

ORDINANCE NO. 2005-8-226

**AN ORDINANCE REPEALING ORDINANCE 2004-10-186 OF
THE CITY OF TONTITOWN AND ADOPTING THE
SEWER USE CODE FOR THE CITY OF TONTITOWN.**

WHEREAS, A.C.A. §14-53-207 authorizes a municipality to adopt by reference technical codes or regulations without setting forth the provisions of the code; and

WHEREAS, three copies thereof are filed in the office of the City Clerk for inspection and view by the public prior to the passage of said ordinance; and

WHEREAS, notice to be public by publication in a paper of general circulation within Tontitown has been given stating the copies of the Sewer Use Code are open to public inspection prior to the passage of this ordinance adopting said code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY
COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS;**

SECTION 1. That Ordinance 2004-10-186 of the City of Tontitown, is hereby repealed.

SECTION 2. That the Sewer Use Code attached hereto as Exhibit "A" and made a part hereof is hereby adopted by reference.

SECTION 3. Said Sewer Use Code shall be codified in substantially the same form as shown in the attached Exhibit A'.

SECTION 4. Should any paragraph, section., clause, phrase or port of said Sewer Use Code, for any reason, be held invalid, such invalidity shall not affect the validity of the remaining provisions of said Sewer Use Code and the application of those provisions to any person or circumstance shall not be affected thereby.



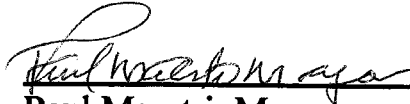
Doc ID: 008840160043 Type: REL
Recorded: 08/19/2005 at 11:11:25 AM
Fee Amt: \$134.00 Page 1 of 43
Washington Countv. AR
Bette Stamps Circuit Clerk

File **2005-00036498**


SECTION 5. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance, are hereby repealed to the extent of the inconsistency or conflict.

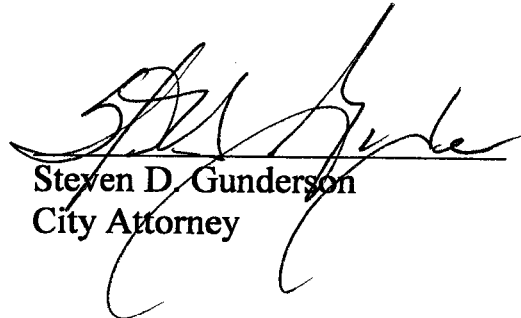
SECTION 6. This ordinance being necessary for the preservation of the health, safety and welfare of the residents of the City of Tontitown, it is hereby declared that an emergency exists and this ordinance shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 2 day of August, 2005.


Paul Maestri, Mayor

ATTEST:


Toni Zulpo,
Recorder / Treasurer


Steven D. Gunderson
City Attorney

SPONSORED BY:

SEWER USE CODE

I. GENERAL PROVISIONS.

A. PURPOSE. This Code sets forth standards and requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Tontitown, Arkansas, and enables the Control Authority to comply with all applicable Federal and State laws, including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of this Code are:

(1) To prevent the introduction of pollutants into the POTW that will interfere with its operation or contaminate its resulting biosolids (sludge);

(2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(3) To protect both POTW personnel who may be affected by wastewater and biosolids (sludge) in the course of their employment and the general public;

(4) To improve opportunities for reuse and recycling of wastewater and biosolids (sludge) from the POTW;

(5) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids (sludge) use and disposal requirements, and any other Federal or State laws to which the POTW is subject;

(6) To provide for penalties for violations of the regulations established herein; and

(7) To promote the implementation of pollution prevention practices by users of the POTW.

This Code authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

B. APPLICABILITY. This Code shall apply to all users of the POTW.

C. ADMINISTRATION. Except as otherwise provided herein, the Control Authority, as defined in this Code, shall administer, implement and enforce the provisions of this Code. Any powers granted to or duties imposed upon the Control Authority may be delegated by the Control Authority to its authorized representative.

