

Proposed Legislation - General Sewer Use Ordinance

AN ORDINANCE AUTHORIZING AS NEW PART 1, CHAPTER 70, ARTICLE III, DIVISION 3 TO THE JONESBORO MUNICIPAL CODE CONCERNING THE USE OF PUBLIC AND PRIVATE SEWERS; PRIVATE SEWAGE DISPOSAL; THE INSTALLATION, CONSTRUCTION, MAINTENANCE, AND CONNECTION OF BUILDING SEWERS; THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; THE PROVISION OF PENALTIES, ADMINISTRATIVE FINES AND JUDICIAL ENFORCEMENT FOR THE VIOLATION THEREOF; THE REPEALMENT OF ALL ORDINANCES IN CONFLICT THEREWITH; AND FOR ALL OTHER PURPOSES PERTAINING TO THE SEWER SYSTEM WITHIN THE JURISDICTION OF THE CITY OF JONESBORO, ARKANSAS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS:

SECTION 70-101 - TITLE

Part 1, Chapter 70, Article III, Sewage and Sewage Disposal of the Jonesboro Municipal Code is hereby amended to add Division 3 – General Sewer Use Ordinance.

SECTION 70-102 – TABLE OF CONTENTS

This Ordinance shall be known as the "General Sewer Use Ordinance."

Sections:

70-101	Title
70-102	Table of Contents
70-103	Purpose and Policy
70-104	Administration
70-105	Definitions
70-106	Abbreviations
70-107	General Sewer Use Requirements
70-108	Regulation of Discharges
70-109	Monitoring Authority
70-110	Administrative Enforcement Remedies
70-111	Judicial Enforcement Remedies
70-112	Supplemental Enforcement Action
70-113	Miscellaneous Provisions

SECTION 70-103 - PURPOSE AND POLICY

This Ordinance sets forth uniform requirements for persons utilizing the wastewater collection system and Publicly Owned Treatment Works of the City Water and Light Plant of the City of Jonesboro, Arkansas (CWL), herein also known as the POTW, and enables CWL to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code (U.S.C.) 1251 *et seq.*). The objectives of this Ordinance are:

- (1) To regulate the general use of both public and private sewers within the jurisdiction of CWL;
- (2) To regulate private sewage disposal within the jurisdiction of CWL;

- (3) To regulate the installation, construction, maintenance, connection, and protection of building sewers within the jurisdiction of CWL;
- (4) To regulate the disconnection and sealing of building sewers within the jurisdiction of CWL;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- (6) To repeal all existing Ordinances in conflict therewith.

This Ordinance shall apply to all persons utilizing the wastewater collection system and POTW. This Ordinance authorizes the issuance of conventional pollutant limits, monitoring, compliance, and enforcement activities; and establishes administrative review procedures.

SECTION 70-104 – ADMINISTRATION

- (1) The CWL Board of Directors (Board) shall establish such fees for sewer service, connections, monitoring, inspections, and surveillance as are necessary to maintain and operate the wastewater collection system and POTW. The CWL Board may authorize any judicial enforcement remedy to be taken by CWL against any persons in violation of this Ordinance.
- (2) Except as otherwise provided herein, the CWL Board of Directors (Board), through its Manager, shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other CWL personnel.

SECTION 70-105 - DEFINITIONS

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

- (1) Accessible Public Sewer. An existing public sewer located so that it may be reached either by a building sewer constructed at the minimum grade recommended by the Arkansas Department of Health or by a combination of the extension of the existing public sewer and the construction of a building sewer, both of which are constructed at the minimum grade recommended by the Arkansas Department of Health or by other means acceptable by the Arkansas Department of Health.
- (2) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*
- (3) Administrative Fine. A monetary fine for violations of this Ordinance as set forth in Section 70-110 (6) of this Ordinance.
- (4) Authorized Representative of the Manager. The person appointed or authorized by the Manager to carry out designated responsibilities or functions of the Manager.
- (5) Biochemical Oxygen Demand (BOD₅). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20° centigrade, typically expressed in terms of concentration [milligrams per liter (mg/L)] or an equivalent mass loading based on flow [pounds per day (lb/day)].
- (6) Board of Directors (Board). The duly elected or appointed Board of Directors of CWL.
- (7) Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys these wastes to the building sewer, beginning five (5) feet outside the inner face of the building wall.
- (8) Building Sewer. The extension from the building drain to the public sewer or other places of disposal.
- (9) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U. S. Environmental Protection Agency (EPA) in accordance with Sections 307

