

JOHNSON COUNTY CODE OF
REGULATIONS FOR
SANITARY SEWER USE
2003 Edition

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ARTICLE 1

PURPOSE, APPLICABILITY, AND GENERAL PROVISIONS

- Section 1. Title. This Code shall be known and may be cited as The Johnson County Code of Regulations for Sanitary Sewer Use, 2003 Edition.
- Section 2. Purpose. The purpose of this Code is as follows:
- (a) To protect the public health, the integrity of the environment, and control use of the sewerage system; and
 - (b) To prescribe rules, regulations, standards and enforcement procedures for the use of public sewers, the installation and connection of building sewers, and wastewater discharges; and
 - (c) To set out the procedures to be followed in administering these regulations and to provide penalties for violations thereof; and
 - (d) To prevent interference with operations of a POTW; and
 - (e) To prevent pass-through of pollutants to waters of the state; and
 - (f) To prevent contamination of POTW sludge; and
 - (g) To provide for orderly and productive growth and development in Johnson County through the use of permits and connection fees; and
 - (h) To implement the provisions of the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977, 33 U.S.C. 1251 et seq. and the Water Quality Act of 1987; Sections 2002 and 3018(d) of the Solid Waste Disposal Act as amended, and 40 C.F.R. §403, "General Pretreatment Regulations for Existing and New Sources of Pollution."
- Section 3. Authority. This Code is adopted pursuant to the authority provided by the general powers of K.S.A. § 19-101, et seq., and Johnson County Charter Resolution No. 29-92, and all amendments thereto.
- Section 4. Applicability. This Code shall apply to all real property and owners of real property now or hereafter located within or served by sewer districts and/or sewer facilities owned, operated, or maintained by the Board of County Commissioners of Johnson County, Kansas; to all users of such sewer facilities including users served by inter-local agreements as delineated by each agreement; and to any person who uncovers, makes a connection with or opening into, uses, alters, disturbs or damages sewer facilities owned,

operated, or maintained by the Board of County Commissioners of Johnson County, Kansas.

Section 5. Severability. If any clause, sentence, paragraph, section or subsection of these regulations shall be adjudged invalid for any reason whatsoever, such judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof found to be invalid.

Section 6. Disclaimer of Liability. These regulations shall not be construed or interpreted as imposing upon the County or any sewer district, its officials or employees (1) any liability or responsibility for damages to any property; or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by these regulations will function properly. In addition, any employee charged with enforcement, acting in good faith and without malice in the discharge of their duties, shall not thereby be personally liable and is hereby relieved from personal liability for damage that may occur to any person or property as a result of any act required by these regulations.

Section 7. Administration. Provisions of this Code shall be administered and enforced by the responsible Administering Agency.

ARTICLE 2

DEFINITIONS

Section 1. General. Words, terms and phrases used in this Code shall have the same meaning assigned to such word, term or phrase in 40 C.F.R., § 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," if defined therein, unless specifically defined otherwise as follows:

- (a) "Administering Agency" shall mean the Johnson County Unified Wastewater Districts (Unified Wastewater Districts) and/or the Johnson County Environmental Department (Environmental Department), or their authorized deputy, agent, code enforcement officer, or representative including but not limited to the Administrator of the Johnson County Unified Wastewater Districts and the Director of the Johnson County Environmental Department.
- (b) "Administrator" shall mean the Administrator of the Johnson County Unified Wastewater Districts or authorized deputy, agent, code enforcement officer, or representative.
- (c) "BOD" (Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under EPA approved laboratory methods, 40 C.F.R. § 136, in five (5) days at 20°C.
- (d) "Building Drain" shall mean all of the building piping upstream of a point which is that part of the lowest horizontal piping of a drainage system which receives the sanitary and approved industrial wastes from the building and conveys it to the building sewer, beginning three (3) feet outside the inner face of the building wall.
- (e) "Building Sewer" shall mean the extension from the building drain to the public sanitary sewer, or to the Grinder Pump Unit for Low Pressure Sewer systems, or other place of disposal. Also commonly referred to as a "service line."
- (f) "Bypass" shall mean the intentional diversion of waste streams from any portion of an industrial user's treatment facility into the public sewerage system.
- (g) "Director" shall mean the Director of the Johnson County Environmental Department or authorized deputy, agent, code enforcement officer, or representative.
- (h) "Domestic Wastewater" shall mean wastewater of the type commonly

introduced into the sewerage system by noncommercial residential users.

- (i) “Enforcement Response Plan” shall mean the Johnson County Environmental Department Pollution Control Division Industrial Pretreatment Program Enforcement Response Guide, December 1993 Revision, and subsequent amendments thereto, used to determine the enforcement action most appropriate to the nature of a violation of this Code by an industrial user.
- (j) “Food Service Facility” shall mean any user that prepares and/or packages food for sale or consumption, on or off site, with the exception of private residences. Food Service Facility shall include, but is not limited to: food courts, food manufacturers, food processors, food packagers, restaurants, grocery stores, delicatessens, bakeries, lounges, hospitals, hotels, nursing homes, churches, and schools. For the purpose of Article 4 Part E of this Code, Food Service Facility shall not include a facility that only prepares beverages; a facility that only sells prepackaged foods; a facility that is currently permitted through the Environmental Department’s Industrial Pretreatment Program; or a facility classified as a Significant Industrial User by the Environmental Department.
- (k) “Garbage” shall mean solid waste from the domestic or commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- (l) “Garbage Disposal” shall mean a device that shreds or grinds waste materials into smaller portions for discharge into the wastewater collection system.
- (m) “Gray Water” shall mean all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the solids layer
- (n) “Grease” shall mean a liquid or solid material containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit, composed primarily of fats, oils or grease from animal or vegetable sources. The phrases "fats, oils and grease (FOG)," "oil and grease," or "oil and grease substances" shall be included in this definition.
- (o) “Grease Interceptor” shall mean a device located underground and outside of a food service facility designed to collect, contain or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste (“gray water”) to discharge to the

wastewater collection system by gravity.

- (p) “Grease Trap” shall mean a device located inside a food service facility designed to collect, contain or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.
- (q) “Grinder Pump Unit” (GPU) shall mean the pump and appurtenant equipment utilized in a low pressure sewer system to grind and discharge wastewater to the sanitary sewer system. The grinder pump unit shall include the grinder, pump, wetwell, drywell, mechanical seals, valves and controls.
- (r) “Indirect Discharge” or “Discharge” means the introduction of pollutants into a Publicly Owned Treatment Works (POTW) from any non-domestic source regulated under The Clean Water Act of 1977, 33 U.S.C. § 1251 et seq., and such other classes of waste producers the Environmental Department deems appropriate.
- (s) “Industrial User” means a person who introduces pollutants into any treatment facility or collection system owned, operated, maintained or served by the Unified Wastewater Districts and which is a non-domestic source regulated under The Clean Water Act, 33 U.S.C. § 1251 et seq. The term shall not include “food service facility” as defined in this Code.
- (t) “Interference” shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
 - (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and, therefore
 - (2) Is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or prevents the POTW from using or disposing of sewage sludge according to the following statutory provisions, regulations, or permits (including more stringent state or local regulations): the Clean Water Act, the Solid Waste Disposal Act (including Title II, more commonly referred to as the Resource Conservation and Recovery Act), and State of Kansas regulations contained in any State of Kansas sludge management plan prepared according 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.

- (u) “Low Pressure Sewer” (LPS) shall mean a pressurized sewer system including a grinder pump unit discharging wastewater through a small diameter discharge pipe to a gravity public sanitary sewer. The term LPS systems, as used in this Code, shall include only the GPU, the GPU discharge line, valves in the GPU discharge line and all LPS system pressure mains maintained by the Unified Wastewater Districts as delineated in Resolution WD 99-38.
- (v) “Lower Explosive Limit” (LEL) shall mean the lowest concentration of flammable gas or vapor (% by volume in air) in which explosion can occur upon ignition in a confined area.
- (w) “Natural Outlet” shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (x) “National Pretreatment Standard”, “Pretreatment Standard” or “Standard” shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with that portion of The Clean Water Act, 33 U.S.C. § 1317, which applies to industrial users. Included are the discharge limit prohibitions established by 40 C.F.R. § 403.5, and Article 5 of this Code, and any revisions thereto.
- (y) “New Source” shall mean any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which began after the publication of proposed pretreatment standards which will be applicable to a source if standards are promulgated, providing that: the building, structure, facility or installation is constructed at a site at which no other source is located; or the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge at an existing source; or 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 there 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. The term “new source” also applies if the new owner or operator has begun a continuous on-site construction program (placement, assembly, or installation of facilities or equipment) or significant site preparation, such as clearing, excavation, or removal of existing buildings or structures, or facilities. The term “new source” also applies if the owner or operator has 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 that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

- (z) “Pass Through” shall mean a discharge exiting the POTW into United States waters in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, causes the POTW to violate its NPDES permit. Violations include, but are not limited to, increases in the degree or duration of effected POTW noncompliance.
- (aa) “Person” shall mean any individual, partnership, firm, company, corporation, association, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The singular shall include the plural where indicated by the context.
- (bb) “pH” shall mean the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in gram moles per liter of solution in accordance with EPA approved laboratory methods, 40 C.F.R. § 136, unless otherwise specified in an industrial wastewater discharge permit or disposal authorization.
- (cc) “POTW” shall mean publicly owned treatment work plants owned by Johnson County, Kansas.
- (dd) “Pretreatment” shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before discharging or otherwise introducing such pollutants into the sewerage system, except as prohibited by 40 C.F.R. § 403.6(d).
- (ee) “Pretreatment Requirements” shall mean any procedural or substantive requirement related to pretreatment, including but not limited to a national pretreatment standard, that is imposed on an industrial user or a food service facility.
- (ff) “Public Sanitary Sewer” shall mean a sanitary sewer, which is owned, operated, maintained or controlled by the Unified Wastewater Districts. In areas built after the November 30, 1959 adoption of the 1959 Rules and Regulations for Johnson County Sewer Districts, these are eight inch (8") and larger lines between manholes.
- (gg) “Sand/Oil Interceptor” shall mean any structure required for the removal and containment of sand/oil and other constituents of

wastewater that may be harmful to the sewerage works.

- (hh) "Sanitary Sewer" shall mean a pipe or conduit, which carries wastewater, and to which storm, surface, and ground waters are not intentionally admitted.
- (ii) "Severe Property Damage" shall mean 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.
- (jj) "Sewerage System" shall mean all POTW facilities for collecting, pumping and treating wastewater.
- (kk) "Significant Industrial User" shall mean industrial facilities whose discharges are likely to have the most impact on POTW's. The term also refers to any other industrial user that is subject to the categorical pretreatment standards; discharges an average of twenty five thousand gallons per day (25,000 gpd) or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down wastewater); contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as a significant industrial user by the Environmental Department on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or employees or for violating any pretreatment standard or requirement. In the case of an industrial user which is not subject to categorical pretreatment standards, the Environmental Department may decide that the industrial user is not "significant," even if it meets the other above criteria, if it is determined that there is no reasonable chance of its discharges adversely affecting the POTW's operation or employees and it has not violated any pretreatment standard or requirement.
- (ll) "Significant Noncompliance" shall mean an industrial user is in significant noncompliance if the industrial user's violation meets one or more of the following criteria:
 - (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements for each pollutant of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.)
 - (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Environmental Department 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);
 - (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority;
 - (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - (7) Failure to accurately report noncompliance;
 - (8) Any other violation or group of violations, which the Environmental Department determines, will adversely affect the operation or implementation of the local pretreatment program.
- (mm) "Slug Loading" shall mean any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge.
- (nn) "Suspended Solids" shall mean solids that are in suspension in water, wastewater, or other liquids, and which are removable by laboratory filtering in accordance with EPA approved laboratory methods, 40 C.F.R. § 136.