D. ABBREVIATIONS. The following abbreviations shall have the designated meanings:

| | | |
|----------|---|--|
| ADPC & E | - | Arkansas Department of Pollution Control & Ecology |
| BOD | - | Biochemical Oxygen Demand |
| C.F.R. | - | Code of Federal Regulations |
| EPA | - | U S. Environmental Protection Agency |
| gpd | - | gallons per day |
| mg / L | - | milligrams per liter |
| NPDES | - | National Pollutant Discharge Elimination System |
| POTW | - | Publicly Owned Treatment Works |
| RCRA | - | Resource Conservation and Recovery Act |
| TSS | - | Total Suspended Solids |
| U.S.C | - | United States Code |

E. DEFINITIONS. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Code, 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 State of Arkansas or the State Industrial Pretreatment Coordinator.

AUTHORIZED REPRESENTATIVE/SIGNATORY OF THE USER.

(1) If the user is a corporation:

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

(b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures:

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

(3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

(4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization:

(a) Is in writing;

(b) 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:

(C) The written authorization is submitted to the Control Authority,

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

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from, soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

CATEGORICAL PRETREATMENT STANDARD OR

CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c)

of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 C.F.R. Chapter I. Subchapter N, Parts 405-471.

CITY BUILDING INSPECTOR. That person or his/her delegated representative employed by the City of Tontitown, Arkansas, whose responsibility is to enforce compliance within the City's planning area of all building codes.

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

CONTROL AUTHORITY. The Tontitown Water & Sewer Commission. The Commission may delegate its powers to its authorized representative, and to the extent it does, this definition shall include any designated representative.

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

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is hereafter promulgated in accordance with Section 307 of the Act.

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

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

INDIRECT DISCHARGE OR DISCHARGE. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

INDUSTRIAL USER. A user that discharges nondomestic wastewater into the POTW.

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

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT.

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

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 biosolids (sludge) processes, use, or disposal. Such discharges include but are not limited to discharges which cause a violation of the City of Tontitown, Arkansas NPDES permit or the prevention of biosolids (sludge) use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: 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 biosolids (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.

MAY. Discretionary or permissive.

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.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued to a POTW or other discharger pursuant to Section 402 of the Act.

NEW SOURCE.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 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:

(a) The building structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the processor production equipment that causes the discharge of pollutants at an existing source: or

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

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined herein has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous onsite construction program:

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

NONCONTACT COOLING WATER. Water used for cooling 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 United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of or has the potential to cause a violation of any requirement of the Control Authority's NPDES permit (including an increase in the magnitude or duration of a violation).

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

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

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, biosolids (sludge), munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and certain characteristics of the wastewater [e.g. pH, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

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

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

PRETREATMENT STANDARDS OR STANDARDS. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES. Prohibitions against the discharge of certain substances; these prohibitions appear in this Code.

PUBLIC SEWER. Shall mean a sewer in which all owners of abutting properties have equal rights, and is owned and operated by the Control Authority.

PUBLICLY OWNED TREATMENT WORKS (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEPTIC TANK WASTE. Any sewage from holding tanks such as vessels, chemical toilers, campers, trailers, and septic tanks.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating, and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SHALL. Mandatory.

SIGNIFICANT INDUSTRIAL USER.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontract cooling, and boiler blowdown wastewater); or

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from a user [and in accordance with procedures in 40 C.F.R. 403.8 (f) (6)] determine that such user should not be considered a significant industrial user.

SLUG LOAD OR SLUG. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this Code or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

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

STATE. State of Arkansas.

STORM DRAIN. (sometimes termed "storm sewer") A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water,

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

TOTAL SUSPENDED SOLIDS. 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.

TREATMENT PLANT'S EFFLUENT. The discharge from the POTW into the receiving stream.

USER. Any person who contributes or permits the contribution of wastewater into the POTW.

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

WASTE WATER TREATATMENT PLANT. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

F. USE OF PUBLIC SEWERS REQUIRED.

(1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Tontitown, Arkansas, or in any area under the jurisdiction of the Control Authority, any human or animal excrement, garbage, or other objectionable waste. The disposal of biosolids complying with 40 CFR Part 503, State, and Control Authority requirements is allowed.

