

ORDINANCE NO. 8531

AN ORDINANCE AMENDING CHAPTER 30, ARTICLE III OF THE MUNICIPAL CODE OF ORDINANCES OF THE CITY OF MARSHALL, MISSOURI, BY REPEALING SAID ARTICLE III AND ENACTING IN LIEU THEREOF NEW SECTIONS OF LIKE NUMBER AND SUBJECT MATTER FOR THE PURPOSE OF ESTABLISHING REGULATIONS FOR THE PROVISION OF SANITARY SEWER SERVICE IN THE CITY OF MARSHALL.

WHEREAS, Chapter 30, Article III of the Municipal Code of Ordinances of the City of Marshall, Missouri, contains provisions relating to the provision and regulation of sanitary sewer service; and

WHEREAS, the Council of the City of Marshall desires to amend those provisions regarding sanitary sewer service in the City of Marshall.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Marshall, Missouri, as follows:

SECTION 1. Chapter 30, Article III of the Municipal Code of Ordinances of the City of Marshall, Missouri is hereby amended by deleting the current language and enacting in lieu thereof the following:

DIVISION 1.- Generally

Sec. 30-81 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in the Regulations Applying to Sanitary Sewer Service shall be as follows:

AUTHORIZED OR DULY-AUTHORIZED REPRESENTATIVE OF THE USER:

(1) If the User is a corporation:

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, or initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual pretreatment permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate a duly-authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to MMU's General Manager.

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of dissolved oxygen required for biochemical oxidation of decomposed organic matter under aerobic conditions in a period of five (5) days at 20°C, expressed in milligrams per liter (mg/l).

BEST MANAGEMENT PRACTICES (BMP): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Division 2 hereof. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet 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 including, if applicable, a grinder pump.

CFR: *Code of Federal Regulations*

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. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

CATEGORICAL INDUSTRIAL USER: A significant industrial user subject to categorical pretreatment standards in CFR 40 Subchapter N.

CITY: The City of Marshall

CHEMICAL OXYGEN DEMAND OR COD: A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CITY ENGINEER: The highest-level administrative employee of the Department of Municipal Services of the City of Marshall or his authorized deputy, agent or representative.

CODE OFFICIAL: The duly authorized official employed by the City of Marshall for enforcement of the City's codes with regard to water and sewage facilities.

CONTROL AUTHORITY: Marshall Municipal Utilities

DAILY MAXIMUM: The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

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

DISCHARGE: The introduction of pollutants into the POTW by a user and refers to pollutants introduced from either a domestic or non-domestic (e.g., industrial) source unless identified specifically as being solely from either a domestic or non-domestic source.

ENFORCEMENT RESPONSE PLAN: An outline of the procedures MMU will follow to identify, document, and respond to pretreatment violations.

EPA: The United States Environmental Protection Agency

EXISTING SOURCE: Any source of discharge that is not a "New Source."

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

GENERAL MANAGER: The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a Duly Authorized Representative of the General Manager.

GRAB SAMPLE: Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

INDIRECT DISCHARGE OR DISCHARGE: The introduction of pollutants into the POTW from any nondomestic source.

INDUSTRIAL WASTES: The liquid waste or liquid-borne wastes resulting from any commercial, manufacturing or industrial operation, or process and as distinct from sanitary sewage.

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

INTERFERENCE: A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the NPDES permit for the POTW or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or 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 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.

LOCAL LIMIT: Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

MAY: Is 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.

mg/l: Milligrams per liter or parts per million

MMU: Marshall Municipal Utilities, an enterprise fund of the City of Marshall, Missouri, controlled by the Board of Public Works of the City of Marshall.

MONTHLY AVERAGE: The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

MONTHLY AVERAGE LIMIT: The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

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

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 which will be applicable to such source if such standards are thereafter promulgated, provided that:

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

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

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

- (a) Begun, or caused to begin, as part of a continuous on-site construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

NORMAL DOMESTIC SEWAGE (or Normal Strength Sewage): Wastewater that has a BOD concentration of not more than 350 mg/l, suspended solids concentration of not more than 350 mg/l and grease concentration less than 100 mg/l.

