

ORDINANCE NO. 2007-06-29

**AN ORDINANCE AMENDING SECTION 52.000 *et seq.* OF THE CODE OF ORDINANCES FOR THE CITY OF TONTITOWN, ARKANSAS, DECLARING AN EMERGENCY AND FOR OTHER PURPOSES**

WHEREAS, the City council adopted Ordinance No. 2005-8-226 (passed August 2, 2005) which is codified at Section 52.000 *et seq.* of the Code of Ordinances for the City of Tontitown, Arkansas; and

WHEREAS, THE City Council has determined that it is in the best interests of the City of Tontitown, and its citizens to become a member of the Northwest Arkansas Conservation Authority("NACA"). As part of its NACA membership, the City of Tontitown's Sewer Use Code must coincide with NACA's Sewer Use Code; and

WHEREAS, the City Council has determined that the most effective way to effectuate the alignment of the City's Sewer Use Code with NACA's Sewer Use Code is to amend Ordinance 2005-8-226 codified at Section 52.000 *et seq.* of the Code of Ordinances for the City of Tontitown, Arkansas;

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

Section 52.000 *et. seq.* of the Code of Ordinances for the City of Tontitown, Arkansas is hereby amended to read as follows:

Section 52.002. Section 52.002 will read in its entirety as follows:

"This Code shall apply to all users of the POTW and that this Ordinance shall incorporate all applicable provisions of the NACA Sewer Use Code. Additionally, all liquid hauled waste introduced to the NACA System by truck must be in compliance with the NACA Sewer Use Code to regulate the transportation and disposal of liquid waste within the jurisdiction of NACA."

Section 52.005. The definition of "Best Management Practices" will be added to Section 52.005. The added language of Section 52.005 will read as follows:

"Best Management Practices shall mean specific procedures developed by the Control Authority to be implemented by individual businesses designed to reduce the loading of a particular pollutant of concern."

Section 52.009. Section 52.009(B)(3) will be modified to read as follows:

"Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference such as, but not limited to: ashes, cinders, egg shells, sand, mud, straw shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch

manure, hair, hides or fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, bulk solids, garbage with particles greater than one-half inch (½") and any water or waste which contains gas, grease or oil, plastic, or other substance that will solidify or become discernibly viscous at temperatures above 0° Centigrade.

Section 52.011.        Section 52.011(A) will be modified to read as follows:

“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(c).”

Section 52.015.        A Subsection will be added to Chapter Section 52 and it will read as follows:

**“§ Section 52.015    BEST MANAGEMENT PRACTICES AND POLLUTION PREVENTION.** The Control Authority may develop and require implementation of Best Management Practices and Pollution Prevention procedures by unpermitted as well as permitted individual users to allow compliance by the System with the Maximum Allowable Headworks Loadings established in this Code. The Control Authority may also allow implementation of Best Management Practices and Pollution Prevention to be on a voluntary basis if it is determined that this is the most appropriate approach. Best Management Practices will be specific procedures developed by the Control Authority to be implemented by the individual user designed to reduce the loading of a particular pollutant. Pollution Prevention will be defined as waste reduction prior to recycling, treatment, or disposal.”

Section 52.027        Section 52.027 will be modified to read as follows:

(E) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the System, it is the responsibility of the user to 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.

(F) Within five (5) days following an accidental discharge, the user shall submit to the Control Authority a detailed written report describing the nature and cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the System, the environment, or any other damage to user or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by the Code or other applicable law.

(G) Failure to notify the Control Authority of an accidental discharge may result in legal action or discontinuation of service.

(H) Notice to Employees. As a part of the accidental spill prevention plan, 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 an accidental discharge. Employers shall insure that all appropriate employees be advised of the emergency notification procedures to be used in the event of an accidental discharge.

Section 52.043      Section 52.043 will be modified to read as follows:

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 recommencing 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.

Section 52.076      Section 52.076 will be modified to read as follows:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events may 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); no increment referred to above shall exceed nine (9) months;

Section 52.084      Section 52.084 will be modified to read as follows:

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. If 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.

Section 52.085      Section 52.085 (A) will be modified to read as follows:

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

Section 52.087      Section 52.087 will be modified to read as follows:

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 any monitoring activities required by this Code and any 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 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 Control Authority, or where the user has been specifically notified of a longer retention period by the U.S., EPA, State, or Control Authority.

Section 52.102            Section 52.0102 will be modified to read as follows:

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 requests, 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 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 C.F.R 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Section 52.134            Section 52.0134(A)(2) will be modified to read as follows:

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Section 52.138            Section 52.0138 will be modified to read as follows:

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 use. The Control Authority may also seek such other action as is appropriate

for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition of injunctive relief shall not be a bar against, or prerequisite for, taking any other action against a user.