- (oo) "Toxic Substance" means any substance which alone or in combination with other substances, when discharged to a wastewater system, storm water system or watercourse in sufficient quantities, interferes with any biological wastewater treatment process, or, either through direct exposure or through indirect exposure by ingestion through the food chain, interferes with the normal life processes of any organism, aquatic life, plant or animal or causes adverse human health impacts. Toxic substances include, but are not limited to pollutants listed as toxic in 40 C.F.R. § 401.15 pursuant to section 307(a)(1) of the CWA and those listed as toxic in sludge pursuant to section 405(d)(2) of the CWA.
- (pp) "User" shall mean a person who introduces wastewater, storm water, or water of any kind into a sanitary sewer owned, operated, maintained or controlled by the Unified Wastewater Districts.
- (qq) "Wastewater" or "Sewage" shall mean the liquid and water-carried industrial or domestic wastes from dwellings, commercial establishments, industrial facilities, and institutions, whether treated or untreated.
- (rr) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 2. Abbreviations:

- BOCC -- Johnson County Board of County Commissioners
- BOD -- Biochemical Oxygen Demand
- °C -- degree Celsius
- C.F.R. -- Code of Federal Regulations
- COD -- Chemical Oxygen Demand
- EPA -- U.S. Environmental Protection Agency
- ° F -- degree Fahrenheit
- g/mL -- grams per milliliter
- gpd -- gallons per day
- GIOP -- Grease Interceptor Operating Permit

- GPU – Grinder Pump Unit
- KDHE -- Kansas Department of Health and Environment
- LEL -- lower explosive limit
- LPS – Low Pressure Sewer
- mg/L -- milligrams per liter
- mL -- milliliter
- NPDES -- National Pollutant Discharge Elimination System
- O & M -- operations and maintenance
- POTW -- Publicly Owned Treatment Works
- RCRA -- Resource Conservation and Recovery Act
- SIC -- standard industrial classification
- SIU -- significant industrial user
- SMR -- self-monitoring report
- SWD -- special wastewater disposal authorization
- SNC -- significant noncompliance
- TRC -- technical review criteria
- TSS -- total suspended solids
- U.S.C. -- United States Code
- WEF -- Water Environment Federation (formerly Water Pollution Control Federation, WPCF)

ARTICLE 3

STANDARDS FOR CONSTRUCTION OF BUILDING SEWERS / DAMAGE TO OR INTERFERENCE WITH PUBLIC SEWERAGE SYSTEM PROPERTY

PART A. BUILDING SEWER PERMITS

Section 1. Types of Permits. There shall be two types of building sewer permits:

- (a) Connection Permit
- (b) Modified Usage Permit.

Section 2. When Permits Are Required.

- (a) Connection Permit. A connection permit shall first be obtained from the Unified Wastewater Districts before any person uncovers, makes a connection with or opening into, uses, alters or disturbs any public sanitary sewer or sewerage system facility owned, operated, maintained, or served by the Unified Wastewater Districts.
- (b) Modified Usage Permit. Before any person effects a change of use, redevelopment, expansion, or other modification of an existing use, they shall first obtain a Modified Usage Permit from the Unified Wastewater Districts for such change. The Unified Wastewater Districts may require the applicant to submit plans, specifications, engineering reports, technical data, and such other information as may be deemed necessary for application review.
- (c) Other Approvals. Before a connection permit or modified usage permit is issued by the Unified Wastewater Districts for any property used or proposed for use such as a food service facility, which, under the provisions of this Code, is required to have a grease interceptor, the owner or operator of the property shall submit to and receive approval of the Environmental Department for the plans and specifications of the grease interceptor, in accordance with the procedures prescribed in Part E of Article 4 of this Code. Thereafter, prior to completing any connection to the sewer system which discharges wastewater through the grease interceptor, as approved, the owner or operator of the food service facility shall obtain a Grease Interceptor Operating Permit from the Environmental Department. The Grease Interceptor Operating Permit shall be issued upon the Administering Agencies' determination that the grease interceptor, including all connected plumbing and piping, has been installed in

compliance with the Code.

Section 3. Application and Condition of Permit.

- (a) Connection Permit. Application for a connection permit shall be made by the owner of the premises, or their designated agent. The Unified Wastewater Districts may require the owner to verify, in writing, the designation of the agent prior to issuance of a connection permit. For existing structures converting from septic or holding tank service to LPS, the applicant shall submit certification from the City or County that all applicable City or County permits have been obtained prior to issuance of a sanitary sewer connection permit.
- (b) Modified Usage Permit. Application for a modified usage permit shall be made by the owner or tenant of the premises prior to a change of use, redevelopment, expansion, or other modification of an existing use. The Unified Wastewater Districts may require the applicant to submit plans, specifications, engineering reports, technical data, and such other information as may be deemed necessary for application review.
- (c) Permit Conditions. Connection and modified usage permits may contain requirements for construction methods, plan revisions, notifications to interested or affected parties, construction inspections, connection locations, termination of old service connections, prohibited discharges, pretreatment units or facilities, relocation or extension of public sanitary sewer lines to serve tributary areas at private expense, or other conditions deemed appropriate by the Unified Wastewater Districts.

Section 4. Fees. Upon application for and prior to issuance of any permit under this Code, the applicant shall pay any and all applicable permit fees. Connection and/or modified usage permit fees and charges shall be paid by any person who connects to or causes a modification or change of use for any existing connection to the sewerage system requiring the issuance of a connection or modified usage permit under this Code. In the event of change of use, redevelopment, expansion or other modification of an existing use the calculated connection and/or modified usage fee shall be adjusted to include only the increased difference of the proposed use versus the existing use. Connection and/or modified usage fees and charges shall become due and payable prior to commencement of construction of a connection or modification to a connection or the modification of a usage and if unpaid shall become a lien against the property connected to the sanitary sewerage system. All such fees are payable to the Johnson County Unified Wastewater Districts.

- (a) Fee Determination. The application and amount of the permit fee shall be determined by the Unified Wastewater Districts and will follow the latest fee schedule adopted by the BOCC. Fees are subject to change without notice. Connection fees will be assessed in the manner provided in Charter Resolution No. 29-92 and in accordance with the appropriate fee schedule. Additional fees may also be required for facilities served by other jurisdictions.

- (b) Delinquent or Unpaid Fees. Connection and/or modified usage permit fees and charges that are not paid in full within thirty (30) days following the completion of the connection or modification shall be considered delinquent and accrue interest at the same interest accrues for delinquent ad valorem taxes under State Law. In addition to any interest payable on the past due balance, a late payment fee in the amount of Five Dollars (\$5.00) shall be assessed for each delinquent connection and/or modified usage permit fee. Delinquent connection and/or modified usage permit fees and charges shall be collected in the same manner that delinquent ad valorem taxes are collected under State law. In addition thereto, the Board of County Commissioners may cause suit to be commenced against any person or user that has failed to make timely payment of the such connection and/or modified usage permit fees and charges in any Court of competent jurisdiction for the purpose of collecting such charges.

- (c) Certification and Lien.
 - (1) On or before August 15, of each year, the Administrator shall certify to the County Clerk of Johnson County the legal description of any real property that is subject to a lien for delinquent connection and/or modified usage permit fees and charges along with the amount of such charges and interest accrued through the date of certification. Upon receipt of certification, the County Clerk shall place such delinquent connection and/or modified usage permit fees and charges and accrued interest on the tax rolls of the property for collection in the same manner that a lien securing delinquent ad valorem taxes are collected under State Law.

 - (2) Written Notice of the intent of the Administrator to certify delinquent connection and/or modified usage permit fees and charges and accrued interest to the County Clerk for placement on the tax rolls shall be sent by certified mail at least thirty (30) days prior to certification to the mailing address of the owners of the subject property listed on the real estate tax records at the Johnson County Treasurer's Office or other

known address and to the current billing address of any person or persons residing upon or otherwise occupying the real property who are deemed to be the actual users of the sewer service that shall state:

- (i) The intent of the Administrator to certify the delinquent connection and/or modified usage permit fees and charges and interest to the County Clerk for placement on the tax rolls of the subject property unless the connection and/or modified usage permit fees and charges and any accrued interest is paid in full within thirty (30) days from the date of the Notice.
 - (ii) The date the Administrator intends to certify the lien.
- (d) Partial Payments. Any partial payments received in payment of delinquent connection and/or modified usage permit fees and charges shall be applied first to any accrued interest and then to the principal amount of the delinquent connection and/or modified usage permit fees and charges.

Payments made prior to such charges being placed on the real estate tax rolls shall be made to the Johnson County Unified Wastewater Districts and deposited in the capital improvement fund of the Johnson County Unified Wastewater Districts. Following the placement of delinquent connection and/or modified usage permit fees and charges on the real estate tax rolls, all payments for such charges shall be made to the Johnson County Treasurer's Office subject to the procedures under which delinquent ad valorem real estate tax payments are accepted, applied and distributed by the Johnson County Treasurer under state law.

Section 5. Permit Transferability.

- (a) Connection permits shall not be automatically transferable but may be assignable upon proper application to the Unified Wastewater Districts.
- (b) Modified usage permits are nontransferable.
- (c) Grease interceptor operating permits are nontransferable.

Section 6. Permit Expiration. Every permit issued under the authority of this Article shall expire by limitation specified on the permit. If not otherwise stated on the permit, the permit shall expire after one (1) year of the date of issuance if connection is not made to the sewer before then.

PART B. CONSTRUCTION STANDARDS

- Section 1. State Regulations. The Kansas Department of Health and Environment (KDHE) Regulations (K.A.R. 28-16-55, et seq.) concerning the inspection of sewerage systems and connections shall be observed during construction of building sewers in addition to any requirements set out herein.
- Section 2. Local Codes. The connection of the building sewer to the public sanitary sewer shall conform to applicable building and plumbing codes as well as to the Unified Wastewater Districts' Service Line Design and Construction Standards. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Unified Wastewater Districts before installation. The connection shall also comply with all conditions stated in the permit.
- Section 3. Construction Methods. The size, slope, alignment, and materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing and back-filling the trench, shall all conform to all permit conditions, to the local building and plumbing codes as well as to the Unified Wastewater Districts' Service Line Design and Construction Standards. In the absence of or as amplification of code provisions, the materials and procedures specified in the most recently published version of the Water Environment Federation/American Society of Civil Engineers manual known as "Gravity Sanitary Sewer Design and Construction – MOP FD-5" shall apply.
- Section 4. Sewer Elevation. Whenever possible, the building sewer shall be brought 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 sanitary sewer, wastewater carried by such building drain shall be lifted by a means approved by the Unified Wastewater Districts and discharged to the building sewer. The building sewer shall be installed in a trench deep enough to provide the pipe with at least thirty inches (30") of earth cover. The maximum allowable trench width below a horizontal plane six (6) inches above the top of pipe shall be 30 inches. The maximum allowable trench width below a horizontal plane six (6) inches above the top of pipe shall be 30 inches. LPS discharge lines and pressure mains shall be installed with a minimum of 42 inches of earth cover.
- Section 5. Grease, Oil, and Sand Interceptors.
- (a) General. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Administering Agency, they are necessary for proper handling of liquid wastes, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located so as to be easily accessible for

cleaning, inspection, and sampling. A sample port is required on the discharge line of the interceptor. The design, type, and capacity of the interceptor and port shall be approved by the Administering Agency prior to installation.

- (b) Food Service Facilities. In addition to complying with any other applicable requirement under this Code, food service facilities shall comply with the requirements of Article 4, Part E, where applicable, and shall install, as required, a grease interceptor which satisfies the design and installation requirements contained in Article 4, Part E.

Section 6. Inflow Prevention. No person shall make connection, either directly or indirectly, of roof down spouts, interior or exterior foundation or footing drains, areaway drains, crawl space drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected to a public sanitary sewer or to a public sanitary sewer directly, and shall comply with all requirements contained in Resolution WD 92-22, and amendments thereto. Nor shall any person break, damage, destroy, uncover, deface, tamper with, alter or substantially impair the use of any pipe fittings, joints, plugs, caps, or warning stickers or other devices required to be attached to or part of a plugged building drain or building sewer to prevent inflow from such sources directly or indirectly into the public sanitary sewer system.