(2) It shall be unlawful to discharge to any natural outlet within the City of Tontitown, Arkansas, or in any area under the jurisdiction of the Control Authority, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this Code.

(3) Except as otherwise provided herein, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) (a) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Tontitown, Arkansas and abutting on any street, alley, or right of way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his/her expense to install suitable toilet facilities therein, and to

connect such facilities directly with the proper sewer in accordance with the provisions of this Code, within thirty (30) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of said house or building.

(b) It shall be unlawful to develop any lots within a subdivision void of municipal sewer facilities, provided municipal sewer facilities are within three hundred (300) feet of said subdivision.

G. PRIVATE SEWAGE DISPOSAL.

(1) Where a public sanitary sewer is not available under the provisions of this Code, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private sewage disposal system the owner shall first obtain an application for such system from the Arkansas Department of Health. A copy of said application shall be submitted to the Control Authority along with appropriate fees and application in order to request water service for the building or property in question.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Arkansas Department of Health. Said Department's representative(s) shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Arkansas Department of Health when the work is ready for final inspection, and before any underground portions are covered.

(4) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Arkansas Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 7,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a properly served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(6) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Control Authority.

(7) No statement contained in this Code shall be construed to interfere with any additional requirements that may be imposed by the Control Authority.

(8) When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of any liquids or solids and filled with clean fill material.

(9) It shall be unlawful to discharge to any natural outlet within the City of Tontitown, Arkansas, or in any area under the jurisdiction of the Control Authority, a sewage or other polluted waters, except where suitable treatment has been provided and where a valid National Pollutant Discharge Elimination System permit has been issued for such discharge.

H. BUILDING SEWERS AND CONNECTIONS

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Control Authority. At least 72 hours prior notice shall be given to the Control Authority before any new, approved connection or repair to a connection is made.

(2) There shall be two (2) classes of building sewer permits: a) for residential and commercial service; and b) for service to establishments producing industrial wastes.

(3) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(4) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Control Authority, to meet all requirements of this Code.

(5) The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Control Authority. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications or the Arkansas State Plumbing Codes shall apply.

(6) Whenever possible, the building sewer shall be brought to the building at an elevation below the base merit floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

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

(8) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Control Authority, or the procedures set forth in appropriate specifications of the Arkansas State Plumbing Code. All such connections shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Control Authority before installation.

(9) The applicant for the building sewer permit shall notify the Building inspector for the City of Tontitown, Arkansas when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Control Authority or their representative.

(10) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard, streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Control Authority.

I. PROHIBITED DISCHARGE STANDARDS

(1) General Provisions: No person shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or

interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, State, or local pretreatment standards or requirements.

(2) Specific Prohibitions: No person shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 ° F (60°C) using the test methods specified in 40 C. F.R. 261.21;

(b) Wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

(d) Pollutants , Including oxygen - demanding pollutants (BOD, etc.) released in a discharge at a flow rate and / or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(e) Wastewater having a temperature greater than 150° F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(f) Petroleum in oil, non biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(h) Trucked or hauled pollutants, except at discharge points designated by the Control Authority;

(i) Any liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the POTW's NPDES permit;

(k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable Federal or State regulations and approved by the Control Authority;

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, or unpolluted wastewater;

(m) Sludges, screenings, or other residues from the pretreatment of industrial waste;

(n) Medical wastes which are deemed by the Control Authority to have the potential to cause acute worker health or safety problems;

(o) Wastewater causing, alone or in conjunction with other sources, the POTW to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;

(p) Any substance which may cause the POTW's effluent or other product of the POTW such as residues, biosolids (sludges) or scums, to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;

(q) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(r) Any material into a manhole through its top unless specifically authorized by the Control Authority.

(3) 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.

J. PROTECTION FROM DAMAGE. No unauthorized person shall

maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provisions shall be subject to immediate arrest under charge of disorderly conduct.

K. NATIONAL CATEGORICAL PRETREATMENT STANDARDS. The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with 40 C. F. R. 403.6 (e)

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined wastestream Formula in 40 CF. R, 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions to 40 C.P.R. 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.P.R. 403.15.