OPERATION AND MAINTENANCE COST: All expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the treatment works to achieve the capacity and performance for which such works were designed and constructed.

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 a violation of any requirement of MMU's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON: Any individual, firm, company, association, society, corporation, group, or Federal, State, or local government entity or its agent.

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

POINT OF ORIGIN: Any house, duplex, apartment house, or other single building or structure, trailer court served by a single water meter, or group of buildings which are and may reasonably be expected to remain under common ownership and control from which pollutants are, or may be, discharged.

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

POTW: See TREATMENT WORKS.

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

PRETREATMENT REQUIREMENTS: Any substantive or procedural requirement related to pretreatment imposed on a User other than a pretreatment standard.

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

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 30-82 to 30-86 of this ordinance.

PRIVATE SEWER: A sewer not owned and controlled by MMU.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried

freely under the flow condition normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

PUBLIC SEWER: A sanitary sewer main owned and controlled by MMU.

REPLACEMENT: Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

RESIDENTIAL CONTRIBUTOR: Any contributor to the POTW whose lot, parcel of real estate, or building is used for domestic dwelling purposes only.

SANITARY SEWER: A sewer which carries sanitary sewage and industrial wastes and to which storm, surface and ground water are not intentionally admitted.

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

SEWAGE: Any combination of water carried wastes from residents, buildings, industrial establishments, institutions, manufacturing plants, processing plants, commercial establishments or other places in which such wastes are produced, together with such ground, surface, storm or other water as may be present.

SEWAGE SYSTEM: All facilities for collecting, pumping, treating and disposing of sanitary sewage.

SEWAGE TREATMENT PLANT: Any devices and structures used for treatment of sanitary sewage.

SEWER: A pipe or conduit for carrying sewage.

SHALL: Is mandatory.

SIGNIFICANT INDUSTRIAL USER:

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

- (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
- (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; or
- (c) Is designated as such by MMU 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 Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, MMU may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SLUG LOAD OR SLUG DISCHARGE: Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Sections 30-82 to 30-86 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

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

TOTAL SUSPENDED SOLIDS (SS): The total suspended matter that either floats on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering, expressed in milligrams per liter.

TOXIC POLLUTANTS: Any pollutants, gaseous, liquid or solid, which when discharged into the sewage system may interfere with any sewage treatment process or to constitute a hazard to human beings or animals, or to inhibit aquatic life or to create a hazard to recreation in the receiving water of the effluent from the sewage treatment plant or to limit the disposal of sludge from the sewage treatment plant in the most cost effective manner.

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

USEFUL LIFE: The estimated period during which a treatment works will be operated.

USER: The owner or occupant of property or premises subject to sewage service charge. The term "user" may refer to either the source of pollutants discharged into the POTW from a domestic or non-domestic (e.g., industrial) source unless identified specifically, or in context, as being solely from either a domestic or non-domestic source.

USER CHARGE: That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the wastewater treatment works.

WASTEWATER: A synonym for sewage and is interchangeable therewith for purposes of this policy.

WATER METER: A water volume measuring and recording device, furnished and/or installed by MMU or furnished and/or installed by others and approved by MMU. May also be called a recording flow meter.

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

DIVISION 2 - Depositing Certain Wastes.

Sec. 30-82 Prohibited Discharge Standards

a. General Prohibitions

An industrial user may not introduce or cause to be introduced into a POTW any pollutant(s) or wastewater that cause pass through or interference. These general prohibitions and the specific prohibitions apply to each user introducing pollutants into a POTW whether or not the user is subject to national pretreatment standards or any federal, state, or local pretreatment requirements.

b. Specific Prohibitions

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the General Manager that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the General Manager will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials or construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process water.
- (2) Any petroleum derivative product including gasoline, benzene, naptha, fuel oil, other flammable or explosive liquid, solid, or gas.
- (3) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other waste, which may injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the treatment works including but not limited to cyanides in excess of two (2) mg/1 as CN in the waste as discharged to the public sewer.
- (4) Any waters or wastes having pH lower than 5.5 or greater than 11.5 standard units or having any other corrosive property capable of causing damage or hazard to

structures, equipment, and personnel of the treatment works.