Section 7. Separate Building Sewers. A separate and independent building sewer shall be provided for every building. If two or more industrial dischargers are located within the same building, separate and independent building sewers may be required by the Unified Wastewater Districts. Multiple dwelling units within the same building may share a building sewer. Maintenance of a shared building sewer shall be provided by a homes association or like group and shall be described in the development covenants recorded with the Register of Deeds. A building sewer shall connect to the public sanitary sewer system as described in the Service Line Requirements section of the most recent version of the Unified Wastewater Districts design document known as "Minimum Plan Requirements for Gravity Sanitary Sewer Mains." Private building sewer easements shall not be authorized to provide for connection of a building sewer to the system.

Section 8. Reuse of Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and testing as required by the Unified Wastewater Districts, to meet all requirements of the Unified Wastewater Districts's Service Line Design and Construction Standards in effect at the time of reuse. The cost of such examination and testing shall be borne by the owner of the new building.

- Section 9. Repair of Existing Building Sewers. Existing building sewers being repaired or reconstructed shall be constructed in accordance with the Unified Wastewater Districts Service Line Design and Construction Standards for the portion repaired or replaced. The person responsible for the repair work shall call for inspection as outlined in the sewer line standards and in Section 10, below.
- Section 10. Construction Inspection. The applicant, or agent, for the connection permit shall notify the Unified Wastewater Districts when the building sewer or any interceptor required under this Code is installed or connected to the public sanitary sewer and is ready for inspection prior to back filling. The connection shall be made as designated on the permit issued by the Unified Wastewater Districts. Any deviation from the requirements of this Article may result in the uncovering and inspection of the sewer line or any interceptor or other pretreatment equipment at the applicant's expense.
- Section 11. Nonconforming Connection. The Unified Wastewater Districts may, at its option, refuse to issue further connection permits to a person or to a corporation, partnership, or limited liability company related thereto, if such person or entity fails to correct existing non-conforming connections, fails to reimburse the Unified Wastewater Districts for damages to the sewerage system caused by non-conforming connections, or fails to correct violations of connection procedures or guidelines adopted by the Administrator for the safe and economical operation and maintenance of the sewerage system. For purposes of this section, a corporation shall be considered related to its shareholders, a partnership to its partners, and a limited liability company to its members. As a condition for the issuance of a connection permit, a person, corporation, partnership, or limited liability company may be required to disclose information reasonably required by the Unified Wastewater Districts to verify whether or not such relationships exist.
- Section 12. Responsibilities and Expenses Assumed by the Applicant and Successors. All expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner of the building sewer. The owner shall compensate the Unified Wastewater Districts for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer and/or building or construction activities at the site. The owner and its successors shall be responsible for the proper maintenance of the entire building sewer line, including the tee and saddle attachment to the manhole or main sewer line, in the manner required by the permit conditions, local building and plumbing codes as well as to the Unified Wastewater Districts' Service Line Design and Construction Standards. This shall include any portion of the building sewers installed under the street or otherwise off-premises. Failure to maintain the building sewer in the manner required by the permit conditions, local building and plumbing codes as well as to the Unified Wastewater Districts' Service Line Design and Construction

Standards is a violation of this Code.

PART C. INSPECTIONS

Section 1. Required Inspections. If plans and/or specifications are required to be submitted by this Code to the Unified Wastewater Districts or the Environmental Department as part of a permit application, the Unified Wastewater Districts and the Environmental Department may inspect the premises prior to, during or after the start of operations as well as during construction to determine compliance with the approved plans and specifications and with any other requirements.

Section 2. Access and Right of Entry. Representatives of the Unified Wastewater Districts and Environmental Department and their authorized agents, shall upon showing of proper identification, have the right to enter and inspect the premises or property to determine compliance with approved plans and specifications and any other permit application requirements.

PART D. DAMAGE TO OR INTERFERENCE WITH SEWERAGE SYSTEM PROPERTY

Section 1. Damage to or Interference with Sewerage System Property.

No person shall break, damage, destroy, uncover, deface, tamper with, alter, or impair any property of the sewerage system or substantially interfere with the safe and economical operation and maintenance thereof. Covering, burying, paving over, or otherwise modifying access to sewer system manholes is also prohibited.

Section 2. Procedures for Protection of Sewerage System Property.

No person shall erect, construct or develop, nor cause to be erected, constructed or developed, any structure, building, retaining wall, water feature, signage, artifice, improvement or other physical barrier, including roadway-type surfaces or earthen berms, or make changes to ground surface contours over or upon any part of the sewerage system without the prior approval of the Chief Engineer of the Unified Wastewater Districts. If, in the determination of the Chief Engineer, any such structure or improvement shall hinder or interfere with the safe and economical operation and maintenance of the sewerage system, including proper access to lines and facilities, then the Administrator and/or Chief Engineer shall be authorized to issue directives or take other action to protect the sewerage system by ceasing or removing any such structure or improvement at the expense of the person causing the threat or obstruction, or by requiring, at the expense of the person causing the threat or obstruction, such improvements to the sewerage system as may be needed for its protection, which would include

but not be limited to relocation of lines or facilities, encasement of lines or pipe, replacement of the sanitary sewer main, structural armoring for drainage way crossings, or similar improvements.

ARTICLE 4

WASTEWATER DISCHARGE AND PRETREATMENT

PART A. GENERAL PROVISIONS

Section 1. Authority. The Environmental Department shall apply and enforce, in any court of competent jurisdiction, the requirements of The Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251, et seq., 40 C.F.R. § 403, General Pretreatment Regulations For Existing and New Sources of Pollution, and this Code.

Section 2. General Provisions.

- (a) Industrial users shall provide necessary wastewater treatment as required to comply with this Code, federal pretreatment standards, and permit conditions, and shall achieve compliance with all national pretreatment standards and requirements within the time limitations as specified by the federal pretreatment regulations or local or state pretreatment standards.
- (b) The Environmental Department, through a special wastewater discharge authorization (SWD), may allow, on a case-by-case basis, short-term or periodic discharges of wastewater. Application for an SWD shall be made to the Environmental Department. At no time can authorization be given to discharge pollutants in excess of applicable categorical standards.
- (c) Where specifically authorized in this Code, the Director may approve exceptions to the wastewater discharge and pretreatment requirements established in this Code. A user seeking an exception shall submit a written request to the Director that includes a detailed explanation and justification for the proposed exception. The Director may require the user to provide any additional information needed to fully evaluate the user's request. The Director may approve, approve with conditions or deny the request and shall so notify the user in writing. Under no circumstances shall any user deviate from the wastewater discharge or pretreatment requirements in this Code without written approval from the Director. At no time can an exception be approved for any applicable categorical standard or procedure.

Section 3. Requirements.

- (a) The Environmental Department, through a permit, may deny, condition or control new or increased contributions of pollutants, or

changes in the nature of pollutants by industrial users, to any treatment facility owned, operated, maintained or controlled by the Unified Wastewater Districts.

- (b) All industrial users must comply with applicable pretreatment standards and permit requirements.
- (c) All industrial users holding a valid SWD must comply with all conditions delineated in the SWD.
- (d) All users of the sewerage system are subject to the prohibited discharge requirements listed in Article 4.C.2 of this Code.
- (e) Food service facilities shall provide necessary grease management as required to comply with this Code and any permit conditions imposed through the authority of Article 4 Part E.

Section 4. Pretreatment Facilities. Any facilities requiring pretreatment shall be provided and designed, constructed, and operated at the industrial user's expense. The Environmental Department may require the industrial user to provide engineering reports, construction plans and specifications, compliance schedules, and operating procedures for the pretreatment facilities. This information shall be approved by the Environmental Department before construction, reconstruction, or modification of a pretreatment facility is initiated; however, the approval by the Environmental Department does not exempt the industrial user from compliance with the standards set forth in this Code or other law or regulation. Any changes in the pretreatment facilities or method of operation shall be reported to the Environmental Department and shall be approved by the Environmental Department prior to the initiation of the changes.

Section 5. Basis for Effluent Limitations. Effluent limitations shall be based upon the more stringent of the following:

- (a) National categorical pretreatment standards;
- (b) State pretreatment requirements; or
- (c) Local limitations calculated by mass balance or other valid scientific method necessary to protect the sewerage system from materials described in Article 4.C.2 of this Code.

Section 6. Dilution of Wastes. No industrial user shall 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 standard unless specifically approved by an applicable

pretreatment standard or requirement, or in the case of local pretreatment standards, in writing by the Environmental Department under the provisions of Article 4.A.2(c) of this Code. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Section 7. Monitoring Facilities. The Environmental Department may require installation of a suitable control manhole or other monitoring facility together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastewater. The monitoring facility shall be accessible and located in a safe area, and shall be constructed in accordance with plans approved by the Director. The manhole and appurtenances shall be installed by and at the industrial user's expense, and shall be maintained by the industrial user in accordance with manufacturer's recommendations so as to be safe, operable, and accessible at all times.

Section 8. Hauled Wastewater.

- (a) Hauled wastewater includes waste from portable toilets, septage, holding tanks, and any other sources as determined by the Environmental Department. Wastewater haulers or operators must hold a valid Sanitary Disposal Contractors License and comply with the Johnson County Environmental Sanitary Code adopted by the BOCC and subsequent amendments thereto in addition to requirements of this Code. Hauled wastewater loads may be introduced into a Unified Wastewater District POTW only at locations and times designated by the Unified Wastewater Districts and are subject to all requirements of this Code. Such waste shall not violate any other requirements of this Code.
- (b) The Environmental Department may require wastewater haulers or operators to obtain industrial wastewater discharge permits or SWDs in addition to and separate from the licensing provisions contained in the Environmental Sanitary Code. The Environmental Department may also require that a waste analysis of the loads be provided prior to the issuance of a permit or SWD. All loads are subject to inspection and sampling to insure compliance with applicable standards.
- (c) Haulers of wastewater subject to an industrial wastewater discharge permit or SWD allowed to discharge to a Unified Wastewater Districts POTW must provide information on the loads to the Environmental Department on a waste tracking form provided by such Department upon request. Information shall be provided on every load and shall

include at a minimum, the names and addresses of sources of waste, type of industry, known or suspected constituents, volume and characteristics of waste. Haulers of wastewater may be required to certify in writing that the wastewater is not hazardous as defined in 40 C.F.R. § 261.

PART B. INDUSTRIAL WASTEWATER DISCHARGE PERMIT

- Section 1. Industrial Wastewater Discharge Permit. Industrial users shall obtain an industrial wastewater discharge permit when required by federal regulations (40 C.F.R. §403 et seq.) or when required by the Director. Any industrial user required to obtain an industrial wastewater discharge permit shall be considered a significant industrial user.
- Section 2. New Sources. New sources required to obtain a permit by Section 1 above, must apply for and receive an industrial wastewater discharge permit prior to discharging pollutants into the POTW.
- Section 3. Change in Discharge. Any industrial user not required to obtain a permit for existing discharges must apply for and receive an industrial wastewater discharge permit prior to changing the industrial user's discharge in such a manner that the resulting discharge would require a permit.
- Section 4. Application.
- (a) Application for an industrial wastewater discharge permit shall be made to the Environmental Department by either the owner of the industry or the designated agent.
 - (b) The Director may require all industrial users to submit as part of an application, in units and terms appropriate for evaluations, the following information:
 - (1) Name, address and location (if different from the owner's billing address);
 - (2) SIC number according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1972, and all amendments thereto;
 - (3) Wastewater constituents and characteristics including but not limited to those stated in Article 4.C;
 - (4) Time and duration of contribution;

- (5) Average daily, maximum daily and thirty (30) minute peak wastewater flow rates in gallons per day, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans along with details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (8) The results of sampling and analysis identifying the nature and concentration of any pollutants in the discharge which are limited by any national categorical, State of Kansas, or local pretreatment standards as described in Article 4.C. Both daily maximum and average concentration shall be reported. The sample shall be representative of daily operations. Samples shall be taken at such points designated by the Director and in conformance with all applicable national pretreatment standards. If other wastewaters are mixed with wastewater regulated by a national categorical pretreatment standard prior to pretreatment, the Director may require the industrial user to measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 C.F.R. § 403.6(e) in order to evaluate compliance with pretreatment standards;
- (9) The shortest time schedule by which the industrial user will provide additional pretreatment or operation and maintenance when required by the Director. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. In no case shall the increments of progress in the schedule exceed nine months;
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) A listing of any toxic substance, which the applicant uses or manufactures as an intermediate or final product or by-product;
- (12) Type and amount of raw materials processed (average and maximum per day);
- (13) Number of employees, as well as hours of operation of plant and proposed or actual hours of operation of pretreatment

system;

- (14) Signature of an authorized representative of the industrial user and, when required, certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and additional pretreatment is required;
- (15) Any other information deemed by the Director to be necessary to evaluate the permit application.