L. LOCAL LIMITS. Local limits will be established if required, to insure that the maximum allowable headworks loadings to the wastewater treatment facility are not exceeded. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits except by permit from the Control Authority. The Control Authority may revise or modify the local limits as required, or if deemed necessary to comply with the objectives presented in this Code or the general and specific prohibitions in this Code or to insure compliance with federal, state, or local law.

M. RIGHT OF REVISION. The Control Authority reserves the right to establish, by local limits development, policy, regulation, or in wastewater discharge permits, more stringent standards or requirements on discharges to the

POTW.

N. 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 Control Authority 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.

II. PRETREATMENT OF WASTEWATER.

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

B. ADDITIONAL PRETREATMENT MEASURES.

(1) Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specialty sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Code.

(2) The Control Authority 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. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of

the Control Authority, 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 Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

C. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS. At least once every two (2) years the Control Authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Control Authority may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Control Authority of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in this Code; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

III. WASTEWATER DISCHARGE PERMIT APPLICATION.

A. WASTEWATER ANALYSIS. When requested by the Control Authority; a user must submit all information required by the Control Authority, including, but not limited to information on the nature and characteristics of the user's wastewater. The Control Authority is authorized to prepare a form for this purpose and may

periodically require users to submit or update the information.

B. WASTEWATER DISCHARGE PERMIT REQUIREMENT.

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Control Authority, except a significant industrial user that has filed a timely application pursuant to this Code may continue to discharge for the time period specified therein.

(2) The Control Authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Code.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Code and subjects the wastewater discharge permitted to the sanctions set out in this Code. Obtaining a wastewater discharge permit does not relieve a permitted of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, or local law.

C. WASTEWATER DISCHARGE PERMITTING: EXISTING CONNECTIONS. Any non-permitted user required to obtain a wastewater discharge permit, who was discharging wastewater into the POTW prior to the effective date of this Code and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Control Authority for a wastewater discharge permit in accordance with this Code, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this Code except in accordance with a wastewater discharge permit issued by the Control Authority.

D. WASTEWATER DISCHARGE PERMITTING: NEW CONNECTIONS. Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recompiling of such discharge, An application for this wastewater discharge permit, in accordance with this Code, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

E. APPLICATION SIGNATORIES AND CERTIFICATION. All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:

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

F. WASTEWATER DISCHARGE PERMIT DECISIONS. The Control Authority will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Control Authority will determine whether or not to issue a wastewater discharge permit. The Control Authority may deny any application for a wastewater discharge permit.

IV. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.

A. WASTEWATER DISCHARGE PERMIT DURATION. Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Control Authority. Each wastewater discharge permit will indicate a specific date upon which it will expire.

B. WASTEWATER DISCHARGE PERMIT CONTENTS. Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate biosolids (sludge) management amid disposal, and protect against damage to the POTW;

(1) Wastewater discharge permits must contain:

a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

(b) A statement that the wastewater discharge permit is nontransferable;

(c) Effluent limits based on applicable pretreatment standards;

(d) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

(e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time or compliance beyond that required by applicable Federal, State, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(b) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(c) Requirements for the development and implementation of accidental discharge / slug control plans or other special conditions including management practices necessary to adequately prevent accidental unanticipated, or nonroutine discharges;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(f) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective

during the term of the wastewater discharge permit; and

(g) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Section, and Federal and State laws, rules, and regulations.

C. WASTEWATER DISCHARGE PERMIT APPEALS. A permittee may petition the Control Authority to reconsider the terms of a wastewater discharge permit with in thirty (30) days of notice of issuance of the discharge permit.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Control Authority fails to act within in thirty (30) days of receipt of the request, the request for reconsideration shall he deemed to be denied, decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

D. WASTEWATER DISCUARGE PERMIT MODIFICATION. The Control Authority may modify the wastewater discharge permit for good cause including, but not limited to the following reasons:

(1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. 403.13; or

(8) To correct typographical or other errors in the wastewater discharge permit.

E. WASTEWATER FJR DISCHARGE PERMIT TRANSFER. Wastewater discharge permits may not be assigned or transferred to a new owner and/or operator.

