

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF MINEOLA, TEXAS ADOPTING REGULATIONS CONCERNING THE DISCHARGE OF WASTEWATER AND MANAGEMENT OF THE CITY'S WASTEWATER TREATMENT SYSTEM; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Mineola, Texas ("City") has previously passed regulations concerning the discharge of wastewater and management of the City's wastewater treatment system and codified said regulations in Chapter 44 (Utilities), Article 3 (Sewers) of the Mineola Code of Ordinances; and

WHEREAS, the City Council now desires to pass new regulations concerning the discharge of wastewater and management of the City's wastewater treatment system; and

WHEREAS, by the passage of this Ordinance, the City Council adopts and implements new regulations concerning the discharge of wastewater and management of the City's wastewater treatment system and repeals the current regulations as previously referenced and found in Chapter 44, Article 3 of the City's Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City Council for the City of Mineola, Texas as follows:

**I.
REGULATIONS CONCERNING THE DISCHARGE OF
WASTEWATER AND MANAGEMENT OF THE CITY'S
WASTEWATER TREATMENT SYSTEM**

By the passage of this Ordinance, the City Council hereby adopts and implements the regulations concerning the discharge of wastewater and management of the City's wastewater treatment system which are attached hereto as **Exhibit A** to this Ordinance. As noted in **Exhibit A**, said regulations shall be codified in the Mineola Code of Ordinances as Chapter 44 (Utilities), Article 3 (Sewers). Said regulations found in **Exhibit A** shall supersede, repeal and take priority over the regulations found in Chapter 44 (Utilities), Article 3 (Sewers) as of the date of the passage of this Ordinance.

**II.
REPEALER**

By the passage of this Ordinance, the regulations contained in **Exhibit A** attached hereto shall serve to repeal and replace the previous regulations contained in Chapter 44 (Utilities), Article 3 (Sewers) which were operative prior to the passage of this Ordinance.

**III.
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, subsections and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, subsection or phrase of this Ordinance shall be declared unconstitutional by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining sections, paragraphs, sentences, clauses, subsections and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or illegal section, paragraph, sentence, clause, subsection or phrase.

**IV.
EFFECTIVE DATE**

This Ordinance shall become effective upon its passage and publication as required by law.

PASSED and APPROVED by the City Council for the City of Mineola, Texas this _____ day of _____, 2023.

APPROVED BY:

Jayne Lankford, Mayor

ATTEST:

Cindy Karch, City Secretary

CHAPTER 51: WASTEWATER

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GENERAL PROVISIONS

§ 51.001 TITLE.

This chapter shall be known as the “Industrial Waste Ordinance of the City of Mineola”.

§ 51.002 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for all users, inside or outside of the city, of the city’s Publicly Owned Treatment Works (POTW). The purpose of this chapter is to enable the city to comply with the applicable state and federal laws, including the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) and the General Pretreatment Regulations (40 C.F.R. pt. 403). The objectives of the chapter are:

- (1) To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- (3) To protect the environment and the health, safety and welfare of the public and the POTW workers by regulating the pretreatment, the transport and the disposal of liquid wastes;
- (4) To promote reuse and recycling of industrial wastewater and sludge for the POTW;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW;
- (6) To enable the city to comply with its Texas Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject; and
- (7) To prevent the discharge of grease, oil, sand, Flammable or other harmful substances in amounts which may cause stoppages or obstructions of flow or in any other way prevent or inhibit operation of the POTW, including the collection system and the treatment plant, by requiring users to provide a device to intercept and treat these wastes, and by setting forth uniform requirements for the installation and maintenance of these devices.

(B) Nothing herein shall compel the city to provide any facility where sand, oil, grease or other wastes other than sanitary sewage may be disposed.

(C) This chapter authorizes the issuance of wastewater discharge permits, provides for monitoring, compliance and enforcement activities, establishes administrative review procedures, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

§ 51.003 ADMINISTRATION.

Except as otherwise provided herein, the Control Authority shall administer, implement and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Control Authority may be delegated by the Control Authority to other city personnel.

§ 51.004 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

- (A) BMR: Baseline Monitoring Report;
- (B) BOD: Biochemical Oxygen Demand;
- (C) C.F.R.: Code of Federal Regulations;
- (D) CIU: Categorical Industrial User;
- (E) CWA: Clean Water Act (33 U.S.C. §§ 1251 *et seq.*, as amended);
- (F) EPA: United States Environmental Protection Agency;
- (G) FOG: Fats, Oils and Greases
- (H) FR: Federal Register;
- (I) gpd: Gallons per day;
- (J) IU: Industrial User;
- (K) l: Liter;

- (L) LEL: Lower Explosive Limit;
- (M) mg: Milligrams;
- (N) mgd: Million gallons per day;
- (O) mg/l: Milligrams per liter (1mg/l = 1 ppm);
- (P) NPDES permit: National Pollutant Discharge Elimination System permit issued pursuant to § 402 of the Clean Water Act, being 33 U.S.C. § 1342;
- (Q) O&M: Operation and Maintenance;
- (R) POTW: Publicly Owned Treatment Works;
- (S) PPM: Parts per million (1 ppm = 1 mg/l);
- (T) RCRA: Resource Conservation and Recovery Act, being 42 U.S.C. §§ 6901 *et seq.*;
- (U) SIC: Standard Industrial Classification;
- (V) SIU: Significant Industrial User;
- (W) SWDA: Solid Waste Disposal Act, being 42 U.S.C. §§ 6901 *et seq.*;
- (X) TCEQ: Texas Commission on Environmental Quality;
- (Y) TSS: Total Suspended Solids; and
- (Z) U.S.C.: United States Code.