Section 5. Permit Denial. No industrial user who has been required to submit a permit application may continue to discharge into the sewerage system after the date of permit denial.

Section 6. Permit Contents.

- (a) Industrial wastewater discharge permits will contain the following:
 - (1) A statement that indicates industrial wastewater discharge permit duration, which in no event shall exceed five (5) years;
 - (2) A statement that the industrial wastewater discharge permit is nontransferable;
 - (3) Effluent limits based on applicable pretreatment standards;
 - (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and same type based on federal, state, and local law; and
 - (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.
- (b) Industrial 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 prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of industrial user charges and fees for the management of the industrial wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the industrial 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 industrial wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the Director to ensure compliance with this Code, and state and federal laws, rules, and regulations.

Section 7. Permit Modifications.

- (a) An industrial user must reapply for a permit:
 - (1) Whenever the mass loading of the pollutants contained in the permitted discharge in the opinion of the Director exceeds the average daily quantity applied for by greater than ten percent (10%) and/or
 - (2) Prior to any new introduction of pollutants or any substantial change in the volume or character of pollutants introduced into the POTW.
- (b) An industrial user may reapply for a permit whenever the industrial user believes that some of the permit requirements no longer apply.

- (c) The terms and conditions of all industrial wastewater discharge permits are subject to modification by the Environmental Department at any time for just cause.
- (d) All industrial wastewater discharge permits may be modified to incorporate special conditions resulting from issuance of a special order.
- (e) The terms and conditions of all industrial wastewater discharge permits shall be modified to reflect changes in federal pretreatment standards.
- (f) If necessary, permit modifications that result in new conditions in the permit shall include a reasonable time schedule for compliance.
- (g) No permit modification shall be construed to modify in any way the requirements of the Clean Water Act, 33 U.S.C. § 1251 et seq., pertaining to the pretreatment of discharge into POTW's, including the General Pretreatment Regulations, 40 C.F.R. § 403, and any applicable categorical Pretreatment Standard, 40 C.F.R. Chapter I, Subchapter N, nor shall any permit be construed to affect in any way the liability of the permittee for any failure to comply with such requirements.

Section 8. Industrial Wastewater Discharge Permit Revocation. The Director may revoke an industrial wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (a) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
- (b) Failure to provide prior notification to the Director of changed conditions pursuant to Article 4.D.4(g) of this Code;
- (c) Misrepresentation or failure to fully disclose all relevant facts in the industrial wastewater discharge permit application;
- (d) Falsifying self-monitoring reports;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the Environmental Department timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;

- (h) Failure to pay assessed fines and/or penalties;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the industrial 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 industrial wastewater discharge permit or this Code.

Section 9. Pretreatment Fees. The Environmental Department may assess a pretreatment permit fee and a special wastewater discharge (SWD) authorization review fee sufficient to cover the costs to administer and enforce the industrial wastewater discharge requirements established by this Code including any permit conditions. No permit or SWD authorization shall be issued until such fees are paid. The initial fee amounts shall be established by BOCC resolution. The fee amounts may be increased by up to ten (10) percent per year by the Director after notice to the BOCC and publication of intent to increase the fees in a newspaper of general circulation within the County. The BOCC may take action within thirty (30) days to disapprove or revise the fees after such notice. The fees shall automatically become effective if the BOCC takes no action within such thirty (30) day period upon publication of the revised fee amounts in such newspaper.

Section 10. Change in Ownership, Cessation of Discharge, Issuance of New Permit. Industrial wastewater discharge permits shall automatically terminate and become null and void upon cessation of operations or transfer of business ownership through a sale of assets, shareholders equity, or other equity interest. All industrial wastewater discharge permits issued to a particular industrial user shall automatically terminate and become void upon the issuance of a new discharge permit to that industrial user.

Section 11. Transferability. Industrial wastewater discharge permits are nontransferable.

Section 12. Regulation of Waste Received from Other Jurisdictions. Industrial users served through an interlocal agreement must comply, at a minimum, with this Code.

Section 13. Expiration. If not otherwise stated in the permit, the permit shall expire after

five (5) years of the date of issuance. The industrial user shall apply for permit reissuance at least one hundred eighty (180) days prior to the expiration of the industrial user's existing permit.

Section 14. Lapse. The terms and conditions of a permit are automatically continued past its expiration date and remain fully enforceable pending issuance of a new permit only if: (a) the permittee has submitted a timely and sufficient application for renewal; and (b) the Environmental Department is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit; and (c) the permittee is not in significant noncompliance with the terms and conditions of the previous permit or its expiration date. If the permittee does not meet conditions (a) and (c) above at time of permit expiration, then the permit shall be considered expired.

PART C. WASTEWATER DISCHARGE STANDARDS

Section 1. General. The Director shall have the authority to limit volume, rate, strength, or nature of wastewater discharge to any public sanitary sewer by any user. Pollutants, substances, or wastewater prohibited by this subpart shall not be processed or stored in such a manner that they could be discharged to the POTW.

Section 2. Prohibited Discharges. No person or user shall introduce into any public sanitary sewer or into the sewerage system any pollutant which causes pass through, interference or significant inhibition of microbial activity, nor shall any person or user introduce any of the following into any public sanitary sewer or the sewerage system:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other liquid, solid, or gas which could potentially create a fire or explosion hazard in the sewerage system, including, but not limited to, waste streams with a closed cup flash point of less than 140°F (60°C) using the test methods specified in 40 C.F.R. § 261.21 or which exceed a five percent lower explosive limit (5% LEL) measured as methane.
- (b) Pollutants which result in the presence of toxic gases, vapors, or fumes within the sewerage system in a quantity that may cause acute human health and/or safety problems.
- (c) Any discharge containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
- (d) Any discharge having a pH less than 5.5 or greater than 10.5, unless

the Director has approved an exception under the provisions of Article 4.A.2(c).

- (e) Solid or viscous substances or fats, wax, grease or oils in quantities or form capable of obstructing the flow in sewers, or otherwise result in interference.
- (f) Heat in amounts which will inhibit biological activity in the treatment works resulting in interference, but in any case heat in such quantities that the temperature at the POTW exceeds 104°F (40°C), unless the Director has approved an exception under the provisions of Article 4.A.2(c). In no case shall the Director approve an exception that exceeds 150°F (65°C).
- (g) Any discharge from significant industrial users permitted under the authority of Article 4 of this Code containing fats, wax, grease or oils, whether emulsified or not, containing substances which may solidify or become viscous at temperatures between 32 °F (0 °C) and 150 °F (65 °C), and which exceed 200 mg/L, unless another numeric limit or measurement methodology is approved by the Director under the provisions of Article 4.A.2(c). This discharge requirement does not apply to food service facilities as defined in Article 2 of this Code.
- (h) Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (i) Any silver-bearing wastewater from photo-finishing processes not treated with a silver recovery unit prior to discharge.
- (j) Any discharge containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive disinfection requirement or adversely affecting sludge disposal methods utilized by the Unified Wastewater Districts, to such degree that any such material measured at the source exceeds the limits established by the Environmental Department for such materials.
- (k) Any discharge of odor producing substances in concentrations exceeding the limits which may be established by the Director as necessary, after treatment of the composite wastewater to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (l) Any radioactive wastes or isotopes except in compliance with limits established by the Director or in compliance with applicable state or federal regulations.

- (m) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration which will cause interference with a treatment facility, and/or a significant load on the sewerage works.
- (n) Any pollutant which causes excessive discoloration, such as, but not limited to, dye wastes, vegetable tanning solutions, and water-based inks which consequently impart color to the POTW's effluent, thereby causing it to violate its NPDES permit.
- (o) Any discharges which cause unusual volumes of flow, mass and/or concentration of wastes constituting slug loadings.
- (p) Any discharge which does not comply with the applicable categorical pretreatment standards set out in 40 C.F.R., Chapter I, Subchapter N, Parts 405-471, now in effect or as may later be amended.
- (q) Any approved trucked or hauled wastes, except at discharge points designated by the Unified Wastewater Districts.
- (r) Storm water, surface water, ground water, roof runoff, subsurface drainage, swimming pool drainage and non-contact cooling water, unless the Director approves an exception under the provisions of Article 4.A.2(c).
- (s) Discharge of any substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. § 261, is prohibited unless the Director approves an exception under the provisions of Article 4.A.2(c).
- (t) Any discharge which, in the opinion of the Director, causes the POTW's daily operation and maintenance schedule to be significantly disrupted.

Section 3. National Categorical Pretreatment Standards. The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405-471, are hereby incorporated and made a part of this Code as if fully written out.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(c).
- (b) When wastewater, subject to a categorical pretreatment standard, is mixed with wastewater not regulated by the same standard, the

Director shall impose an alternate limit using the combined waste stream formula in 40 C.F.R. § 403.6(e).

- (c) An industrial user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard. All variances must be obtained from the EPA.
- (d) An industrial user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15.

Section 4. Bypass.

(a) Bypass Violating Applicable Pretreatment Standards or Requirements.

(1) Bypass that violates an applicable pretreatment standard or requirement is prohibited and the Environmental Department may take enforcement action against an industrial user for a bypass, unless:

- (i) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
- (ii) There were no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (iii) The industrial user submitted notices as required by Article 4.C.4(b) and approved by the Director.

(2) The Environmental Department may approve an anticipated bypass, after considering its potential adverse effects, if the Environmental Department determines that it will meet the three conditions listed in Paragraph (a)(1) of this section.

(b) Notice.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Environmental

Department and Unified Wastewater Districts, if possible, at least ten (10) days before the date of the bypass.

- (2) An industrial user shall notify the Environmental Department and Unified Wastewater Districts by telephone or visit of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within twenty-four (24) hours of becoming aware of the bypass. A written submission shall also be provided within five (5) days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, 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.
- (c) Bypass Not Violating Applicable Pretreatment Standards or Requirements. An industrial user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the requirements in (a) and (b) of this section.

Section 5. Significant Contribution to Permit Violation or Prevention of Sludge Use. No user may knowingly allow any discharge to the sewerage system which would or does cause a violation of the NPDES permit for the POTW or which would or does prevent the proper use or disposal of sludge derived at the POTW. A user significantly contributes to a permit violation or prevention of sludge use or disposal by engaging in any one or more of the following:

- (a) Discharging a daily pollutant loading in excess of allowable limits by permit with the Environmental Department, or by federal, state or local law; or
- (b) Discharging wastewater that differs substantially in nature of constituents from the user's average discharge; or
- (c) Knowing or having reason to know that its discharge, alone or in combination with discharges from other sources, would result in a POTW permit violation or prevent sewage sludge use or disposal in accordance with all applicable regulations as they apply to the POTW's selected method of sludge management.

Section 6. Local Limits.
[Reserved]

PART D. INSPECTIONS AND REPORTS, SAMPLING, AND ANALYSIS

Section 1. Required Inspections.