(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Industrial Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

- (10) Chemical Oxygen Demand (COD). The measure of the oxygen-consuming capacity of inorganic and organic matter present in a water or wastewater, typically expressed in terms of concentration (mg/L) or an equivalent mass loading based on flow (lb/day). The amount of oxygen consumed from a chemical oxidant in a specific test is not differentiated between stable and unstable organic matter and thus does not necessarily directly correlate with biochemical oxygen demand (BOD₅).
- (11) City. The City of Jonesboro, in the County of Craighead, within the State of Arkansas; or the City Council of the City of Jonesboro.
- (12) City Water and Light Plant of the City of Jonesboro, Arkansas (CWL). The Municipal Improvement District (District), a Publicly Owned Entity, organized and existing under the provisions of Arkansas Code Annotated (A.C.A.) A.C.A. 14-218-101 *et. seq.*, as may be amended from time to time, as a consolidated Municipal Improvement District to own and operate the electric power, water, and wastewater utilities in the City.
- (13) Collector Building Sewer. A sewer on private property which is privately maintained and serves more than one building sewer. All construction plans shall be approved by the Arkansas Department of Health. Such sewers shall be located outside building walls and footings.
- (14) Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- (15) Combined Sewer. A sewer receiving both surface runoff and sewage.
- (16) Control Manhole or Control Point. A point of access to a building sewer at a point before the wastewater that is conveyed by the building sewer mixes with other wastewater conveyed by the public sewer.
- (17) Conventional Pollutants. Those pollutants which are usually found in domestic, commercial or industrial wastes such as suspended solids, biochemical oxygen demand, pathogenic organisms, adverse pH levels, and oil and grease.
- (18) Council or City Council. The duly elected or appointed governing body of the City.
- (19) Discharge. The introduction of pollutants into the POTW from any source.
- (20) District. City Water and Light Plant of the City of Jonesboro, Arkansas (CWL).
- (21) Environmental Protection Agency or EPA. The U. S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director, the Regional Administration, or duly authorized official of said agency.
- (22) Excessive Biochemical Oxygen Demand (BOD₅). A BOD₅ concentration in excess of 250 mg/L.
- (23) Excessive fats, oils, and grease (FOG). A FOG concentration in excess of 100 mg/L.
- (24) Excessive Total Suspended Solids (TSS). A total suspended solids concentration in excess of 250 mg/L.
- (25) Garbage. Domestic and commercial solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
- (26) Grab Sample. A sample that is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
- (27) Indirect Discharge. The introduction of pollutants into the POTW from any non-domestic source.

- (28) Industrial User (IU) or User. A source of indirect discharge.
- (29) Industrial Wastes. The liquid wastes from industrial manufacturing processes, trade, or business, distinct from sanitary sewage.
- (30) Local Limit or Technically Based Local Limit (TBLL). Specific discharge limits developed and enforced by CWL upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5 (a) (1) and (b).
- (31) Manager. The person appointed by the Board of Directors of CWL to manage and supervise the electric, water, and wastewater utilities of the District and charged with certain duties and responsibilities by this Ordinance, or the Authorized Representative of the Manager.
- (32) Mayor. The Mayor of the City.
- (33) Medical Waste. Wastes generated by the medical industry, including but not limited to isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, any object or substance that is capable of transmitting infectious organisms, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (34) Milligrams per Liter (mg/L). The equivalent amount as parts per million (ppm) and is a weight-to-volume ratio. A milligram per liter value multiplied by a factor of 8.34 is equivalent to pounds per million gallons of water.
- (35) National Pollutant Discharge Elimination System (NPDES) Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- (36) Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.
- (37) Normal Domestic Wastewater. Wastewater generated from residential uses and discharged into the POTW. Such wastewater shall contain an average concentration of BOD₅ not more than 250 mg/L; TSS not more than 250 mg/L; and fats, oils, and grease not more than 100 mg/L.
- (38) Objectionable Waste. Any wastes that can harm either the sewers, sewer treatment processes or equipment, have an adverse effect on the receiving stream or otherwise endanger life, health, or property, or constitutes a nuisance.
- (39) Owner. The person or persons who own any interest in the structure or property to which such ownership relates.
- (40) Penalty. A monetary fine for violations of this Ordinance as set forth in Section 70-111 of this Ordinance.
- (41) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (42) pH. A measure of the acidity or alkalinity of a substance, expressed in standard units (S.U.).
- (43) Pollutant. Including but not limited to any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharge equipment, rock, sand, cellar dirt, agricultural industrial wastes, and certain characteristics and constituents of wastewater including but not limited to pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor.
- (44) Pretreatment Standards and Requirements or Standards and Requirements. The prohibited discharge standards, Categorical Pretreatment Standards, and Technically Based Local Limits (TBLLs).
- (45) Private Sewage Disposal System. A facility owned, operated, and maintained by any person for the

purpose of collecting and disposing of sewage within the property of said person.