- (5) Solid or viscous substances in quantities in amounts which will cause obstruction to the flow in the POTW resulting in interference but in no case solids greater than ½ inch in any dimension.
- (6) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (140°F) or 60 degrees Celsius (60°C) using the test methods specified in 40 CFR 261.21.
- (7) Any liquid or vapor having a temperature higher than one hundred fifty (150)°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case any liquid or vapor which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C).
- (8) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32°) and one hundred fifty (150)°F (0° and 65°C).
- (9) Any garbage that has not been properly shredded.
- (10) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (11) Any waters or wastes containing iron, chromium, copper, cyanide, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the treatment works exceeds the limits established by the General Manager for such materials.
- (12) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the General Manager as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (13) Any radioactive wastes of isotopes of such half-life or concentration as may exceed limits established by the General Manager in compliance with applicable state or federal regulations.
- (14) 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;

- (15) Waters or wastes containing substances which are not amenable to treatment or reduction by the treatment processes employed, or are amenable to treatment only to such degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (16) Petroleum oil, synthetic oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (17) 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.
- (18) Trucked or hauled pollutants, except at discharge points designated by the General Manager in accordance with Division 10 of this ordinance.

c. Prohibited Masses

Any waste discharges containing the following pollutants to such a degree that the monthly average total mass loading from all SIU's exceed the quantity specified below. The general manager will distribute the permit limitations in pounds per day for all users that meet the definition of S.I.U. as defined by city ordinance. At the discretion of the General Manager equivalent monthly average pollutant concentrations for the load allocation may be imposed. All metallic pollutants are for total metals unless otherwise specified. The mass limits apply at the point where the wastewater is discharged to the POTW.

The Table of Masses is as follows:

Total Mass Allowable (lbs) from S.I.U.'s (Monthly Average)

Pollutant*	Mass (lbs)
Biological Oxygen Demand (5-day)	9364
Total Suspended Solids	8296
Ammonia-N	1925
Silver	0.27
Arsenic	0.17
Cadmium	0.007
Cyanide	0.101
Chromium	0.339
Copper	0.56
Mercury	0.006

Molybdenum	0.15
Nickel	0.92
Lead	0.094
Selenium	0.059
Zinc	5.7

Sec. 30-83 Reserved

Sec. 30-84 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

- a. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the General Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the General Manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- c. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- d. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 402.15.

Sec. 30-85 State Pretreatment Standards

Pretreatment standards presently in effect by Revised Statutes of Missouri are hereby incorporated by reference.

Sec. 30-86 Local Limits

- a. The General Manager is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- b. The General Manager may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Sections 30-82.

Sec. 30-87 Right to Revision

The City reserves the right to establish, by ordinance or in individual wastewater discharge permits more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

DIVISION 3. - Pretreatment of Wastewater

Sec. 30-88 Users Provide

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Division 2 of this ordinance within the time limitations specified by EPA, the State, or General Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the General Manager for review, and shall be acceptable to the General Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance.

Sec. 30-89 Accidental Discharge/Slug Discharge Control Plans

The General Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The General Manager may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the General Manager may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- a. Description of discharge practices, including nonroutine batch discharges;
- b. Description of stored chemicals;
- c. Procedures for immediately notifying the General Manager of any accidental or Slug Discharge, as required by Section 30-109 of this ordinance; and
- d. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site 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.

DIVISION 4. - Individual Wastewater Permits.

Sec. 30-90 Wastewater Analysis

When requested by the General Manager, a User must submit information on the nature and characteristics of its wastewater within 30 days of the request. The General Manager is authorized to prepare a form for this purpose and may periodically require Users to update this information.

Sec. 30-91 Individual Wastewater Discharge Permit Requirement

- a. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the General Manager, except that a Significant Industrial User that has filed a timely application pursuant to Section 30-93 of this ordinance may continue to discharge for the time period specified therein.
- b. The General Manager may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- c. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Divisions 15 through 18 of this ordinance. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

Sec. 30-92 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Marshall and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

- a. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- b. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- c. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- d. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- e. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

Sec. 30-93 Individual Wastewater Discharge Permitting: Existing Connections

Any User required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the General Manager for an individual wastewater discharge permit in accordance with Section 30-95 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one hundred and eighty (180) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit issued by the General Manager.