- (a) If plans and specifications are required to be submitted by these regulations to the Environmental Department as part of a permit application, authorization or approval, the Environmental Department may inspect the premises prior to, during or after the start of operations as well as during construction to determine compliance with the approved plans and specifications and with any other requirements.
- (b) In addition to the authority provided in (a) of this section, the Environmental Department may inspect a food service facility required under this Code to install or operate a grease interceptor at any time to determine compliance with the grease management requirements of this Code

Section 2. Access and Right of Entry. Representatives of the Environmental Department, the Unified Wastewater Districts, the Kansas Department of Health and Environment (KDHE), and the Environmental Protection Agency (EPA), upon showing proper identification, shall have the right to timely enter to inspect or re-inspect the premises of any user who may be subject to the requirements of this Code to determine compliance with approved plans and specifications and with any other requirements. Users required to obtain industrial wastewater discharge permits, special wastewater discharge authorizations, or grease interceptor operating permits, shall allow authorized representatives of the Environmental Department, the Unified Wastewater Districts, or their designated agents, the KDHE, and the EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the Environmental Department, the Unified Wastewater Districts or their designated agents, the KDHE, and the EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense to enable authorized representatives of the Environmental Department, the Unified Wastewater Districts, the KDHE and the EPA to enter and inspect the premises as guaranteed by this paragraph.

Section 3. Reporting Requirements.

- (a) Signatory and Certification Requirements for Industrial Users. All

reports required by this section must be signed by the applicable person:

- (1) If the industrial user is a corporation, then the signature shall be by a responsible corporate officer. A responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding Twenty Five Million Dollars (\$25,000,000) if authority to sign documents has been assigned or delegated to the manager according to corporate procedures.
- (2) If the industrial user submitting the reports is a partnership or sole proprietorship respectively, then the signature shall be by a general partner or proprietor.
- (3) If the industrial user is a federal, state, or local governmental facility, then the signature shall be by a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- (4) The individuals described in (1) through (3), above, may designate a duly authorized representative. The authorization must be made in writing by one of the individuals mentioned above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for the company's environmental matters. Written authorization must be submitted to the Environmental Department. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Environmental Department prior to or together with any reports to be signed by the authorized representative.

- (b) Certification Statement. All industrial user reports must contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a

system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(c) Hazardous Waste Discharge Notification.

- (1) If the Director has approved an exception to discharge hazardous waste under the provisions of Article 4.A.2(c), then the industrial user shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. § 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. § 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred kilograms (100 Kg) of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the industrial user, an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged upon written authorization. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of this Code.
- (2) Dischargers are exempt from the requirements of Paragraph (1), above, during a calendar month in which they discharge no more than fifteen kilograms (15 Kg) of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. § 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms (15 Kg) of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes

as specified in 40 C.F.R. § 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (4) In the case of any notification made under this section, the industrial 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.
- (5) The provisions in Article 4.D.3(c) do not create a right to discharge any substance not otherwise permitted to be discharged by this Code, a permit issued thereunder, or any applicable federal or state law.

Section 4. Reports.

- (a) Baseline Monitoring Report (BMR). Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard or one hundred eighty (180) days after the Environmental Department decision made upon a category determination submitted under 40 C.F.R. § 403.6(a)(4) guidelines, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Environmental Department a report on a form provided by the Environmental Department and containing the information listed in (1) through (8) below. Where reports containing this information already have been submitted to the Director in compliance with the requirement of 40 C.F.R. § 128.140(b), the industrial user will not be required to submit this information again. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall submit a report to the Environmental Department on a form provided by the Environmental Department and which contains the information listed in (1) through (8) below. The information required in these reports shall include, but not be limited

to the following:

- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner, including the address of the operator and/or owner if different from the facility address.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- (4) 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 waste stream formula set out in 40 C.F.R. § 403.6(e).
- (5) Measurement of Pollutants.
 - (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director 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 Article 4.D.6 of this Code.
 - (iii) Sampling must be performed in accordance with procedures set out in Article 4.D.6 of this Code.
- (6) Certification. A statement, reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional

pretreatment is required to meet the pretreatment standards and requirements.

- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Article 4.D.4(d) of this Code.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Article 4.D.3 of this Code. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards.

(b) 90-Day Compliance Reports.

- (1) 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 industrial user subject to pretreatment standards and requirements shall submit a report on a form provided by the Environmental Department.
- (2) For industrial users subject to equivalent mass or concentration limits established by the Environmental Department in accordance with the procedures in 40 C.F.R. § 403.6(c), the report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subjected to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation) the report shall include the user's actual production during appropriate sampling period.

(c) Self-Monitoring Report (SMR).

- (1) All permitted industrial users shall, at a frequency determined by the Director, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited

by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. Self-monitoring reports must be signed and certified in accordance with Article 4.D.3 of this Code on a form provided by the Environmental Department.

- (2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (3) If an industrial user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director using the procedures prescribed in Article 4.D.6 of this Code, the results of this monitoring shall be included in the report.
- (4) Where the Environmental Department has imposed mass limitations on industrial users as provided for in 40 C.F.R. § 403.6(d), the report required by this section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(d) Compliance Schedule

- (1) If additional pretreatment is required to meet the pretreatment standards, the completion date for this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- (2) The following conditions shall apply to the compliance schedule:
 - (i) The schedule shall contain increments of progress 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 industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.)

- (ii) No increment referred to in the above paragraph shall exceed nine (9) months.
 - (iii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Environmental Department including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Environmental Department.
- (e) Engineering Report. Any engineering report required must be prepared by a professional engineer licensed to practice in the state of Kansas by the State Board of Technical Professions.
- (f) Notice of Potential Problems, Including Slug Loading. All categorical and non-categorical industrial users shall notify the Environmental Department and Unified Wastewater Districts immediately of all discharges that could cause problems to the POTW by violating the prohibited discharge standards defined in Article 4.C.2 or any permit issued under this Code, and of any and all slug loadings, as defined by this Code and/or 40 C.F.R. § 403.5(b).
- (g) Reports of Changed Operational Conditions. Any planned significant changes to the industrial user's operations or system which might alter the nature, quality, volume, or rate of its wastewater must be approved by the Director at least thirty (30) days prior to the change.
 - (1) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial wastewater discharge permit application.
 - (2) The Director may issue an industrial wastewater discharge permit under this Code or modify an existing industrial wastewater discharge permit under this Code in response to changed conditions or anticipated changed conditions.
- (h) Reports of Changed Discharge Conditions.
 - (1) In the case of any discharge, including, but not limited to,

accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the Environmental Department and Unified Wastewater Districts 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 industrial user.

(2) Within five (5) days following such discharge, the industrial user shall, unless waived by the Director, in writing, submit a detailed written report describing the cause(s) of the discharge and the measures taken or to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any liability for any damage to person, property, or natural resources; nor shall such notification relieve the industrial user of any fines, penalties, or other liability, which may be imposed pursuant to this Code.

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

(i) Reports from Unpermitted Users. All users not required to obtain an industrial wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

(i) Notice of Violation/Repeat Sampling and Reporting. A permitted industrial user must notify the Director within twenty-four (24) hours of becoming aware of a discharge violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The industrial user is not required to re-sample if the Environmental Department monitors at the industrial user's facility at least once a month, or if the Environmental Department samples between the industrial user's initial sampling and when the industrial user receives the results of this sampling or if the industrial user samples at least once per month.

Section 5. Accidental Discharge/Slug Control Plans. At least once every two (2) years, the Environmental Department shall evaluate whether each permitted industrial user needs an accidental discharge/slug control plan. The Environmental Department may require any industrial user to develop,

submit for approval, and implement such a plan. Alternatively, the Environmental Department may develop such a plan for any industrial user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Environmental Department of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. § 403.5(b), with procedures for follow-up written notification within five (5) days to the Environmental Department;
- (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Section 6. Sample Collection and Analysis.

- (a) General. To ensure compliance with this Code, the Environmental Department may collect and analyze wastewater samples from industrial users.
- (b) Analysis. All sample analysis performed by or for the industrial user or the Environmental Department for compliance determination shall be in accordance with the procedures set out in 40 C.F.R. § 136 unless otherwise specified by the applicable categorical pretreatment standard, and performed by a laboratory certified by the KDHE for the required parameters unless an alternative method and/or laboratory is specifically approved, in writing, by the Director under the provisions of Article 4.A.2(c). In any event, all industrial users subject to federal categorical standards are not eligible to seek an alternative method or laboratory.
- (c) Sample Collection. All sample collection performed by or for the industrial user shall be performed at a point designated by the Environmental Department. All sample collection shall be representative of normal work cycles and expected pollutant discharges to the POTW. The sample collection method shall be

designated in the industrial wastewater discharge permit.

(d) Sampling for Oil and Grease.

- (1) Methodology. Oil and grease samples for non-categorical industrial users shall be collected utilizing time composite methodology (either manual or automatic) unless otherwise specified by the Director. Equal sample volumes shall be collected at equivalent time intervals at a rate of one (1) per two (2) hours for the appropriate daily operational period. Unless otherwise specified, analysis for oil and grease shall be done in accordance with 40 C.F.R. § 136.

The sample volume collected per two (2) hour interval must be such that the sum total collected during the daily operational period shall fall within a range 750 to 1,500 mL.

- (e) Equipment Maintenance. All sample collection equipment shall be regularly cleaned and, where applicable, maintained and calibrated per manufacturer's recommendation in order to assure collection of representative samples.

- (f) Flow Monitoring. Flow measuring systems shall be provided when, in the opinion of the Director, they are necessary for adequately characterizing the wastewater flow and/or pollutant loading. All systems shall be easily accessible and non-hazardous for maintenance, inspection, and sampling. The systems shall be inter-connective with Environmental Department samplers and shall be maintained per manufacturer's recommendations. The design, location, and type of system shall be approved by the Director.

- (g) Cost. All costs and fees associated with an industrial user's self-monitoring activities shall be borne by the user.

Section 7. Records Retention. All industrial users shall retain and preserve for not less than three (3) years, any records, books, documents, memoranda, reports, and correspondence relating to monitoring, sampling, and chemical analysis of its discharge. All food service facilities with grease interceptors shall retain and preserve for not less than three (3) years, any information required in the grease interceptor binder provided for in Part E of this Article. All records which pertain to matters, which are the subject of enforcement, or litigation activities brought by or against the County shall be retained and preserved by the industrial user or food service facility until all enforcement activities have concluded and all periods of limitation with respect to any appeals have expired.

Section 8. Confidential Information.

- (a) Information and data on an industrial user or food service facility obtained from reports, questionnaires and inspections shall be available to the public or any governmental agency without restriction unless the industrial user or food service facility specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user or food service facility.
- (b) When requested by the person furnishing a report, and until the information is determined not to be 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 to any state or federal government agencies for uses related to this resolution. However, such portions of a report shall be immediately available for use by the County in proceedings involving the industrial user or food service facility furnishing the report.
- (c) In no case shall wastewater constituents and characteristics be recognized as confidential information.

PART E. FOOD SERVICE FACILITY GREASE MANAGEMENT

Section 1. Applicability. The requirements in Part E of this Code apply to food service facilities as defined in Article 2.

Section 2. General Requirements.

- (a) Garbage Disposals. Garbage disposals are prohibited in food service facilities that begin operation after January 1, 2003. Existing food service facilities in operation prior to the effective date of this Code shall be allowed to operate a garbage disposal unless or until the facility is required to install a grease interceptor pursuant to this Code.
- (b) Grease Traps. Grease traps are prohibited in food service facilities that begin operation after January 1, 2003. Existing food service facilities in operation prior to January 1, 2003 shall be allowed to operate a grease trap unless or until the facility is required to install a grease interceptor pursuant to this Code. Grease traps shall have a removable lid on the top surface to facilitate inspection, cleaning and maintenance.
- (c) Grease Interceptors. Grease interceptors shall be required at food

service facilities under the following circumstances:

- (1) New Food Service Facilities. Food service facilities that begin operation after January 1, 2003, or non-food service facilities that are altered after January 1, 2003 to include a food service facility where such facility did not previously exist, shall be required to install a new grease interceptor that complies with the design requirements of Article 4.E.3.
- (2) Food Service Facilities with Existing Grease Interceptors. Food service facilities in operation prior to January 1, 2003 shall be allowed to operate existing grease interceptors provided they are maintained in compliance with the operating requirements established in Article 4, Part E and none of the conditions in Article 4.E.2.c.3 apply.
- (3) Food Service Facilities without Grease Interceptors. The Environmental Department may require an existing food service facility in operation prior to January 1, 2003 to install a new grease interceptor that fully complies with this Code or to modify or repair any noncompliant plumbing or existing interceptor upon notice to the food service facility that one or more of the following conditions exist:
 - (a) The facility is found to be contributing fats, oils or grease in quantities sufficient to cause line stoppages or to necessitate increased maintenance on the wastewater collection system;
or
 - (b) Changes are made to the menu or kitchen equipment that, in the opinion of the Director, threatens to contribute fats, oils or grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the wastewater collection system.