- (46) Private Sewers. A facility owned, operated, and maintained by any person for the purpose of collecting and disposing of wastewater into the POTW.
- (47) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances, as set forth in Part 1, Chapter 70, Article III, Division 2 –Pretreatment Ordinance of the Jonesboro Municipal Code, Section 70- 87 (1) .
- (48) Properly Shredded Garbage. The wastes from preparing, cooking, and dispensing of food shredded to such a degree that all particles shall be carried freely under the flow conditions which normally prevail in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (49) Public Sewer. A sewer in which all owners of abutting properties have equal rights, controlled by CWL.
- (50) Publicly Owned Treatment Works (POTW). A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by CWL. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant.
- (51) Sanitary Sewer. A sewer which carries sewage and to which stormwater, surface water, and groundwater is not intentionally admitted.
- (52) Sewage. Human excrement and gray water (household showers, dish washing operations, etc.).
- (53) Storm Drain or Storm Sewer. A sewer that carries stormwater, surface water, and drainage, but excludes sewage and industrial waste.
- (54) Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
- (55) Surface Water. Any watercourse, pond, stream, ditch, lake, or other body of water occurring on the earth's surface.
- (56) Suspended Solids or Total Suspended Solids (TSS). The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids, and is removable by laboratory filtering.
- (57) To Discharge. To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of wastewater; or to allow, permit, or suffer any of these acts or omissions.
- (58) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, contributed to the POTW.
- (59) Wastewater Treatment Plant (WWTP) or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.
- (60) Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

The word "shall" is construed as mandatory.

The word "may" is construed as permissive or discretionary.

The use of the singular shall be construed to include the plural and the plural shall include the singular, as indicated by the usage context.

SECTION 70-106 - ABBREVIATIONS

The following abbreviations shall have the designated meanings:

- ADEQ - Arkansas Department of Environmental Quality
- ADH - Arkansas Department of Health
- ASTM - Association for the Standard Testing of Materials
- AWWA - American Water Works Association
- BOD₅ - Biochemical Oxygen Demand
- CFR - *Code of Federal Regulations*
- COD - Chemical Oxygen Demand
- CWL - City Water and Light Plant of the City of Jonesboro, Arkansas
- EPA - U. S. Environmental Protection Agency
- FOG - Fats, oils, and grease
- IU - Industrial User
- L - Liter
- lb/day - Pounds a Day
- mg - Milligrams
- mg/L - Milligrams per Liter
- NOV - Notice of Violation
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- S.U. - Standard Units
- TBLL - Technically Based Local Limits
- TSS - Total Suspended Solids
- USC - United States Code
- WPCF - Water Pollution Control Federation
- WWTP - Wastewater Treatment Plant

SECTION 70-107 - GENERAL SEWER USE REQUIREMENTS

- (1) Use of Public Sewers
 - (A) It shall be unlawful for any person to place, deposit or discharge, or permit to be deposited or discharged, any human or animal excrement, garbage, or other objectionable wastes in any unsanitary manner upon public or private property within the City or in any area under the jurisdiction of the City.
 - (B) It shall be unlawful to discharge to any natural outlet within the City or in any area served by CWL any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this Ordinance. The issuance of a valid NPDES permit authorizing such discharges into a natural outlet shall be considered as meeting all the requirements of this Section.
 - (C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.
 - (D) Owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting any street, alley, or right-of-way in which there is located or may in the future be located an accessible public sewer of CWL is hereby required at the owner's expense to install suitable toilet facilities therein and to connect

such facilities directly to the public sewer, provided that said accessible public sewer is within three hundred (300) feet of the property line. Connection to the public sewer shall be made in accordance with the provisions of this Ordinance within sixty (60) days after date of official notice to do so. The requirements of this Section shall not apply to owners discharging under the provisions of a valid NPDES permit.