Sec. 30-94 Individual Wastewater Discharge Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit who 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 individual wastewater discharge permit, in accordance with Section 30-95 of this ordinance, must be filed at least one hundred and eighty (180) days prior to the date upon which any discharge will begin or recommence.

Sec. 30-95 Individual Wastewater Permit Application Contents

All Users required to obtain an individual wastewater discharge permit must submit a permit application. The General Manager may require Users to submit all or some of the following information as part of a permit application:

- a. Identifying Information.
 - (1) The name and address of the facility, including the name of the operator and owner.
 - (2) Contact information, description of activities, facilities, and plant production processes on the premises;
- b. Environmental Permits. A list of any environmental control permits held by or for the facility.
- c. Description of Operations.
 - (1) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This

description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

- (2) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Type and amount of raw materials processed (average and maximum per day);
 - (5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- d. Time and duration of discharges;
- e. The location for monitoring all wastes covered by the permit;
- f. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 30-84(b), (40 CFR 403.6(e)).
- g. Measurement of Pollutants.
- (1) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (2) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the General Manager, of regulated pollutants in the discharge from each regulated process.
 - (3) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (4) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 30-106 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the General Manager or the applicable Standards to determine compliance with the Standard.
 - (5) Sampling must be performed in accordance with procedures set out in Section 30-106 of this ordinance.

- h. Any other information as may be deemed necessary by the General Manager to evaluate the permit application.
- i. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

Sec. 30-96 Application Signatories and Certifications

All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 30-111.

If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the General Manager prior to or together with any reports to be signed by an Authorized Representative.

Sec. 30-97 Individual Wastewater Discharge Permit Decisions

The General Manager will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete permit application, the General Manager will determine whether to issue an individual wastewater discharge permit. The General Manager may deny any application for an individual wastewater discharge permit.

DIVISION 5. - Individual Wastewater Discharge Permit Issuance

Sec. 30-98 Individual Wastewater Discharge Permit Duration

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of General Manager. Each individual wastewater discharge permit General Manager will indicate a specific date upon which it will expire.

Sec. 30-99 Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the General Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- a. Individual wastewater discharge permits must contain:
- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
 - (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 30-102 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
 - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
 - (5) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 - (6) Requirements to control Slug Discharge, if determined by the General Manager to be necessary.
- b. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or
 - (3) Prevent the introduction of pollutants into the treatment works;
 - (4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - (5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (6) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

- (7) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (8) A statement that compliance with the individual 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 individual wastewater discharge permit; and
- (9) Other conditions as deemed appropriate by the General Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Sec. 30-100 Permit Issuance Process

- a. Public Notification. The General Manager, at his/her discretion, will publish in an official government publication and/or newspaper(s) of general circulation that provides meaningful public notice with the jurisdiction(s) served by the POTW, a notice to issue a pretreatment permit, at least fourteen (14) days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.
- b. Permit Appeals. The General Manager shall provide public notice of the issuance of an individual wastewater discharge permit. Any person, including the User, may petition the General Manager to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of notice of its issuance.
 - (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 individual wastewater discharge permit objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit
 - (3) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the General Manager fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
 - (5) Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit decision must do so by filing a complaint with the Saline County Court within thirty (30) days.

Sec. 30-101 Permit Modification

- a. The General Manager may modify an individual 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 the individual 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 that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
 - (5) Violation of any terms or conditions of the individual wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the individual wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 30-102.

Sec. 30-102 Individual Wastewater Discharge Permit Transfer

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the General Manager and the General Manager approves the individual wastewater discharge permit transfer. The notice to the General Manager must include a written certification by the new owner or operator which:

- a. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- b. Identifies the specific date on which the transfer is to occur; and
- c. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

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

Sec. 30-103 Individual Wastewater Discharge Permit Revocation

The General Manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
- b. Failure to provide prior notification to the General Manager of changed conditions pursuant to Section 30-116 of this ordinance;
- c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- d. Falsifying self-monitoring reports and certification statements;
- e. Tampering with monitoring equipment;
- f. Refusing to allow the General Manager timely access to the facility premises and records;
- g. Failure to meet effluent limitations;
- h. Failure to pay fines;
- i. Failure to pay sewer charges;
- j. Failure to meet compliance schedules;
- k. Failure to complete a wastewater survey or the wastewater discharge permit application;
- l. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- m. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

Sec. 30-104 Individual Wastewater Discharge Permit Reissuance

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 30-95 of this ordinance, a minimum of sixty (60) days prior to the expiration of the User's existing individual wastewater discharge permit.