F. WASTEWATER DISCHARGE PERMIT REVOCATION. The Control Authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Control Authority of changed conditions pursuant to this Code;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self- monitoring or other reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Control Authority timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application; or
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Code.

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

G. WASTEWATER DISCHARGE PERMIT REISSUANCE. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reassurance by submitting a complete permit application, in accordance with this Code, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

H. REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

(1) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the POTW, the Control Authority shall enter into an interjurisdictional agreement with the contributing jurisdiction.

(2) An interjurisdictional agreement, as required by paragraph (1), above, shall contain the following conditions:

(a) A requirement for the contributing jurisdiction to adopt a Sewer Use Code or Ordinance which is at least as stringent as this Code and local limits which are at least as stringent as those set out in this Code. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Code of the City of Tontitown, Arkansas and/or local limits;

(b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;

(c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the Control Authority; and which of these activities will be conducted jointly by the contributing jurisdiction and the Control Authority;

(d) A requirement for the contributing jurisdiction to provide the Control Authority with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;

(e) A provision insuring the Control Authority access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and

(f) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

V. REPORTING REQUIREMENTS

A. BASELINE MONITORING REPORTS.

(1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CF. R. 403.6 (a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraph 2, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

(a) Identifying Information. The name and address of the facility,

including the name of the operator and owner.

(b) Environmental Permits. A list of any environmental control permits held by or for the facility.

(c) Description of Operations. A brief description of the nature, average 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.

(d) Flow Management. 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 C.F.R., 403.6(e).

(e) Measurement of Pollutant process.

(i) The categorical pretreatment standards applicable to each regulated process.

(ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the Control Authority) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term, average commemorations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this Code.

(iii) Sampling must be performed in accordance with procedures set out in this Code.

(f) Certification. A statement, reviewed by the user's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

(g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in

this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this Code.

(h) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with this Code.

B. COMPLIANCE SCHEDULE PROGRESS REPORT. The following conditions shall apply to the compliance schedule required by this Code:

(1) The schedule shall contain progress increments in the form of dates for the commencement and compilation of major events leading to the construction and operation of additional pretreatment required or the user to meet the applicable pretreatment standards (such events may include, but are not limited to, hiring an engineer, completing preliminary design, executing contracts for major components, commencing and completion);

(2) The user shall submit a progress report to the Control Authority no later than ten (10) business days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(3) In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

C. REPORT ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in this Code. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CF. R. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this Code.

D. PERIODIC COMPLIANCE REPORTS.

(1) All signification industrial user shall, at a frequency determined by the Control Authority but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed amid certified in accordance with this Code.

(2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all mimes. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in this Code, the results of this monitoring shall be included in the report.

E. REPORT OF CHANGED CONDITIONS. Each user must notify the Control Authority of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days before the change.

(1) The Control Authority may require the user to submit such information as may be deemed necessary to evaluate the changed contiguous, including the submission of a wastewater discharge permit application under this Code.

(2) The Control Authority may issue a wastewater discharge permit under this Code or modify an existing wastewater discharge permit under this Code in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not intended to, flow changes of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

F. REPORTS OF POTENTIAL PROBLEMS.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW (including a violation of the prohibited discharge standards in this Code) the user shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five (5) business days following such discharge, the user shall, unless waived by the Control Authority, 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 matured 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 pursuant to this Code.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees are advised of the emergency notification procedure.

G. REPORTS FROM UNPERMITTED USERS. All users not required to obtain a wastewater discharge permit shall provide appropriate reports as may be required by the Control Authority.

H. NOTIFICATTON OR VIOLATION/REPEAT SAMPLING AND REPORTING. If sampling performed by a user indicates a violation, the user must notify the Control Authority as soon as possible but no later than twenty four (24) hours of becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within the time period specified by the Control Authority but at no time later than thirty (30) days after becoming aware of the violation. The user may not be required to resample if the Control Authority samples between the user's initial sampling and when the user receives the results of this sampling.

I. NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(1) Any person who commences he discharge of hazardous waste shall notify the Control Authority, the EPA Regional Waste Management Division Director,

and State hazardous waste authorities (in writing) any discharge into the POTW of a substance which otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. 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, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications to the Control Authority must be made prior to the commencement of the discharge.