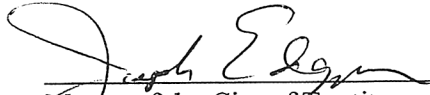
Section 52.141

Section 52.0141(A) will be modified to read as follows:

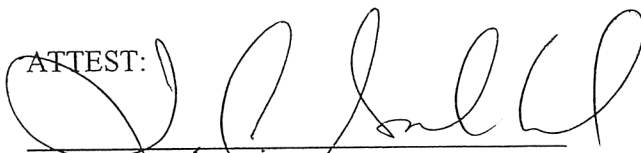
(A) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by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

EMERGENCY CLAUSE. The City of Tontitown has entered into a contract with the Northwest Arkansas Conservation Authority which requires the City of Tontitown's Sewer Use Code to coincide with the Northwest Arkansas Conservation Authority's Sewer Use Code. Due to the necessity to immediately align the City of Tontitown's Sewer Use Code with the Sewer Use Code of the Northwest Arkansas Conservation Authority it is necessary for this Ordinance to take immediate effect. The City Council hereby declares an emergency to exist and this ordinance, being necessary for the preservation of the public peace, health, safety and welfare, shall take effect and be in force from and after its passage.

PASSED AND APPROVED THIS 5<sup>th</sup> DAY OF June 2007.

  
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Mayor of the City of Tontitown

ATTEST:

  
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Recorder - Treasurer of the City of Tontitown

SPONSOR:

  
\_\_\_\_\_  
Planning Commission

154  
READING  
5-01-2007

## ROLL CALL

### SHALL THE ORDINANCE PASS:

	Yea	Nay
Ward 1, Position 1 - Alderman Sunny Hinshaw	<u>✓</u>	<u>      </u>
Ward 1, Position 2 - Alderman Henry Piazza	<u>✓</u>	<u>      </u>
Ward 2, Position 1 - Alderman Arthur Penzo	<u>✓</u>	<u>      </u>
Ward 2, Position 2 - Alderman David Sbanotto	<u>✓</u>	<u>      </u>
Ward 3, Position 1 - Alderman Becky Alston	<u>✓</u>	<u>      </u>
Ward 3, Position 2 - Alderman Scott McNair	<u>✓</u>	<u>      </u>

Mayor - Joseph Edgmon	<u>      </u>	<u>      </u>
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### TOTALS:

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## ROLL CALL

### SHALL THE ORDINANCE BECOME EFFECTIVE IMMEDIATELY:

Ward 1, Position 1 - Alderman Sunny Hinshaw	<u>      </u>	<u>      </u>
Ward 1, Position 2 - Alderman Henry Piazza	<u>      </u>	<u>      </u>
Ward 2, Position 1 - Alderman Arthur Penzo	<u>      </u>	<u>      </u>
Ward 2, Position 2 - Alderman David Sbanotto	<u>      </u>	<u>      </u>
Ward 3, Position 1 - Alderman Becky Alston	<u>      </u>	<u>      </u>
Ward 3, Position 2 - Alderman Scott McNair	<u>      </u>	<u>      </u>

Mayor - Joseph Edgmon	<u>      </u>	<u>      </u>
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### TOTALS:

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## ROLL CALL

### SHALL THE ORDINANCE PASS:

	Yea	Nay
Ward 1, Position 1 - Alderman Sunny Hinshaw	<u>✓</u>	—
Ward 1, Position 2 - Alderman Henry Piazza	<u>✓</u>	—
Ward 2, Position 1 - Alderman Arthur Penzo	<u>✓</u>	—
Ward 2, Position 2 - Alderman David Sbanotto	<u>✓</u>	—
Ward 3, Position 1 - Alderman Becky Alston	<u>✓</u>	—
Ward 3, Position 2 - Alderman Scott McNair	—	—
Mayor - Joseph Edgmon	—	—

**TOTALS:**

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## ROLL CALL

### SHALL THE ORDINANCE BECOME EFFECTIVE IMMEDIATELY:

Ward 1, Position 1 - Alderman Sunny Hinshaw	<u>✓</u>	—
Ward 1, Position 2 - Alderman Henry Piazza	<u>✓</u>	—
Ward 2, Position 1 - Alderman Arthur Penzo	<u>✓</u>	—
Ward 2, Position 2 - Alderman David Sbanotto	<u>✓</u>	—
Ward 3, Position 1 - Alderman Becky Alston	<u>✓</u>	—
Ward 3, Position 2 - Alderman Scott McNair	—	—
Mayor - Joseph Edgmon	—	—

**TOTALS:**

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