Sec. 30-105 Regulation of Waste Received from Other Jurisdictions

- a. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the General Manager shall enter into an intermunicipal agreement with the contributing municipality.
- b. Prior to entering into an agreement required by paragraph a., above, the General Manager shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the General Manager may deem necessary.
- c. An intermunicipal agreement, as required by paragraph a., above, shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 30-86 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;
 - (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the General Manager; and which of these activities will be conducted jointly by the contributing municipality and the General Manager;
 - (4) A requirement for the contributing municipality to provide the General Manager with access to all information that the contributing municipality obtains as part of its pretreatment activities;

- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring [the Superintendent] access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the General Manager; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

DIVISION 6. – Tests

Sec. 30-106 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a pretreatment permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in any applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the General Manager or other parties approved by EPA.

Sec. 30-107 Sample Collection

All wastewater samples must be representative of the user's discharge. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- a. Except as indicated in paragraphs b. and c. below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the General Manager. Where time-proportional composite sampling or grab sampling is authorized, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanides, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing

procedures as documented in approved EPA methodologies may be authorized by the General Manager as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- b. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- c. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 30-112 and 30-113 a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data is available, the General Manager may authorize a lower minimum. For the reports required by Section 30-114, the user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
- d. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

DIVISION 7. – 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 any local, state or federal discharge limitation Unless expressly authorized by an applicable Pretreatment Standard or Requirement. The General Manager may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when imposition of mass limits is appropriate.

DIVISION 8. - Accidental Discharge/Slug Control Plans

Sec. 30-108 Generally

The General Manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan or other action to control slug discharges. The General Manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the General Manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- a. Description of discharge practices including nonroutine batch discharges;
- b. Description of stored chemicals;
- c. Procedures for immediately notifying the General Manager of any accidental or slug discharge, as required by this section of the ordinance; and

- d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site 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.

Sec. 30-109 Reports of Potential Problems

In the case of any discharge, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the General Manager of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and, if known, corrective actions. Within five (5) days following an accidental discharge, the discharger shall submit to the General Manager a detailed written report of the accident describing the cause(s) of the discharge, location of discharge, type of waste, concentration, volume, and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the discharger of any expense, loss, damage, or other liability which may be incurred as a result of damage, or other liability which may be incurred as a result of damage to the sewage disposal system, fish kills, or any other damage to persons or property; nor shall such notification relieve the discharger of any fines, civil penalties, or other liability that may be imposed by this article or other applicable law.

Sec. 30-110 Notification of the Discharge of Hazardous Waste

- a. Any user who commences the discharge of hazardous waste shall notify MMU, the EPA Regional Waste Management Division Director, and the Missouri Department of Natural Resources' Hazardous Waste Program, in writing, of any discharge into the POTW of a substance that, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
 - (1) The notification must contain the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).
 - (2) If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent the information is known and readily available to the user:
 - A. An identification of the hazardous constituents contained in the hazardous wastes.
 - B. An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month.

- C. An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.
- (3) All notifications must take place no later than one hundred eighty (180) days after the discharge commences.
 - (4) Any notification needs to be submitted only each hazardous waste discharged. However, notifications of changed conditions must be submitted under section 30-116 of this ordinance.
 - (5) The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards.
- b. Dischargers are exempt from the requirements of paragraph a. above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 - c. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any new hazardous wastes, the user shall notify MMU, the EPA Regional Waste Management Division Director, and the Missouri Department of Natural Resources' Hazardous Waste Program of the discharge of such waste within ninety (90) days of the effective date of the regulations.
 - d. The notification need be submitted only once for each hazardous waste discharged except when there will be a substantial change in the volume or character of the hazardous waste discharged (generally because of a planned change to the user's facility or operations). In case of such a change, the user shall notify MMU in advance.
 - e. 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.
 - f. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