Section 3. Design Requirements for New Grease Interceptors.

- (a) New grease interceptors installed or modified after January 1, 2003 shall be attached to the building sewer line and shall connect all interior fixtures that may introduce grease into the wastewater collection system. Interior fixtures to be piped to the grease interceptor shall include but not be limited to, three compartment sinks, mop sinks, dishwashers, floor drains in food preparation and storage areas, and any other fixture determined to be a potential source of grease. Dish machines with a booster heater shall include a cold water solenoid-operated valve or similar device that mixes cold water with the discharged hot water from the machine. Wastewater from toilets, restroom sinks, and other similar fixtures shall not be piped to the grease interceptor under any circumstances.

- (b) Grease interceptors installed or modified after January 1, 2003 shall meet the following requirements:
- (1) The design, type, sizing and capacity of the interceptor and sampling port shall be approved, prior to installation, by the Environmental Department and shall conform to the standards established in the most recently published version of the guidance document entitled Grease Interceptor Design Criteria; and
 - (2) The interceptor shall be designed, constructed and installed for adequate load-bearing capacity; and
 - (3) The interceptor shall be installed in a location outside the facility which is easily accessible for cleaning, inspection and sampling; and
 - (4) A sampling port shall be installed on the interceptor discharge line; and
 - (5) The interceptor shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids; and
 - (6) The interceptor shall have a manhole to surface grade over each compartment to facilitate inspection, cleaning and maintenance, including pumping; and
 - (7) The minimum capacity of any single interceptor unit shall be one thousand (1,000) gallons and the maximum capacity shall be two thousand (2,000) gallons. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series is required.

Section 4. Plan Review and Permitting Requirements for New or Modified Grease Interceptors.

- (a) General Requirements. In addition to any other applicable requirements under this Code, a food service facility required under this Code to install or modify a grease interceptor or the plumbing that connects to the interceptor shall meet the plan review and permitting requirements in this section prior to discharging wastewater to the sewerage system.
- (b) Plan Review Application. Any food service facility required under this Code to install or modify a grease interceptor or the plumbing that

connects to the interceptor must apply for and receive approval of the proposed plan for such installation or modification. An application form and copies of the proposed plan, together with payment of the Plan Review fee and all other required fees, shall be submitted to the Environmental Department for review and approval. The plan shall be submitted in a form acceptable to the Director and shall contain the information necessary to demonstrate to the Department's satisfaction that the interceptor and any associated plumbing is designed and will operate in compliance with this Code.

- (c) Plan Review Information. The Environmental Department shall make grease interceptor plan review application forms available upon request. Incomplete applications may be denied. In addition to the information on the application form, a food service facility shall submit the following information:
- (1) A full set of building and construction plans to include proposed plumbing connections to the grease interceptor, the placement of all plumbing fixtures and the layout of kitchen equipment;
 - (2) A copy of the menu or a list of the food items to be prepared, sold or consumed;
 - (3) The completed application for a state food service establishment license if applicable;
 - (4) A description of food handling, food procedures and food flow in the facility;
 - (5) The grease interceptor plan review fee including any applicable variance request processing fee; and
 - (6) Any other information required by the Environmental Department to adequately review the grease interceptor plan.
- (d) Plan Review Approval. The Environmental Department shall review the food service facility's grease interceptor plan and upon determining that it meets the requirements of this Code, the Department shall issue a directive approving the plan. In approving the plan, the Department may impose any conditions necessary to ensure that it complies with this Code. The Department may deny any plan that does not comply with this Code. The Department shall notify the food service facility in writing whether the plan has been approved, approved with conditions, or denied, and if denied, the reasons for the denial.
- (e) Connection or Modified Usage Permit Required. Prior to installing or modifying a grease interceptor or any plumbing that connects to an interceptor, a food service facility shall apply for and be issued a Connection Permit or a Modified Usage Permit from the Unified

Wastewater Districts under the provisions of Article 3 of this Code. The Unified Wastewater Districts may review but shall not approve such application for a Connection or a Modified Usage Permit unless the Environmental Department has approved the grease interceptor plan required in Article 4.E.4 (b) of this Code.

- (f) Operating Permit Required for New or Modified Grease Interceptors. Upon determination that any installation or modification of a grease interceptor, or any plumbing that connects to the interceptor, has been completed and does comply with the requirements of this Code, including but not limited to design and construction standards imposed under the authority of this Code, the Environmental Department shall provide notice of such compliance to the designated operator of the food service facility, and, upon proper application and approval, issue a Grease Interceptor Operating Permit for the facility. No food service facility required under this Code to install or modify a grease interceptor shall discharge to the sewerage system without a valid Grease Interceptor Operating Permit. The Grease Interceptor Operating Permit holder shall comply with all of the provisions in Article 4 Part E pertaining to operating requirements and operating permit renewals.

Section 5. Permitting Requirements for Existing Grease Interceptors.

- (a) General Requirements. A food service facility with a grease interceptor shall not discharge to the sewerage system without a valid Grease Interceptor Operating Permit (GIOP) issued by the Environmental Department. The Environmental Department shall approve, deny, or approve with conditions each GIOP application in accordance with the provisions of this Code. The GIOP shall be in addition to any other permits, registrations, or licenses that may be required under federal, state or local law.
- (b) Grease Interceptor Operating Permit Applications. All food service facilities with a grease interceptor shall apply annually for a Grease Interceptor Operating Permit (GIOP) on a form prescribed by the Environmental Department. The Environmental Department shall make the forms available to food service facilities at least thirty (30) days prior to the date they are due. Each food service facility with a grease interceptor shall complete the application and submit it to the Environmental Department no later than March 1 of each calendar year. The GIOP application shall include payment of the annual permit fee required under Article 4.E.9.(b) of this Code. GIOP applications that do not include payment of the required fee shall be deemed incomplete.

- (c) Grease Interceptor Operating Permit Issuance. The Environmental Department shall determine whether the Grease Interceptor Operating Permit application submitted by the food service facility is complete. Incomplete applications may be denied. The Environmental Department shall review complete applications along with information from any grease interceptor inspections conducted by the Environmental Department at the food service facility and other pertinent information. The Environmental Department shall issue a permit to the food service facility upon a determination that the grease interceptor is in compliance with this Code. The Environmental Department may issue a permit with conditions intended to correct any violations of this Code.
- (d) Grease Interceptor Operating Permit Terms.
- (1) Each Grease Interceptor Operating Permit (GIOP) shall be effective for up to one year and shall expire on April 15 of each year regardless of the date that the previous permit was issued. The terms and conditions of a GIOP are automatically extended past the expiration date and remain fully enforceable pending issuance of a new permit only under the following conditions:
 - (i) The food service facility has submitted a timely and complete application for a new permit;
 - (ii) The Environmental Department is unable, through no fault of the food service facility, to issue a new permit before the expiration date of the previous permit; and
 - (iii) The food service facility is not significantly violating the terms and conditions of the previous permit.
 - (2) The food service facility shall display the GIOP in a conspicuous place where it can be seen by the facility staff and shall maintain a copy of the GIOP in the grease interceptor records file.
 - (3) The GIOP shall automatically terminate and become null and void upon cessation of operations of the food service facility or sale or transfer of business ownership of such facility including but not limited to a sale of assets, shareholders equity, or other equity or ownership interest. It is the responsibility of any new owner to timely apply for a new GIOP from the Environmental Department.
 - (4) The Environmental Department may modify the terms and conditions of the GIOP at any time to address evidence of noncompliance with this Code. Any changes or new conditions in the GIOP shall include a

reasonable schedule for achieving compliance.

- (5) The Environmental Department may revoke the GIOP at any time if a food service facility has failed to correct significant and ongoing noncompliance with this Code after being provided a reasonable opportunity to do so.

Section 6. Operating Requirements. All grease interceptors shall meet the following requirements.

- (a) Pumping, Cleaning and Maintenance. Each food service facility shall be responsible for pumping, cleaning and maintaining its grease interceptor in good working condition. All food service facilities with a grease interceptor shall utilize a wastewater hauler or contractor holding a valid Sanitary Disposal Contractors License issued by the Environmental Department to provide pumping, cleaning and disposal services. Pumping shall include the removal of all contents from the interceptor, including grease, floating materials, gray water, bottom sludge and solids. Cleaning shall include removal of solids from the walls, floors, baffles and pipe work in the interceptor. It shall be the responsibility of each food service facility to verify that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in good working condition.
- (b) Pumping Frequency. Unless otherwise approved by the Director or authorized under this section, each food service facility shall have its grease interceptor(s) pumped at least once every ninety (90) days. More frequent pumping may be required by the Environmental Department based on the following criteria:
 - (1) Evidence of a floatable grease layer that exceeds six (6) inches in depth on the outlet side of the interceptor; or
 - (2) Evidence of a settleable solids layer that exceeds eight (8) inches in depth on the outlet side of the interceptor.

Any food service facility which holds a GIOP may apply for a variance from the pumping frequency requirements by utilizing the procedures prescribed in Section 7 of this Part E, including payment of the variance request processing fee. Food service facilities which are located in institutional facilities operated by public or governmental entities, such as public schools, may, at the time of issuance or renewal of the GIOP for the facility, request a modified pumping schedule based upon either the limited schedule that the food service facility operates or the limited menu of food items prepared at the facility, and such request shall not be considered as a variance

request and no variance request processing fee shall be required. When the Director finds that a variance from the pumping frequency requirements or a modified pumping schedule would not unduly create health or safety issues or expose the sewer system to improper discharges, the Director may grant the variance or modified schedule.

Any variance or modified pumping schedule shall thereafter become a requirement under this Code, applicable to that permit holder, and shall be subject to further revision or revocation as necessary for the public health and the proper maintenance of the sewer system.

- (c) Repairs. Each food service facility shall be responsible for all repairs to its grease interceptor(s). Repairs required by the Environmental Department shall be completed by the date specified in a written notice provided by the Environmental Department.
- (d) Waste Disposal. Wastes removed from any grease interceptor shall be disposed at a facility permitted to receive such wastes or at a location legally designated for such purposes. Grease, gray water or solid materials removed from an interceptor shall not be returned to an interceptor, private sewer line or to any portion of the wastewater collection system without prior written approval from the Administering Agency.
- (e) Record Keeping. Each food service facility shall maintain a grease interceptor binder on site in an easily accessible location and shall make it available for review upon request by the Environmental Department. The binder shall contain a chronological record of all maintenance and repairs performed on the grease interceptor(s) during the most recent three (3) year period. The binder shall include the date of the maintenance or repair including all dates when the interceptor(s) was pumped and cleaned, a brief description of the nature of the maintenance or repair, and any other pertinent information. The binder shall also contain the following information:
 - (1) A copy of the facility's current grease interceptor operating permit;
 - (2) A copy of any receipts for repairs or maintenance to the interceptor(s), including pumping and cleaning;
 - (3) The name, address, and telephone number of the sanitary disposal contractor licensed by the Environmental Department that the food service facility uses to pump and clean the grease interceptor(s); and
 - (4) Grease interceptor monitoring data, if applicable.

Section 7. Alternative Methods of Grease Management. The Director of the Environmental Department may approve and issue a modified permit for the

use of alternative methods of grease management, in lieu of the requirement contained in Section 2 (c) of this Part E for the installation and use of a grease interceptor, by a qualified food service facility or specified type or class of food service facility when the Director determines that an alternative method of grease management is at least as effective for managing grease discharges to the sewerage system as the other requirements in this Code. The approval of an alternative method of grease management shall be made in the manner and in accordance with the criteria and conditions prescribed in this Section.

(a) Application Processes.

