is hereby amended. (Ord. No. 1544, Secs. 1-2.)

CHAPTER 10.12

PUBLIC WORKS DEPARTMENT

Sections:

- 10.12.01 Position of Generalist
- 10.12.02 Funding
- 10.12.03 New facilities

10.12.01 Position of Generalist A new position of Generalist is hereby created in the Public Works Department. (Ord. No. 1442, Sec. 1.)

10.12.02 Funding The Budget ordinance shall be amended to transfer \$17,929.00 from the General Fund to the Public Works Department. Salary - \$14,518; FICA - \$1,110; Insurance - \$2,300; Total - \$17,929. The ordinance shall be amended to transfer \$17, 929.00 from the General Fund to the Parks and Recreation Department. (Ord. No. 1434, Sec. 2.)

10.12.03 New facilities The Public Works Department for the city of Sherwood has outgrown the facilities currently available for use. The need exist for an additional structure for the departments use and benefit. The sum of One Hundred Twenty Thousand Dollars (\$120,000.00) is hereby appropriated from the General Fund for this public works project. (Ord. No. 1480, Secs. 1-2.)

CHAPTER 10.16

SHERWOOD SEWER COMMITTEE

Sections:

- 10.16.01 Abolished
- 10.16.02 New committee
- 10.16.03 Terms
- 10.16.04 City Engineer
- 10.16.05 Prior actions

10.16.01 Abolished The present Sherwood Sewer committee is hereby abolished. (Ord. No. 1515, Sec. 1.)

10.16.02 New committee From and after the effective date of this ordinance the following named persons shall constitute the Sherwood Sewer committee and they shall perform all the duties heretofore exercised by the Sherwood Sewer Committee, including all acts authorized under the terms of Act No. 132 of the Acts of the General Assembly of 1933 and acts amendatory thereof, and such other duties as may be prescribed from time to time by the City Council of Sherwood and the statutes of the state of Arkansas. Such members shall serve in such capacity for the period set out opposite their respective names:

J.C. Robertson	5 years
Amy Sanders	4 years
Norman Ladd	3 years
Jim Ussery	2 years
Kevin Lilly	1 year

(Ord. No. 1515, Sec. 2.)

10.16.03 Terms At the expiration of the terms of the above-named committee members, the Mayor will appoint a successor subject to approval by the City Council of Sherwood and such successors shall serve for a period of five (5) years, or until their successors are appointed and qualified. Each member shall be a qualified elector of the city with knowledge and experience fitting to his responsibility as a member of said committee. Members shall be eligible for reappointment. All members of said Sewer Committee shall serve as such without salary. (Ord. No. 1515, Sec. 3.)

10.16.04 City Engineer The City Engineer will be an ex-officio member of the Sewer Committee. (Ord. No. 1515, Sec. 4.)

10.16.05 Prior actions All prior actions of the Sewer Committee and this Council affecting the operation of the sewer systems in the city of Sherwood not specifically repealed by this ordinance remain in full force and effect, including but not limited to:

- A. Ord. No. 1452, fixing rates for the area known as Sewer Improvement District No. 1 of Sherwood;
- B. Ord. No. 1269, fixing rates for the area known as Indianhead Lakes;
- C. Ord. No. 1334, pre-treatment ordinance.
(Ord. No. 1515, Sec. 5.)

CHAPTER 10.20

CENTRAL ARKANSAS SEWER SYSTEMS INCORPORATED

Sections:

10.20.01	Proceedings
10.20.02	Fair market value
10.20.03	Terms
10.20.04	Members in charge
10.20.05	Sales tax

10.20.01 Proceedings The Mayor is hereby authorized and directed to commence condemnation proceedings in the Pulaski County Circuit Court for the acquisition of the above-named system. (Ord. No. 1578, Sec. 1.)

10.20.02 Fair market value The City Engineer of the city of Sherwood, Arkansas, estimates the fair market value of the Central Arkansas Sewer Systems Incorporated interest in above named sewer system, as fee simple, owner to be \$577,121.73.

In addition, the City Council estimates the following costs for the acquisition by condemnation of the Central Arkansas Sewer Systems Incorporated, sewer system to be the following, which includes, but is not limited to, the payoff of the balance of the \$2,260,000 Arkansas Sewage Facilities Revenue Bonds (Central Arkansas Sewer Systems, Inc. Project) Series 1994: Dated May 1st 1994, and the balance due Ruby Pickthorne Dellinger. \$2,075,000.00

Total fair market value of the above named sewer system and cost of acquisition:
\$2,652,121.73 (Ord. No. 1578, Sec. 2.)

10.20.03 Terms These condemnation proceedings shall be conducted on such terms as provided by the laws governing condemnation actions by Arkansas municipalities. (Ord. No. 1578, Sec. 3.)

10.20.04 Members in charge The following members of the sewer committee of the city of Sherwood, Arkansas, have charge of the Central Arkansas Sewer Systems Incorporated, sewer system and the acquisition of that system: Norman Ladd, J.C. Robertson, Kevin Lilly and Amy Sanders. (Ord. No. 1578, Sec. 4.)

10.20.05 Sales tax The city shall not issue revenue bonds to fund the acquisition of the above-named system because the acquisition will be funded from revenues generated by the one-cent sales tax referenced above. (Ord. No. 1578, Sec. 5.)

CHAPTER 10.24

STORMWATER POLLUTION PREVENTION

Sections:

10.24.01 Code

10.24.01 Code The attached Code is hereby adopted as the city's Stormwater Pollution Prevention Code. (Ord. No. 1770, Sec. 3.)