- (E) Other than building sewers and collector building sewers, all sewers constructed by owners connecting building drains of structures to the existing public sewer shall be located within public easements or rights-of-way. Construction shall be to the standards required by CWL for public sewers. No sewer shall be constructed within any public easement or right-of-way or connected to an existing public sewer without approval by the Manager.
- (F) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, artesian well water, roof runoff, or subsurface drainage to the POTW.
- (G) No person shall discharge or cause to be discharged any swimming pool drainage, condensate, deionized water, noncontact cooling water, or unpolluted industrial wastewater to the POTW, unless specifically authorized by the Manager.
- (H) Stormwater and all other surface runoff shall be discharged to sewers specifically designated as storm sewers or to a natural outlet.
- (I) No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the provisions of Sections 70-110 through 70-112 of this Ordinance.
- (J) No person shall cover any manhole on a public sewer with earth or paving, or otherwise render it inaccessible, unless specifically authorized by the Manager.
- (K) The Manager may use a grab sample(s) as a screening tool for pollutants, including for the purpose of determining the source of pollutant discharge. When necessary, the Manager may resample using composite techniques.

(2) Private Sewage Disposal

- (A) Where a public sewer is not available under the provisions of Section 70-107 (1) of this Ordinance, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Section.
- (B) Before construction of a private sewage disposal system shall commence within the City or any area under the jurisdiction of CWL, all persons shall first obtain a permit for construction from the City Inspector. The application form for the permit shall be furnished to the applicant by the City Inspector. The applicant shall submit the application and supplemental information as deemed necessary including; plans, specifications, test results, and construction permits approved by the ADH, ADEQ and/or Craighead County Health Department. The current permit and inspection fee prescribed by the City Inspector shall be paid to the City at the time the application is filed.
- (C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City, ADH, ADEQ and/or Craighead County Health Department. The Inspector shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the Inspector when the work is ready for final inspection and before any underground portions are covered. The Inspector shall make the inspection within two (2) business days of the receipt of notice.
- (D) The type, capacity, location, and layout of private sewage disposal systems shall comply with all applicable requirements and recommendations of the ADH, ADEQ and/or Craighead County Health Department. No permit shall be issued for any private sewage disposal system

employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No private sewage disposal shall be permitted to discharge to any natural outlet.

- (E) At such time as an accessible public sewer becomes available to a property that is served by a private sewage disposal system, as provided in Section 70-107 (1) of this Ordinance, the building sewer shall be connected to said available sewer within sixty (60) days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable materials. The requirements of this Section shall not apply to persons discharging sewage under the provisions of a valid NPDES permit.
- (F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City or to CWL.
- (G) No provision contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the ADH, ADEQ or Craighead County Health Department.

(3) Building Sewers and Connections

- (A) No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a permit from the Manager. No permit shall be issued for a sewer connection until all associated connection fees prescribed by the Board have been paid.
- (B) There shall be two (2) classes of building sewer permits:
 - i) For service to residential and commercial establishments; and
 - ii) For service to establishments producing industrial wastes.

In either case, the person shall make application on special forms furnished by the Manager. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent by the Manager.

- (C) Prior to the initiation of sewer service to potential new Industrial Users who will discharge industrial process wastes to the POTW, the potential IU shall complete an Industrial User Survey, a form furnished by the Manager. The Industrial User Survey shall be returned to CWL within thirty (30) days of receipt, but no less than ninety (90) days before the IU plans to discharge wastewater to the POTW. If the potential IU will be required to obtain a permit, the potential IU shall, pursuant to Part 1, Chapter 70, Article III, Division 2 – Pretreatment Ordinance of the Jonesboro Municipal Code, Section 70-89 (4-6), complete an application for an individual or general industrial wastewater discharge permit.
- (D) The Manager will evaluate applications for individual or general industrial wastewater discharge permits and determine, pursuant to Part 1, Chapter 70, Article III, Division 2 – Pretreatment Ordinance of the Jonesboro Municipal Code, Section 70-89 (7), whether or not to issue the applicant an individual or general industrial wastewater discharge permit.
- (E) A separate and independent building sewer shall be provided for each individual building except:
 - i) Where multiple buildings are constructed in an apartment complex, condominium or commercial development on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels. The individual buildings may be connected to a common building sewer provided that only one person is responsible for the maintenance of the building sewer; or
 - ii) Temporary buildings, mobile homes, or similar portable structures which may be connected to a building sewer installed to serve a previously constructed permanent building, provided that both the permanent and temporary buildings are located on a lot or tract of, and maintained in, common ownership.