DIVISION 9. – Reports

Sec. 30-111 Certification of Permit Applications and User Reports

The following certification statement is required to be signed and submitted by Users submitting permit applications, Users submitting baseline monitoring reports, Users submitting reports on compliance with the categorical Pretreatment Standard deadlines, and Users submitting periodic compliance reports. The following certification statement must be signed by an Authorized Representative as defined herein:

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

Sec. 30-112 Periodic Compliance Reports

All Significant Industrial Users must, at a frequency determined by the General Manager submit no less than twice per year June and December reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the General Manager or the Pretreatment Standard necessary to determine the compliance status of the User. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the General Manager, using the procedures prescribed in Division 6 of this ordinance, the results of this monitoring shall be included in the report.

Sec. 30-113 Baseline Monitoring Reports — Categorical Industrial Users

Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the General Manager 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 submit to the General Manager a report which contains the information listed in paragraph b., below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

a. Users described in paragraph a. shall submit the information set forth below.

- (1) The name and address of the facility, including the name of the operator and owner.

- (2) A list of any environmental control permits held by or for the facility.
- (3) 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.
- (4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) The categorical pretreatment standards applicable to each regulated process.
- (6) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the General Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Division 6 of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the General Manager or the applicable standards to determine compliance with the standard. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (7) The baseline report shall indicate the time, date, and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (8) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- (9) Compliance Certification. A statement, reviewed by the user's authorized representative 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.

(10) 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 compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Division 9 of this ordinance.

(11) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 30-111 of this ordinance and signed by an Authorized Representative as defined herein.

Sec. 30-114 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 30-133.b.(9) of this ordinance:

- a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- b. No increment referred to above shall exceed nine (9) months;
- c. The user shall submit a progress report to the General Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- d. In no event shall more than nine (9) months elapse between such progress reports to the General Manager.

Sec. 30-115 Reports 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 requirement shall submit to the General Manager a report containing the information described in Section 30-113.03b.(3)-(5) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to

categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 30-111 of this ordinance. All sampling will be done in conformance with Section 30-107.

Sec. 30-116 Reports of Changed Conditions

Each user must notify the General Manager 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.

- a. The General Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a pretreatment permit application under Division 4 of this ordinance.
- b. The General Manager may issue a pretreatment permit or modify an existing pretreatment permit under Division 4 of this ordinance in response to changed conditions or anticipated changed conditions.
- c. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater and the discharge of any previously unreported pollutants.

Sec. 30-117 Reports of Potential Problems

- a. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the General Manager 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.
- b. Within five (5) days following such discharge, the user shall, unless waived by the General Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- c. 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 a. above. Users shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

- d. Significant Industrial Users are required to notify the General Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.
- e. The user shall report changes that could affect the potential for a slug discharge thirty (30) days before the change.

Sec. 30-118 Reports from Unpermitted Users

All users not required to obtain a pretreatment permit shall provide appropriate reports to the General Manager as the General Manager may require.

Sec. 30-119 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the General Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the General Manager within thirty (30) days after becoming aware of the violation. The user is not required to resample if the General Manager monitors at the user's facility at least once a month or if the General Manager samples between the user's initial sampling and when the user receives the results of this sampling. If the General Manager performed the sampling and analysis in lieu of the user, the General Manager must perform the repeat sampling and analysis unless he notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

Sec. 30-120 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Sec. 30-121 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 30-86(b.). 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 City, or where the User has been specifically notified of a longer retention period by the General Manager.

DIVISION 10. - Confidential Information

Information, data, audio, and visual media on a user obtained from reports, surveys, pretreatment permit applications, pretreatment permits, and monitoring programs and from the General Manager'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 General Manager that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secret under applicable state law. Any such request must be asserted at the time of submission of the information, data, audio. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

DIVISION 11. - Records Retention

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established under Section 30-84e. Records shall include the date, exact place, method and time of sampling, the name of the person(s) taking the samples; the dates analyses were performed; 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 City or where the user has been specifically notified of a longer retention period by the General Manager.