A food service facility may request approval and a modified permit for the use of an alternative method of grease management according to one or more of the following processes. The application shall be in writing, on a form prescribed by the Environmental Department, and shall comply with the procedures contained in Article 4.A. 2 (c) of this Code.

(1) Variance. A food service facility may request a variance from any of the requirements of Article 4 of Part E of this Code. The Environmental Department shall consider the request based upon documentation presented by the food service facility and may grant the variance only when the food service facility has adequately demonstrated that the alternative method requested is at least as effective in managing grease discharges to the sewerage system as the requirements contained in the Code. No variance shall be approved unless the requesting facility has paid the processing fee as required by Article 4.E.9.

(2) Approved Grease Removal Device. The Director of the Environmental Department may, from time to time, designate a particular type of equipment or grease removal device as an approved alternative grease management method and permit its use by a qualified type or class of food service facility. In such event, a qualified food service facility may request a permit to use the approved equipment or grease removal device, and the Director may approve the request after making a determination that the applicant is a qualified food service facility for which the device is approved and that the particular use by the applicant will provide grease management sufficient to comply with the intent of this Code. No request to use approved equipment or grease removal device shall be granted unless the requesting facility has paid the processing fee required by Article 4.E.9.

- (3) Low Discharge Waiver. A food service facility which qualifies as a low grease generating facility may request a waiver from the requirement to install and use a grease interceptor and/or a grease removal device. The Director may approve the request only upon a direct finding that the facility meets the qualifications for a low grease generating facility, that the facility in ordinary operation will discharge only minimum amounts, if any, of fats, oils and grease to the sewerage system, and that the facility is not likely to contribute in the future quantities of fats, oils, and grease sufficient to cause line stoppages or to necessitate increased maintenance on the sewerage system. No request for a low discharge waiver shall be approved unless the requesting facility has paid the processing fee required by Article 4.E.9.

For purposes of this section, a food service facility will not be considered a low grease generator unless it meets the following criteria:

- a) A facility that only serves ready-to-eat foods with no preparation at the facility other than warming, which would include, but not be limited to, scoop-only ice cream shops, cold sandwich shops, popcorn stands, and hot dog rollers; or
- b) A facility that only prepares uncooked or unbaked food or meals that will be taken from the facility and cooked or baked at another location; or
- c) A facility that only prepares small baked goods such as, but not limited to, cookies and pretzels; and
- d) The facility does not engage in more than a minimum amount of dish or pot washing; and
- e) The facility demonstrates that its operations do not cause nor provide for the discharge of fats, oils or grease in an amount which could cause unacceptable accumulation of deposits in the sewerage lines or necessitate increased maintenance on the sewerage system.

Any food service facility that uses a deep fat fryer, a grill, a wok, a griddle, a fry daddy or any other device that uses fats, oils, or grease for cooking purposes shall not be considered as low grease generating or discharging facility and shall not

qualify for a waiver under this Section.

(b) Conditional Status.

Any modified operating permit issued pursuant to this Section for an alternative grease management method, whether by waiver, certification or variance, shall be strictly conditional, and the Director of the Environmental Department may impose, as a part of the approval and issuance of, the permit, such conditions as the Director deems necessary and advisable to ensure the effective management of grease as intended under this Code. All approvals and permits issued under this Section shall contain, at a minimum, the following terms and conditions:

- (1) Fee Payment. The food service facility shall timely pay all applicable application and annual fees or other charges specified by the Director in the approval and/or modified permit or as may hereafter be required by this Code;
- (2) Code Compliance. The food service facility shall comply with each and all of the provisions of the Code which are not otherwise, expressly or by necessity, modified by the permit issued under this section;
- (3) Structural Arrangements. Notwithstanding the approval of any variance, certification or waiver, the food service facility shall be required for all new structures and for existing structures where reasonably feasible to provide structural arrangements suitable for the future installation and use of a grease interceptor, including but not limited to segregated wastewater lines within the plumbing of the facility, connection points for plumbing to an outside interceptor, and reserved location space, unrestricted, in the parking or adjacent area for placement of a future interceptor. The food service facility shall ensure that the structural arrangements are required to be preserved by any successors in interest and/or future occupants of the structural space;
- (4) Change of Operations or Circumstances. The food service facility shall notify the Environmental Department of any change in operation and/or circumstances which would or reasonably may affect the generation or discharge of fats, oils and grease at the facility;
- (5) Term and Periodic Review. Any alternative grease management method approved under this Section shall be for

a defined term as specified by the Director of the Environmental Department and shall be subject, in addition to standard inspections or compliance investigations, to a formal periodic review at least once each five (5) years. The review shall determine whether the food service facility is still qualified and eligible for the alternative method and whether the method is providing effective grease management at the facility as required by this Code;

(6) Best Management Practices. The Director of the Environmental Department shall develop and publish guidelines specifying the Best Management Practices (BMPs) in the food service industry for the management and disposal of fats, oils and grease and shall update the guidelines periodically to ensure that the current industry standards for BMPs are met. Each food service facility which is permitted to use an alternative grease management method under this Section shall implement and adhere to the BMPs as promulgated and updated by the Director, and the food service facility shall provide training, acceptable to the Environmental Department, for each and all of its employees upon hire and at least annually on the BMPs.

(7) Required Conversion. In the event that the food service facility fails for any reason to comply with any term or condition of the modified permit, including the conditions stated in this subsection, or if for any reason the alternative grease management method is not effective, as contemplated by this Section, then the Director may require and the food service facility shall cease operation of the alternative method and immediately install, at its own expense, a grease interceptor, or if allowable an approved grease removal device, meeting the requirements of this Code.

(c) Conversion from Existing Interceptor or Grease Removal Device. Any food service facility which has a permit for and is operating either a grease interceptor or grease removal device pursuant to this Part E of Article 4 of this Code may apply under this Section for a modified permit to use an alternative grease management method, and such a modified permit may then be issued to the facility if the Director determines that the facility meets all of the requirements for and is qualified to operate such alternative method; provided however, that such food service facility shall not be required to pay the processing fee required by Article 4.E.9.

Upon issuance of the modified permit under this subsection, the

permit issued for the grease interceptor or grease removal device shall be rescinded, and the food service facility shall decommission the grease interceptor or grease removal device in accordance with procedures, requirements and standards prescribed by the Environmental Department as a condition to and a part of the modified permit.

(d) Termination and Revocation of Modified Permit.

Any modified permit issued under this subsection for use of an alternative grease management method shall terminate automatically upon expiration of its term, unless renewed, or upon the occurrence of any event or action which would render the food service facility ineligible or not qualified to use an alternative grease management method. Immediately upon such termination, the food service facility shall cease any discharge of fats, oils or grease to the Sanitary Sewer System until a proper permit is issued and either a grease interceptor or grease removal device, or other approved alternative method, is installed and operational at the facility.

Any modified permit issued under this Subsection maybe revoked by decision of the Director of the Environmental Department, following notice and an opportunity to be heard being provided to the food service facility, whenever the Director determines that the food service facility has discharged or is discharging fats, oils, and/or grease to the sewer system in quantities which are causing accumulations in the sewer lines that are likely to result in a line obstruction and/or blockage or will result in increased maintenance for the wastewater collection system.

Upon revocation of the modified permit, the food service facility shall immediately cease any discharge of fats, oils, and/or grease to the sewerage system until a proper permit is issued and a grease interceptor is installed and operational at the facility.

Any food service facility which has had a modified permit revoked under this Code shall not be eligible thereafter for issuance of another modified permit for the same facility unless the Director of the Environmental Department determines that the management of the facility has fully modified operation at the facility and that such modifications reasonably ensure that the facility can effectively meet the intent and requirements of this Code with the use of an alternative grease management method.

Section 8. Notice of Noncompliance. The Environmental Department shall record all observations during an inspection of a food service facility subject to the grease management requirements of this Code in a written report, including

any violations. The Department shall notify the food service facility of any violations and provide a time frame for correcting the violations. The Department official may re-inspect any food service facility that has received a notice of noncompliance to determine whether all violations have been timely and completely corrected. The food service facility is subject to re-inspection fees as provided under Section 9 of this Part.

Section 9. Fees. The Director of the Environmental Department is hereby authorized under this Code to assess and collect fees in the amounts and according to the procedures set forth in this Section. The fees provided for in Part E of Article 4 are separate and distinct, and in addition to any other fee assessed by the Environmental Department. Such fees may be increased by up to ten (10) percent per year by the Environmental Department after notice to the BOCC and publication of intent to increase the fee in a newspaper of general circulation within the County. The BOCC may take action within thirty (30) days to disapprove or revise the fee after such notice. The fee shall automatically become effective if the BOCC takes no action within thirty (30) days and upon publication of the final fee in such newspaper.

- (a) Grease Interceptor Plan Review Fee. Any food service facility that wishes or is required to make a modification to an existing permitted grease interceptor(s) under this Code, and any food service facility that wishes to or is required to install a new grease interceptor under this Code, shall pay a nonrefundable fee to the Environmental Department with the plan review application. The fee shall initially be set at \$250 for each plan required to be reviewed.
- (b) Grease Interceptor Operating Fee. Each food service facility required under this Code to have a Grease Interceptor Operating Permit shall pay an annual fee to the Environmental Department with the permit application, except that the permit fee shall be waived for any facility that has in the same calendar year already paid a grease interceptor plan review fee. The permit fee shall initially be set at \$250 for each food service facility.
- (c) Re-inspection Fees. A food service facility that has not corrected violations of this Code by the date established in a written notice of noncompliance shall pay a re-inspection fee of \$100 to the Environmental Department for the first re-inspection, \$200 for the second re-inspection and \$300 for each subsequent re-inspection needed to confirm that the violation has been corrected. The re-inspection fees are in addition to any other enforcement action authorized under law to compel compliance with this Code.
- (d) Variance Request Processing Fees. A food service facility that submits a request for a variance from the provisions of Article 4, Part E, shall pay a processing fee of \$300 to the Environmental

Department. The Department shall not review a variance request until the processing fee has been paid in full. The processing fee is not refundable even if the variance request is denied.

Section 10. Regulation of Waste From Other Jurisdictions. Food service facilities regulated by the Environmental Department through an interlocal agreement must comply, at a minimum, with this Code.

ARTICLE 5

ENFORCEMENT

PART A. ADMINISTRATIVE ENFORCEMENT REMEDIES

Section 1. Notification of Violation. Whenever a user is found to be in violation of any provision of this Code, permit or order issued pursuant to this Code, or any pretreatment standard or requirement, the Administrator of the Unified Wastewater Districts and/or the Director of the Environmental Department shall provide the user with a notice of the nature of the violation, and direct that appropriate action be taken to remedy the noncompliance. In the case of permitted industrial users, enforcement of pretreatment violations shall generally be in accordance with the guidelines set forth in the Environmental Department's Enforcement Response Plan. Within thirty (30) days from issuance of such notice, unless a shorter time is specified, a plan for the satisfactory correction thereof shall be submitted by the user to the Administrator and/or Director.

- (a) Emergency Notice. For a violation which involves the discharge or imminent threat of discharge of pollutants by a user and which presents or appears to present an immediate danger to the health or welfare of humans or the environment or to the integrity or operations of the sewerage system, the Administrator and/or Director may notify the user by telephone or visit to take immediate action to discontinue or reduce the discharge to safe levels or, in the case of an imminent threat, to take appropriate actions to eliminate the threat within a reasonable amount of time as established by the Administering Agency. Such verbal notice shall be followed within five (5) days by a written notice.
- (b) Written Notice. For any violation other than one requiring immediate action, the Administrator and/or Director may notify the user by letter or by order as provided in Section 2, below, of this Article as to the nature of the violation and require the user to take action to remedy the noncompliance.

Section 2. Administrative Orders. The Administrator and/or Director is authorized to issue the following administrative orders at any time the Administering Agency deems such action appropriate to secure timely and effective compliance with this Code or an industrial wastewater discharge permit or order issued pursuant to this Code, whether or not any previous notifications of violation have been provided to the user:

- (a) Cease and Desist Order. The Administrator and/or Director may

issue an order to cease and desist a violation or an action or inaction which threatens a violation and to direct the user to comply forthwith or to take such appropriate remedial or preventive action as may be needed to properly address the violation or threatened violation, including halting operations and terminating the discharge.