- (F) Pipe used in building sewers for service to the CWL public sewer may be of any approved material listed in the City Plumbing Code. The Manager shall approve:
- i) Type of material and size of pipe to be used in the construction of building sewers; and
 - ii) Methods of installation of building sewer pipe prior to and/or during construction of the building sewers.
- (G) Old building sewers may be used in connection with new buildings only when they are found through examination and testing by the Manager to meet all requirements of this Ordinance.
- (H) The size, slope, and alignment of building sewers and the methods to be used in excavating and backfilling the trench and placing, jointing, and testing the pipe shall conform to the requirements of all applicable building and plumbing codes and other applicable rules and regulations of CWL. In the absence of applicable code provisions, the materials and procedures set forth in the appropriate sections of ASTM and AWWA specifications and the WPCF Manual of Practice No. 9 shall apply.
- (I) Where possible, the building sewer shall be connected to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the connected building drain shall be lifted by an approved means and discharged to the building sewer.
- (J) No person shall connect roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected directly or indirectly to a public sewer. If such connection is found to exist, the Owner may be notified and given such period of time as determined by the Manager, in his or her sole discretion, to disconnect the prohibited cross connection. If disconnection is not made, any or all utility service may be discontinued until such repair is made.
- (K) The building drain and connection of the building sewer to the public sewer, including all intermediate appurtenances, shall conform to the requirements of all applicable building and plumbing codes and other applicable rules and regulations of CWL. In the absence of applicable code provisions, the procedures set forth in appropriate sections of ASTM and AWWA specifications and the WPCF Manual of Practice No. 9 shall apply. All such connections shall be made gastight and watertight. The Manager must approve any deviation from the prescribed procedures and materials before installation.
- (L) All excavations for building sewer installations shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
- (M) Persons possessing building sewer permits shall notify the Manager when the building sewer is ready for inspection and connection to the POTW. The connection shall be made only under the supervision of CWL Water and Sewer Department personnel.
- (N) All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. Persons possessing building sewer permits shall indemnify and hold the City and CWL harmless from any damage, loss, cost, obligations, claims, demands, and all expenses that may directly or indirectly be caused by or arising from the installation and/or operation of the building sewer.
- (O) The owner of any building which is connected to the public sewer shall be required to operate and properly maintain the building drains and building sewer in accordance with all provisions of this Ordinance at no expense to the City or CWL.
- (P) Before any dwelling or other building being served by the public sewer is moved or demolished, the building sewer serving said building shall be disconnected from the public sewer at a location approved by the Manager and the remaining building sewer sealed to prevent the

entrance of stormwater, groundwater, and debris into the public sewer. No person shall disconnect a building sewer discharging to any public sewer or appurtenance thereof without first obtaining a permit from the Manager for the disconnection and sealing of the building sewer. No permit shall be issued for a building sewer disconnection and seal until all associated disconnection fees prescribed by the Board have been paid.

Upon issuance of the permit, the person possessing the permit may proceed with disconnection and sealing of the building sewer. However, the view of the disconnected and sealed building sewer shall remain uncovered and unobstructed pending final inspection and approval by CWL. At least three (3) days before the building is moved or demolished, but after it is no longer occupied, the person possessing the building sewer disconnection and sealing permit shall notify the Manager the disconnected and sealed building sewer is ready for final inspection and approval. Upon final inspection and approval by the Manager, the dwelling or building may be moved or demolished. CWL reserves the right to perform the disconnection and sealing of any building sewer whenever deemed necessary by it to protect the public sewer system.

All costs and expenses incident to the disconnection and sealing of the building sewer shall be borne by the owner. Disconnection and sealing of the building sewer shall conform to the requirements of all applicable building and plumbing codes and other applicable rules and regulations of CWL. Persons possessing building sewer disconnection permits shall indemnify and hold the City and CWL harmless from any damage, loss, cost, obligations, claims, demands, and all expenses that may directly or indirectly be caused by or arising from the disconnection and sealing of the building sewer.