DIVISION 12. - Hauled Waste

Sec. 30-122 Septic Tank Waste

Septic tank waste may be introduced into the POTW only at locations designated by the General Manager and at such times as are established by the General Manager. Such waste shall meet the requirements of Division 2 of this ordinance and any other requirements established by MMU. The General Manager may require septic tank waste haulers to obtain pretreatment permits.

Sec. 30-123 Industrial Waste

- a. The General Manager may require haulers of industrial waste to obtain pretreatment permits. The General Manager may require generators of hauled industrial waste to obtain pretreatment permits. The General Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

- b. Industrial waste haulers may discharge loads only at locations designated by the General Manager. No load may be discharged without prior consent of the General Manager. The General Manager may collect samples of each hauled load to ensure compliance with applicable standards. The General Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- c. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 30-124 Recreational Vehicle Waste

- a. No recreational vehicle wastewater dump stations may be made operational without the prior written approval of the General Manager. Recreational vehicle waste shall meet the requirements of Division 2 of this ordinance and any other requirements established by MMU.
- b. All public recreational vehicle wastewater dump sites must be posted, identified as such, and kept locked. The location of the key shall be specified in appropriate signage.
- c. All persons using the recreational vehicle wastewater dump sites will be required to clean up any spillage which may occur, relock securely the padlock after using the facility, and return the key to its point of issuance. No objects that will clog the drain at the dump site shall be inserted therein.

DIVISION 13. – Inspections

Sec. 30-125 Right of Entry: Inspection and Sampling

The General Manager and other duly authorized representatives of MMU shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order hereunder. Users shall allow the General Manager and other duly authorized representatives of MMU ready access to all parts of the premises for the purposes of records examination and copying, inspection, observation, measurement, sampling and testing sewage discharge there from in accordance with the provisions of this article.

- a. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the General

Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

- b. The General Manager shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- c. The General Manager may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a minimum per the manufacturer's recommendation to ensure their accuracy.
- d. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the General Manager and shall not be replaced. The costs of clearing such access shall be borne by the User.
- e. Unreasonable delays in allowing the General Manager access to the User's premises shall be a violation of this ordinance.

Sec. 30-126 Search Warrants

If General Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the General Manager may seek issuance of a search warrant from the Saline County Court.

DIVISION 14. - Publication of Users in Significant Noncompliance

The General Manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (c.), (d.) or (h.) of this Section) and shall mean:

- a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits;

- b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- c. Any other violation of a Pretreatment Standard or Requirement as defined by this ordinance (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the General Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- d. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the General Managers 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 an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- f. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- g. Failure to accurately report noncompliance; or
- h. Any other violation(s), which may include a violation of Best Management Practices, which the General Manager determines will adversely affect the operation or implementation of the local pretreatment program.

DIVISION 15. - Administrative Enforcement Remedies.

Sec. 30-127 Notification of Violation

When the General Manager finds that a User has violated or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may serve upon that User a written Notice of Violation . Within thirty (30) days after the date of the notice, unless a shorter time is necessary due to the nature of the violation, an explanation of the violation and a plan for the satisfactory correction thereof shall be submitted to the General Manager. Submission of such a 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 General Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Sec. 30-128 Consent Orders

The General Manager may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 30-130 and 30-131 of this ordinance and shall be judicially enforceable.

Sec. 30-129 Show Cause Hearing

The General Manager may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the General Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

Sec. 30-130 Compliance Orders

When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Sec. 30-131 Cease and Desist Orders

When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the General Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- a. Immediately comply with all requirements; and
- b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Sec. 30-132 Emergency Suspensions

The General Manager 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 General Manager may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- a. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the General Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The General Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed, unless the termination proceedings in Section 30-133 of this ordinance are initiated against the User.
- b. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the General Manager prior to the date of any show cause or termination hearing under Sections 30-129 or 30-133 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

Sec. 30-133 Termination of Discharge

In addition to the provisions in Section 30-103 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- a. Violation of individual wastewater discharge permit conditions;
- b. Failure to accurately report the wastewater constituents and characteristics of its discharge;

- c. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- d. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- e. Violation of the Pretreatment Standards of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 30-129 of this ordinance why the proposed action should not be taken. Exercise of this option by The General Manager shall not be a bar to, or a prerequisite for, taking any other action against the User.