(2) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Control Authority, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within, ninety (90) days of the effective date of such regulations.

(3) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

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

J. ANALYTICAL REQUIREMENTS. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 unless otherwise specified in an applicable categorical pretreatment standard. 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

K. SAMPLE COLLECTION.

(1) Except as indicated in (2) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event low proportional stippling is infeasible, the Control Authority may authorize the use of time proportional sampling or minimum of four (4) grab samples where the user demonstrates that this will provide a representation sample of the effluent being discharged. In addition, grab samples may be reburied to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, Sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

L. TIMING. Written reports will be deemed to have been submitted on the date post marked for reports which are not mailed, postage prepaid into a mailed facility services by the United States Postal Service, the date of receipt of this report shall govern.

M. RECORD KEEPING. Users subject to the reporting requirements of this Code shall retain, and make available for inspection and copying, all records of information obtained pursuant to and monitoring activities undertaken by this Code and make additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the persons making the samples, the dates analyses were performed; who performed the analyses the analytical techniques or methods used and the results of such analytical. These records shall remain available for a period of at least three (3) years. This period shall be automatically estimated for the duration of any litigation concerning the user or the Control Authority, or where the user has been specifically notified of longer retention period by the U.S. EPA, State, or Control Authority.

VI. COMPLIANCE MONITORING.

A. RIGHT OF ENTRY: INSPECTION AND SAMPLING. The Control Authority shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of his Code and any wastewater discharge permit or order issued hereunder. Users shall allow the Control Authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performances of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Control Authority will be permitted to enter without delay for time purposes of performing specific responsibilities.

(2) The Control Authority 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 time user's operations.

(3) The Control Authority may require the user to install monitoring equipment necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to the Control Authority upon request.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the Control Authority access to the users premises shall be a violation of this Code.

B. SEARCH WARRANTS. If the Control Authority 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 Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of this Control Authority designed to verify compliance with this Code or any permit or order issued hereunder, or to protect the overall public health, safety amid welfare of the community, then the Control Authority may seek issuance of a search warrant from the appropriate court.

C. CONFIDENTIAL INFORMATION. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Control

Authority's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically request, and is able to demonstrate to the satisfaction of the Control Authority, 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 of a report which might disclose trade secrets or secret processes shall not be made available or 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 C.F.R. 2.302 will not be recognized as confidential information and will be available to the public without restriction.

D. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE. The Control Authority shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or note of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit 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 discharge violation that the Control Authority believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);

(D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Control Authorities 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, period it self-monitoring reports, and reports on compliances with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

VII. ADMINISTRATIVE ENFORCEMENT REMIDIES.

A. NOTICE OF VIOLATION. When the Control Authority finds that a user has violated (or continues to violate) any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may serve upon such user either an informal warning or a written Notice of Violation. Within ten (10) business days of the receipt of the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific requited actions, shall be submitted by the user to the Control Authority. 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 Control Authority to take any action, including emergency actions or any other enforcement action, without first issuing an informal warning or a notice of violation.

B. CONSENT ORDERS. The Control Authority may enter into Consent Orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by Cite user to correct he noncompliance within a time period specified by the document. Such documents shall I have the same force and effect as the administrative orders issued pursuant to his Code and shall be judicially enforceable.

C. SHOW CAUSE HEARING. The Control Authority may order a user which has violated or continues to violate, any provision of his Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement to appear before the control Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such actions, and a request that the user show cause why the proposed enforcement action should not be taken. The notice or the meeting shall be served personally or by registered at certified mail (return receipt requested) at least five (5) business days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be bar against, or prerequisite for, taking any other action against the user.

D. COMPLIANCE ORDERS. When The Control Authority finds that a user has violated or continues to violate any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time, if the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other rebated appurtenances art installed and properly operated. Compleitive orders may also contain other requirements to address the noncompliance, including additional self monitoring, and management practices designed to minimizing ire the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a crapulence order relieve the user of any for any violation, Issuance of any continuing violation, issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

E. CEASE AND DESIST ORDERS. When the Control Authority finds that a user has violated (or continues to violate) ally provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely any recur, the Control Authority may issue nil order to the user directing it to cease and desist all such violations arid directing lie user to:

- (1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be impeded 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 a prerequisite for, taking any other action against the user.