SECTION 70-108 - REGULATION OF DISCHARGES

(1) Conventional Pollutant Limits

- (A) When, in the opinion of the Manager, an Industrial User has the potential to introduce or cause to be introduced into the POTW wastewater with concentrations of conventional pollutants in excess of normal domestic wastewater concentrations, the Manager may impose conventional pollutant limits, expressed in terms of concentrations (mg/L) or mass loadings (lbs/day), to the IU in an individual or general Industrial Wastewater Discharge Permit. Once applied to the IU, these limits are enforceable under this Ordinance, whether or not the IU is subject to any other National, State, or local Pretreatment Standards or Requirements.
- (B) No Industrial User shall contribute or cause to be introduced to the POTW any wastewater containing conventional pollutants in excess of the amount specifically authorized by the Manager in an individual or general Industrial Wastewater Discharge Permit. Conventional pollutant limits imposed on Industrial Users under the provisions of this Section shall not be considered Pretreatment Standards and Requirements, Standards and Requirements, or Local Limits or TBLLs.
- (C) In addition to all other duties, responsibilities, and authority granted herein, the Manager shall have the discretion to require sampling and monitoring of all Industrial Wastes and the reporting of the sampling and monitoring results to CWL. The Manager shall have the discretion to impose terms and provide definitions in any individual or general permit and to take such other action as appropriate to protect the public health, welfare and environment and to maintain the integrity of the POTW. The Manager shall be permitted to enter the facilities of any Industrial User to ascertain whether the purpose of this Ordinance and any individual or general permit or order issued hereunder is being met and whether the Industrial User is complying with all requirements thereof.
- (D) To the extent that Part 1, Chapter 70, Article III, Division 2 –Pretreatment Ordinance of the Jonesboro Municipal Code and this Ordinance overlap or conflict, the Division 2 – Pretreatment Ordinance shall control and this Ordinance shall apply only to the extent consistent with the Division 2 – Pretreatment Ordinance.

SECTION 70-109 - MONITORING AUTHORITY

(1) Right of Entry

The Manager shall be permitted to enter all properties connected to the public sewer system for the purposes of inspection, observation, measurement, sampling, records examination and copying, testing, and the performance of any additional duties in accordance with the provisions of this Ordinance.

(2) Search Warrants

If the Manager has been refused access to a building, structure, 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 the need to inspect and/or sample as part of a routine inspection and sampling program of CWL designed to verify compliance with this Ordinance or order issued hereunder; or to protect the overall public health, safety, and welfare of the community; or to protect or maintain the integrity of the POTW; then upon application by the Manager through the CWL attorney, the applicable Court of the City or of the State shall issue a search and/or seizure warrant, describing therein the specific location subject to the warrant. The warrant shall specify what may be searched and/or seized on the property described and shall contain any other information required by applicable law. Such warrant shall be served at reasonable hours by the Manager in the company of a uniformed police officer of the City or as otherwise allowed or required by applicable law. In the event of an emergency affecting public health and safety, the Manager may authorize inspections and sampling without the issuance of a warrant.

SECTION 70-110 - ADMINISTRATIVE ENFORCEMENT REMEDIES

(1) Notification of Violation

Whenever the Manager or Authorized Representative of the Manager finds that any person has violated or is violating this Ordinance, or any orders issued hereunder, the Manager or Authorized Representative of the Manager may serve upon said person a written Notice of Violation (NOV). Within 20 calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the person to the Manager, or if the original notice was served by the Authorized Representative of the Manager rather than the Manager, then to the Authorized Representative of the Manager. Submission of this plan in no way relieves the person of liability for any violations occurring before or after receipt of the NOV. Nothing in this Section shall limit the authority of the Manager or Authorized Representative of the Manager to take any action, including emergency or any other enforcement actions, without first issuing an NOV.

(2) Consent Orders

The Manager or Authorized Representative of the Manager is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance. Such orders may include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to Sections 70-110 (4) and (5) of this Ordinance and shall be judicially enforceable.

(3) Show Cause Hearing

The Manager or Authorized Representative of the Manager may order any person which causes or contributes to violation(s) of this Ordinance, or any orders issued hereunder, to appear before the Manager or Authorized Representative of the Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the show cause hearing, the proposed enforcement action, the reasons for such action, and a request that the person show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by certified mail, return receipt requested and delivered to addressee only, at the address of the person indicated on its most recent wastewater discharge permit issued by the Manager or most recent sewer bill at least ten (10) business days prior to the hearing. Whether or not the person appears as ordered, immediate enforcement action may be pursued following the hearing date. Nothing in this Section shall limit the authority of the Manager or Authorized Representative of the Manager to take any

action, including emergency or other enforcement actions, without a show cause hearing.

(4) Compliance Orders

When the Manager or Authorized Representative of the Manager finds that a person has violated or continues to violate this Ordinance, or any orders issued hereunder, the Manager or Authorized Representative of the Manager may issue an order to the person responsible for the discharge directing the person to come into compliance. If the person does not come into compliance within the time specified in the Manager's or Authorized Representative of the Manager's compliance order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order does not release the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the person.