Sec. 30-134 Administrative Fines

- a. When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may fine such User in an amount not to exceed five hundred dollars (\$500). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- b. Unpaid charges, fines, and penalties shall, after ten (10) calendar days, be assessed an additional penalty of eight percent (8%) of the unpaid balance, and interest shall accrue thereafter at a rate of eight percent (8%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.
- c. Users desiring to dispute such fines must file a written request for the General Manager to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the General Manager may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The General Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- d. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

DIVISION 16. - Judicial Enforcement Remedies

Sec. 30-135 Injunctive Relief

When the General Manager finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may petition the Saline County Court through the City's Attorney for the issuance of a temporary or permanent injunction, as

appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The General Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

Sec. 30-136 Civil Penalties

- a. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of \$500 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 the violation.
- b. The General Manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- c. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, 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.
- d. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

Sec. 30-137 Costs of Damage

Any person violating any provision of this article or causing a deposit, obstruction, damage, or any other interference with or impairment to the POTW shall become liable to the City for all expenses, loss, or damage occasioned by the City by reason of such violation or discharge.

Sec. 30-138 Criminal Penalties

- a. User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$500 per violation, per day, or imprisonment for not more than 3 months, or both.

- b. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$500 or be subject to imprisonment for not more than 3 months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- c. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$250 per violation, per day, or imprisonment for not more than 2 months or both.
- d. In the event of a second conviction, a User shall be punished by a fine of not more \$500 per day or imprisonment for not more than 3 months, or both.

DIVISION 17. - Remedies Not Exclusive

The remedies provided for in this ordinance are not exclusive. The General Manager may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the General Manager may take other action against any User when the circumstances warrant. Further, the General Manager is empowered to take more than one enforcement action against any noncompliant User.

DIVISION 18. - Supplemental Enforcement Actions

Sec. 30-139 Penalties for Late Reports

A penalty of \$20 shall be assessed to any User for each day that a report required by this ordinance, a permit or order issued hereunder is late, beginning five days after the date the report is due higher penalties may also be assessed where reports are more than 30-45 days late. Actions taken by the General Manager to collect late reporting penalties shall not limit the General Manager's authority to initiate other enforcement actions that may include penalties for late reporting violations.

Sec. 30-140 Performance Bonds

The General Manager may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the General Manager to be necessary to achieve consistent compliance.

Sec. 30-141 Liability Insurance

The General Manager may decline to issue or reissue an individual wastewater discharge to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

Sec. 30-142 Payment of Outstanding Fees and Penalties

The General Manager may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

Sec. 30-143 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

DIVISION 19. - Affirmative Defenses to Discharge Violations

Sec. 30-144 Upset

- 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 preventive maintenance, or careless or improper operation.
- b. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c), below, are met.
- c. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the User can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The User has submitted the following information to the General Manager within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

- (A) A description of the indirect discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- d. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
 - e. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
 - f. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Sec. 30-145 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 30-82 of this ordinance or the specific prohibitions in Section 30-82 to 30-86 of this ordinance 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:

- a. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- b. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

Sec. 30-146 Bypass

- a. For the purposes of this Section,
 - (1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

- (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this Section.
- c. Bypass Notifications
 - (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to [the Superintendent], at least ten (10) days before the date of the bypass, if possible.
 - (2) A User shall submit oral notice to [the Superintendent] of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The General Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- d. Bypass
 - (1) Bypass is prohibited, and the General Manager may take an enforcement action against a User for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The User submitted notices as required under paragraph (b) of this section.

(2) The General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in paragraph (c)(1) of this Section.

DIVISION 20. - Effective Date

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

SECTION 2. In all other respects, the Code of Ordinances of the City of Marshall, Missouri shall remain unchanged.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED by the Council of the City of Marshall, Missouri, this 6th day of April, 2020.

Julie M. Schweetz
President

APPROVED by the Mayor this 6th day of April, 2020.

Julie M. Schweetz
Mayor

FILED this 6th day of April, 2020.

Julie A. Lewis
City Clerk