- (b) Compliance Order. The Administrator and/or Director may issue an order requiring a user to provide within a specified period of time, such treatment, pretreatment or discharge control facilities or related appurtenances as are necessary to correct a violation or to prevent a threatened violation. A compliance order may also direct that a user provide improved operation and maintenance of existing discharge facilities, conduct additional self-monitoring or submit appropriate reports or management plans.
- (c) Show Cause Order. Administrator and/or Director may issue an order to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for a meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. Whether or not a duly notified user appears at the show cause meeting, additional enforcement action may be initiated.
- (d) Consent Order. Administrator and/or Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user. Such orders shall include specific actions to be taken by the user and specific time frames to correct a violation or to remove the threat of a violation.

Section 3. Emergency Authority.

- (a) When a user has failed to take action within the time established in a notice or order to eliminate an imminent threat to humans or to the environment or to the effective operation of the sewerage system, the Administrator and/or Director may take such action as deemed necessary, including work by county personnel, to eliminate the threat or to mitigate the impact on the sewerage system or the environment. The Administering Agency shall attempt to notify the person or user of the intended action, but if unable to do so within a reasonable period of time, shall proceed with the work. The user shall reimburse the County for all costs associated with such action.
- (b) Whenever any work is being performed on a building connection or sewer contrary to the provisions of this Code, the Administrator and/or Director may order the work stopped immediately by issuing a cease

and desist order, oral or written, and serving it on any persons engaged in such work, and any such person shall forthwith stop such work until authorized to proceed.

Section 4. Emergency Suspensions. The Administrator and/or Director 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 or the sewerage system. The Administering Agency may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the sewerage system, 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 the user's failure to immediately comply voluntarily with the suspension order, the Administering Agency 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 Administering Agency may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Administering Agency that the period of endangerment has passed, unless the termination proceedings in Article 5.A.5, of this Code 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 Administering Agency prior to the date of any show cause or termination hearing under Article 5.A.2 and 5 of this Code.
- (c) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Section 5. Termination of Discharge. In addition to the provisions in Article 5.A.4 of this Code, any user who violates any of the following conditions is subject to discharge termination:

- (a) Cause of Termination. In addition to the provisions in Article 5.A.4 of this Code, any user who violates any of the following conditions is subject to discharge termination:
 - (1) Violation of industrial wastewater discharge permit conditions;

- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
 - (5) Violation of the pretreatment standards in Article 4.C of this Code.
- (b) Process for Termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Article 5.A.2 of this Code why the proposed action should not be taken. Exercise of this option by the Administering Agency shall not be a bar to, or a prerequisite for, taking any other action against the user.

Section 6. Administrative Fines.

- (a) When the Administrator and/or Director finds that a person or user has violated, or continues to violate, any provision of a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Administering Agency may fine such user in an amount as delineated in Attachment "A", Administrative Fine Structure for Noncompliance with Wastewater Discharge and Pretreatment Regulations. Such fines may be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limit exceedances, fines may be assessed for each day during the period of violation. A lien against the users property shall be sought for such unpaid fines and interest.
- (b) Delinquent administrative fines shall, after thirty (30) calendar days, be considered delinquent and shall accrue interest at the same rate interest accrues for delinquent ad valorem taxes under State Law. In addition to any interest payable on the past due balance, a late payment fee in the amount of Five Dollars (\$5.00) shall be assessed for each violation. Unpaid administrative fines and interest shall be collected in the same manner that delinquent ad valorem taxes are collected under State law. In addition thereto, the Board of County Commissioners may cause suit to be commenced against any person or user that has failed to make timely payment of such fines and

accrued interest in any Court of competent jurisdiction for the purpose of collecting such charges.

- (c) On or before August 15, of each year, the Administrator and/or Director shall certify to the County Clerk of Johnson County the legal description of any real property subject to a lien for delinquent administrative fines along with the amount of such fines and interest accrued through the date of certification. Upon receipt of certification, the County Clerk shall place such charges for delinquent administrative fines and accrued interest on the tax rolls of the property for collection in the same manner that a lien securing delinquent ad valorem taxes are collected under State Law.
- (d) Written Notice of the intent of the Administrator and/or Director to certify such delinquent administrative fines and accrued interest to the County Clerk for placement on the tax rolls shall be sent by certified mail at least thirty (30) days prior to certification to the mailing address of the owners of the subject property listed on the real estate tax records at the Johnson County Treasurer's Office or other known address and to the current billing address of any person or persons residing upon or otherwise occupying the real property who are deemed to be the actual users of the sewer service that shall state:
 - (i) The intent of the Administrator and/or Director to certify the delinquent administrative fines and accrued interest to the County Clerk for placement on the tax rolls of the subject property unless such administrative fines and accrued interest is paid in full within thirty (30) days from the date of the Notice.
 - (ii) The date the Administrator and/or Director intends to certify the lien.
- (e) Any partial payments received in payment of delinquent administrative fines and accrued interest shall be applied first to any accrued interest and then to the principal amount of such administrative fines. Such payments shall be payable by the user to the appropriate Administering Agency. Following the placement of delinquent administrative fines and accrued interest on the real estate tax rolls, all payment for such charges shall be made to the Johnson County Treasurer's Office subject to the procedures under which delinquent ad valorem real estate tax payments are accepted, applied and distributed by the Johnson County Treasurer under state law.
- (f) Users desiring to dispute such administrative fines must file a written request to the Administering Agency to reconsider the fine along with full payment of the fine and accrued interest amount within five (5)

days of being notified of the fine. Where a request has merit, the Administrator and/or Director may convene a hearing on the matter. In the event the user's appeal is successful, the payment shall be returned to the user. The Administrator and/or Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

PART B. JUDICIAL ENFORCEMENT REMEDIES.

Section 1. Injunctive Relief. When the Administrator of the Unified Wastewater District and/or the Director of the Environmental Department finds that a person or user has violated, or continues to violate, any provision of this Code, a connection permit, an industrial wastewater discharge permit, a grease interceptor operating permit, or order issued hereunder, or any other pretreatment standard or requirement, the Administrator and/or Director may petition a court of competent jurisdiction through the County Counselor for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater discharge permit, grease interceptor operating permit, order, or other requirement imposed by this Code on activities of such person or user. The Administrator and/or Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person or user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against nor a prerequisite for, taking any other action against the such person or user.

Section 2. Civil Penalties.

- (a) A person or user who has violated, or continues to violate, any provision of this Code, a connection permit, an industrial wastewater discharge permit, a grease interceptor operating permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the County for a maximum civil penalty of Two Thousand Dollars (\$2,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The Administrator and/or Director may also 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 County.
- (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 by such person or user as a result of the violation, corrective actions by the person or user, the compliance history of such person or 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 person or user.

Section 3. Criminal Prosecution.

- (a) A person or user who violates any provision of a connection permit shall, upon conviction, be guilty of a Class D Infraction, punishable by a fine of not less than Fifty Dollars (\$50.00), nor more than One Hundred Dollars (\$100.00). Each calendar day, in which any such violation continues, including weekends and holidays, shall be deemed a separate offense.
- (b) A person or user who violates any provision of this Code or an order issued hereunder, including but not limited to violations of Article 3. B.6 and Article 4. E., or introduces any substance into the sewerage system which causes personal injury or property damage shall, upon conviction, be guilty of a Class G Infraction, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). Each calendar day, in which any such violation persists, including weekends and holidays, shall be deemed a separate offense.
- (c) A user who violates any provision of an industrial wastewater discharge permit or of any pretreatment standard or requirement, shall, upon conviction, be guilty of a Class I Infraction, punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). Each calendar day, in which any such violation persists, including weekends and holidays, shall be deemed a separate offense.
- (d) Any person or user who knowingly makes any false statements, representations, or certifications in any application, reports, records, plan, or other documentation filed, or required to be maintained, pursuant to this Code, connection permit, industrial wastewater discharge permit, grease interceptor operating permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Code shall, upon conviction, be guilty of a Class I Infraction punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than

Five Hundred Dollars (\$500.00). Each calendar day, in which any such violation persists, including weekends and holidays, shall be deemed a separate offense.

- (e) In the event of a second conviction, a person or user shall be guilty of the next higher class infraction. Each calendar day, in which any such violation persists, including weekends and holidays, shall be deemed a separate offense.

Section 4. Remedies Nonexclusive. The remedies provided for in this Code are not exclusive. The Administrator and/or Director of the Administering Agency may take any, all, or any combination of these actions against a non-compliant person or user. Enforcement of pretreatment violations will generally be in accordance with the Environmental Department's Enforcement Response Plan. However, the Administering Agency may take other action against any person or user when the circumstances warrant. Further, the Administering Agency is empowered to take more than one enforcement action against any non-compliant person or user.

PART C. SUPPLEMENTAL ENFORCEMENT ACTION

Section 1. Performance Bonds. The Director may decline to issue or reissue an industrial wastewater discharge permit to any industrial user who has failed to comply with any provision of this Code, a previous industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such industrial user first files a satisfactory bond, payable to the County in a sum not to exceed a value determined by the Director to be necessary to achieve a consistent compliance.

Section 2. Access and Right of Entry. Representatives of the Environmental Department, the Unified Wastewater Districts, the KDHE, and the EPA, and their designated agents, upon proper showing of identification, shall have the right to enter upon a user's property for sewer maintenance, inspection, sampling or other purpose permitted under this Code, and may apply for the issuance of an administrative search warrant from a court of competent jurisdiction to obtain access in situations where deemed advisable.

Section 3. Liability Insurance. The Director may decline to issue or reissue an industrial wastewater discharge permit to any industrial user who has failed to comply with any provision of this Code, a previous industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

Section 4. Sewer Connection Severance. Whenever a user has violated or continues to

violate any provision of this Code, a condition of a sewer connection permit, an industrial wastewater discharge permit, grease interceptor operating permit, or order issued hereunder, or any other pretreatment standard or requirement, sewer service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Section 5. Public Nuisances. A violation of any provision of this Code, an industrial wastewater discharge permit, grease interceptor operating permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared to be a public nuisance. Accordingly, it is hereby declared that in the interest of the public health, safety and welfare the elimination or removal of such public nuisances are public purposes, which may be corrected or abated as directed by the Administrator and/or Director.

Section 6. Contractor Listing. Industrial users, which have not achieved compliance with applicable pretreatment standards and requirements, are not eligible to receive a contractual award for the sale of goods or services to the County. Existing contracts for the sale of goods or services to the County held by an industrial user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the BOCC.

Section 7. Withholding Permit. The Administrator and/or Director may refuse to issue a permit to any applicant if the applicant has violated any provision of this Code, connection permit, industrial wastewater discharge permit or grease interceptor operating permit and, at the time when application is made for said permit, the applicant has failed or refused to correct such violation or failed or refused to pay or satisfy any penalty imposed under this Code.

Section 8. Public Notification. To comply with 40 C.F.R. 403.8(f)(2)(vii) the Environmental Department shall publish, at least once a year, in the local daily newspaper with the largest circulation in the Unified Wastewater Districts service area the name of industrial users which, during the calendar year are in significant noncompliance of applicable pretreatment standards or requirements.

ATTACHMENT "A"
JOHNSON COUNTY ADMINISTRATIVE FINE STRUCTURE
FOR NONCOMPLIANCE WITH WASTEWATER DISCHARGE
PRETREATMENT REGULATIONS

<u>Nature of Violation</u>	<u>Fine Amount Assessed</u> <u>Per Violation Per Day</u>
Late submittal of required report -- less than thirty (30) days past due date:	\$ 100.00
Discharge Violation -- does not exceed TRC criteria:	\$ 250.00
Discharge Violation -- exceeds TRC criteria:	\$ 500.00
Violations which place the industrial user in SNC (significant noncompliance):	\$1,000.00
Falsification of Reports:	\$2,000.00 plus Termination of Service
Unlawful denial of entry and/or unprecedented delay of entry:	\$ 2,000.00 plus Termination of Service