(5) Cease and Desist Orders

When the Manager or Authorized Representative of the Manager finds that a person is in violation of this Ordinance, or any order issued hereunder, or that the person's past violations are likely to reoccur, the Manager or Authorized Representative of the Manager may issue an order to the person directing the person to cease and desist all such violations and:

- (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 prerequisite to taking any other action against the person.

(6) Administrative Fines

- (A) When the Manager or Authorized Representative of the Manager finds that a person has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, the Manager or Authorized Representative of the Manager may fine such person in an amount not to exceed one thousand dollars (\$1,000) for each violation of this Ordinance, and each day of a continuing violation may be deemed a separate violation in an amount not to exceed five hundred dollars (\$500) for each day the violation continues. The Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (B) A lien against the person's property may be imposed for unpaid charges, fines, and penalties.
- (C) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person.

(7) Emergency Suspensions

The Manager or Authorized Representative of the Manager may immediately suspend a person's discharge (after informal notice to the person) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent and substantial endangerment to the health or welfare of other persons. The Manager or Authorized Representative of the Manager may also immediately suspend a person'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 person notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a person's failure to immediately and voluntarily comply with the suspension order, the Manager or Authorized Representative of the Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage or endangerment to the POTW, the POTW's receiving stream, or any person. The Manager or Authorized Representative of the Manager shall allow the person to

recommence discharging to the POTW when the person has demonstrated to the satisfaction of the Manager that the period of endangerment has passed, unless the termination proceedings set forth in Section 70-110 (8) of this Ordinance are initiated against the person.

- (B) A person that is responsible, in whole or in part, for any discharge presenting imminent and substantial 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 Manager or Authorized Representative of the Manager prior to the date of any show cause or termination hearing under Sections 70-110 (3) and 70-110 (8) of this Ordinance.

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

(8) Termination of Discharge

In addition to those provisions set forth in Sections 70-107 through 70-109 of this Ordinance, any person that violates the following conditions of this Ordinance, any orders issued hereunder, or any other discharge regulations, including but not limited to those conditions listed in this Section, is subject to termination of wastewater discharge:

- (A) Refusal of reasonable access to the person's premises for the purpose of inspection, monitoring, and/or sampling;
- (B) Violation of any discharge regulations set forth in Section 70-108 of this Ordinance.
- (C) Non-payment of wastewater bill.
- (D) Violation of an individual or general Industrial Wastewater Discharge Permit.

Such persons in violation will be notified by the Manager or Authorized Representative of the Manager of the proposed termination of its discharge and offered an opportunity to show cause under Section 70-110 (3) of this Ordinance why the proposed action should not be taken.

(9) Appeal of Orders of the Authorized Representative of the Manager

- (A) Any person aggrieved by any action of the Authorized Representative of the Manager made pursuant to this Section 70-110 may appeal the action by filing a written notice of appeal with the Manager within thirty (30) days of the action, along with full payment of any fine ordered to be paid. The notice of appeal shall state the specific reason why the action of the Authorized Representative of the Manager is alleged to be erroneous. Failure to submit a timely written notice of appeal shall be deemed a waiver of the administrative appeal to the Manager provided for herein.
- (B) If an appeal is timely filed in accordance with this Section, a hearing shall be held before the Manager within thirty (30) days of the date of the filing of the notice of appeal or such other date mutually agreed upon in writing by the appellant and the Manager. The Manager shall make a determination within thirty (30) days of completion of the appeal hearing.
- (C) In the event the person's appeal is successful, payment of any associated fine shall be refunded to the person.
- (D) The appellant shall not be relieved of its obligations during the appeal process.
- (E) The decision of the Manager shall be considered the final administrative action for purposes of judicial review.
- (F) An aggrieved party seeking judicial review of the final administrative decision of the Manager must do so by filing a complaint within a court of competent jurisdiction within the time period permitted by Arkansas law.

- (10) Request for Reconsideration of Action of the Manager
- (A) Any person aggrieved by any action of the Manager (acting directly and not through the Authorized Representative of the Manager) may request the Manager reconsider the action by filing a written request for reconsideration within thirty (30) days of the action, along with full payment of any fine ordered to be paid. The request for reconsideration shall state the specific reason why the action of the Manager is alleged to be erroneous. Failure to submit a timely written request for reconsideration shall be deemed a waiver of the request for reconsideration to the Manager provided herein.
 - (B) If the Manager determines the request for reconsideration has merit, the Manager may convene a hearing on the matter. In the event the person's request for consideration is successful, payment of any associated fine shall be refunded to the person.
 - (C) The appellant shall not be relieved of its obligations during the appeal process.
 - (D) The decision of the Manager shall be considered the final administrative action for purposes of judicial review. An aggrieved party seeking judicial review of the final administrative decision of the Manager must do so by filing a complaint within a court of competent jurisdiction within the time period permitted by Arkansas law.