F. ADMINISTRATIVE FINES

(1) When the Control Authority finds that a user has violated or continues to violate any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or require pretreatment, the Control Authority may fine such user in the amount not to exceed \$1,000.00 Such fines shall be assessed on a per violation, per day basis. The Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(2) Issuance of an administrative fine shall not be a bar against, or a prerequisite for taking any other action against the user.

G. EMERGENCY SUSPENSIONS. The Control Authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Control Authority may also immediately suspend a user's discharge, that threatens to interfere with the operation of the POTW, or will presents or may present an endangering to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Control Authority shall take such steps as deemed necessary, including immediate severance of the sewer connection or water service, to prevent or minimize damage to the POTW its receiving stream, or endangerment to any individuals. The Control Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed unless time endangerment proceedings of this Code are initiated against the user.

(2) If necessary, severance of the sewer connection or water service may occur without notice.

(3) A user that is responsible, in whole or in part, for any declare presenting imminent endangerment shall submit a detailed writing statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Control Authority within ten (10) business days.

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

H. TERMINATION OF DISCHARGE. Any user that violates the provisions of this Code is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Code why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to, or a prerequisite for, taking any other action against the user.

VIII. JUDICIAL ENFORCEMENT REMEDIES.

A. INJUNCTIVE RELIEF. When the Control Authority finds that a user has violated (or continues to violate) any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may petition the appropriate court through the Control Authority's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Code on activities of the user, the Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a retirement for the user to conduct any environmental mediation. A petition for injective relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

B. CIVIL PENALTIES.

(1) A user which has violated or continues to violate any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Control Authority for a maximum civil penalty of \$1,000.00 per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.

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

(3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

C. COST RECOVERY. The Control Authority may recover reasonable attorney's fees, court costs, any other expenses associated with any and all enforcement activities provided by this Code, including sampling and monitoring expenses, and the cost of any actual damage's or fines incurred by the Control Authority.

D. REMEDIES NONEXCLUSIVE. The remedies provided for in this Code are not exclusive. The Control Authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violators will generally be in accordance with the Control Authority's enforcement response plan. However, the Control Authorities may take other action against any user permitted by State law.

IX. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment tactics, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(c) The user has submitted the following information to the Control Authorities as soon as possible but no later than 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) business days which shall include:

(i) A description of the indirect discharge and cause of Noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claims of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction loss, or failure of its treatment facility until the facility restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. PROHIBITED DISCHARGE STANDARD. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in this Code or the specific prohibitions except those listed in section I. I. (2)(a), (b), and (h), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either;

(1) A local entity exists for each pollutant discharged and the user was

in compliance with each limit directly prior to, during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Control Authority was regularly in compliance with its NPDES permit, and in the case of interference was in compliance with applicable biosolids (sludge) use or disposal requirements.

C. BYPASS.

(1) For the purposes of this Section:

(a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.

(3) (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, at least ten (10) business days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) business days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including the 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.

(4) (a) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless

(i) Bypass was unavoidable to prevent loss of life, personal injury, severe property damage.

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance: arid

(iii) The user submitted notices as required under paragraph (3) of this section.

(b) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (4) (a) of this section.

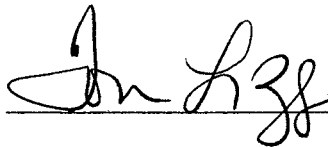
X. MISCELLANEOUS PROVISIONS.

A. **SEVERABILITY.** If any provision of this Code is invalidated by any court of competent jurisdiction the remaining provisions shall not be affected and shall continue in full force and effect.

B. **CONFLICTS.** To the extent that any other ordinance or parts of other ordinances are inconsistent or conflict with any part of this Code, this Code shall be controlling to the extent of the inconsistency or conflict.

This Code was adopted by Ordinance 2005-8-226 of the City Council of the City of Tontitown On the 2 day of August, 2005

Attest:

_____