SECTION 70-111 - JUDICIAL ENFORCEMENT REMEDIES

- (1) Injunctive Relief
- Whenever a person has violated or continues to violate the provisions of this Ordinance, or any order issued hereunder, CWL may petition a Court of competent jurisdiction through the Manager and the CWL attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the order, or other requirement imposed by this Ordinance, on activities of the person. Other actions, as appropriate for legal and/or equitable relief, may also be sought by CWL. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a person.
- (2) Civil Penalties
- (A) Any person which has violated or continues to violate this Ordinance, or any order issued hereunder, shall be liable to CWL for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation per day. In the case of the violation of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.
 - (B) Such civil penalties shall be recoverable in a Court of competent jurisdiction; but such civil proceeding may be initiated only after a majority vote of the Board resolving to pursue such civil penalty.
 - (C) CWL may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by CWL.
 - (D) 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 person's violation, corrective actions by the person, the compliance history of the person, and any other factors as justice requires.
 - (E) Filing a suit seeking civil penalties shall not be a prerequisite for taking any other action against a person.
- (3) Criminal Prosecution
- (A) Any person that willfully or negligently violates any provision of this Ordinance, or any orders issued hereunder, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation per day.

- (B) Any person that 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 or Part 1, Chapter 70, Article III, Division 2 – Pretreatment Ordinance of the Jonesboro Municipal Code, or order issued thereunder; or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance or Part 1, Chapter 70, Article III, Division 2 – Pretreatment Ordinance of the Jonesboro Municipal Code shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day.
 - (C) No criminal prosecution under this Section, may be initiated except upon a majority vote of the Board resolving to pursue such criminal prosecution.
 - (D) The criminal penalties provided in this Section shall be in addition to any other cause of action for personal injury or property damage available under State law and shall be in addition to administrative fines and civil penalties which may be assessed under Section 70-110 (6) and Section 70-111 (2), respectively, of this Ordinance.
- (4) Remedies Nonexclusive
- The provisions in Sections 70-110, 70-111, and 70-112 of this Ordinance are not exclusive remedies. CWL reserves the right to take any, all, or any combination of these actions against a noncompliant person. CWL shall have the right to take other action against any person when the circumstances warrant. Furthermore, CWL is empowered to take more than one enforcement action against any noncompliant person. These actions may be taken concurrently.

SECTION 70-112 - SUPPLEMENTAL ENFORCEMENT ACTION

- (1) Performance Bonds

The Manager may decline to connect or reconnect sewer or water service to any person which has failed to comply with the provisions of this Ordinance, or any order issued hereunder, unless such person first files a satisfactory bond, payable to CWL, in a sum not to exceed a value determined by the Manager to be necessary to achieve consistent compliance.

- (2) Liability Assurance

The Manager may decline to connect or reconnect sewer or water service to any person which has failed to comply with the provisions of this Ordinance, or any order issued hereunder, unless the person first satisfactorily demonstrates to the Manager the sufficient financial ability to restore or repair damage to the POTW caused by its discharge.

- (3) Water Supply Severance

Whenever a person has violated or continues to violate the provisions of this Ordinance, or any order issued hereunder, water service to the person may be severed. Service will only recommence at the person's expense and after the person has satisfactorily demonstrated the ability to comply.

- (4) Public Nuisances

Any violation of this Ordinance, or any order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager. Any person creating a public nuisance shall be required to reimburse CWL or the City for any costs incurred in removing, abating, or remedying said nuisance, including but not limited to attorney's fees and costs.

- (5) Payment of Outstanding Fees, Fines, and Penalties

The Manager may decline to connect or reconnect sewer or water service to any person who has failed to pay any outstanding fees, fines, or penalties incurred as a result of any provision of this Ordinance or any order issued hereunder.

SECTION 70-113 - MISCELLANEOUS PROVISIONS

(1) Severability

If any court of competent jurisdiction invalidates any provision of this Ordinance, the remaining provisions shall not be affected and shall continue in full force and effect.

(2) Conflicts

All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of the inconsistency or conflict with the exception of the specific conflict provision of Section 70-108 of this Ordinance.