§ 51.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

ACT or **THE ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 U.S.C. §§ 1251 *et seq.*

APPROVAL AUTHORITY. The Regional Administrator of the United States Environmental Protection Agency (EPA), Region VI, or his or her designee.

AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

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

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having a gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

(3) If the user is a federal, state or local governmental facility, a Control Authority or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his or her designee.

(4) The individuals described in divisions (1) through (3) above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

BASELINE MONITORING REPORT or ***BMR***. A report submitted by categorical industrial users within 180 days after the effective date of an applicable categorical standard which indicates the compliance status of the user with the categorical standard.

BIOCHEMICAL OXYGEN DEMAND or ***BOD***. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20^o centigrade, usually expressed as a concentration (e.g., mg/l).

BLOWDOWN. The discharge of water with high concentrations of accumulated solids from boilers to prevent plugging of the boiler tubes and/or steam lines. In cooling towers, ***BLOWDOWN*** is discharged to reduce the concentration of dissolved salts in the recirculating cooling water. Clean “make-up” water is added to dilute the dissolved solids in the system. ***BLOWDOWN*** also includes the discharge of condensate.

BYPASS. The intentional diversion of waste streams from any portion of an industrial user’s pretreatment facility.

CATEGORICAL PRETREATMENT STANDARD or ***CATEGORICAL STANDARD***.

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307 (b) and (c) of the Act (33 U.S.C. § 1317) which apply to specific category of users and which appear in 40 C.F.R. pts. 405-471.

CATEGORICAL INDUSTRIAL USER or ***CIU***. An industrial user subject to categorical pretreatment standards.

CHAIN OF CUSTODY. A legal record (which may be a series of records) of each person who had possession of an environmental sample, from the person who collected the sample to the person who analyzed the sample in the laboratory and to the person who witnessed the disposal of the sample.

CHEMICAL OXYGEN DEMAND or ***COD***. The measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater (expressed in mg/l).

CITY. The City of Mineola, Texas.

COLOR. The optical density at the visual wavelength of maximum absorption relative to distilled water. One hundred percent transmittance is equivalent to 0.0 optical density.

COMBINED WASTESTREAM FORMULA or ***CWF***. A means of deriving alternative categorical discharge limits in situations where process effluent is mixed with waste waters other than those generated by the regulated process prior to treatment.

COMPOSITE SAMPLE. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time. The aggregate sample will reflect the average water quality covering the sample period.

CONTROL AUTHORITY. Authorized representative of the City of Mineola.

CONVENTIONAL POLLUTANT. A pollutant which has been designated as conventional under § 304 (a)(4) of the Act. These pollutants include: BOD, TSS, pH, fecal coliform and oil and grease.

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

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly to the waters of the state.

DISCHARGE PERMIT. A permit as described in § 51.091 of this chapter.

DOMESTIC SEWAGE. Water-carried wastes normally discharging into sanitary sewers of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from storm surface water and industrial wastes. The “normal” sewage for the city is established at average concentrations of BOD and TSS at not more than 300 mg/l and 300 mg/l, respectively.

EFFLUENT. Wastewater or other liquid, raw, untreated, partially or completely treated, flowing from IU to a reservoir, basin, treatment process or treatment plant.

ENVIRONMENTAL PROTECTION AGENCY or EPA. The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of the agency.

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to the source if the standard is thereafter promulgated in accordance with § 307 of the Act, being 33 U.S.C. § 1317.

FATS, OILS AND GREASES or FOG. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measureable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases”

FLOW PROPORTIONAL COMPOSITE SAMPLE. A sampling method which combines discrete aliquots of a sample collected over time, based on the flow of the wastestream being sampled by one of two methods:

(1) Collection of a constant sample volume at time intervals based on stream flow (e.g., 200 ml sample collected for every 5,000 gallons discharged); or

(2) Collection of aliquots of varying volume, based on stream flow, at constant time intervals.

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

GRAB SAMPLE. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

GREASE TRAP or TRAP. A water-tight receptacle designed and constructed to intercept and prevent the passage of greasy, fatty liquid, semi-liquid, and/or solid wastes, into the sanitary sewer system to which the receptacle is directly or indirectly connected.

HAZARDOUS WASTE. A hazardous waste in accordance with 40 C.F.R. pt. 261.3.

HOLDING TANK. A receptacle, not connected to the sanitary sewer, designed to hold objectionable waste that is prohibited from being discharged into the sanitary sewer, the contents of which must be hauled to a disposal site.

INCOMPATIBLE WASTES. Wastes which have different processing, storage or disposal requirements.

INDIRECT DISCHARGE or **DISCHARGE.** The introduction of pollutants into the POTW from any non-domestic source regulated under § 307(b), (c) or (d) of the Act, being 33 U.S.C. § 1317.

INDUSTRIAL USER or **IU.** A source of indirect discharge.

INDUSTRIAL WASTE. All water-borne liquids and gaseous wastes resulting from any industrial, manufacturing or food processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

INFLUENT. Wastewater or other liquid, raw (untreated), partially or completely treated, flowing into a reservoir, basin, treatment process or treatment plant.

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

INTERCEPTOR. A receptacle designed and constructed to intercept, separate and prevent passage of sand, grit or other objectionable solids into the drainage system to which it is connected. An **INTERCEPTOR** may be integrated with a separator for vehicle wash bays or repair areas.

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

(1) Section 405 of the Clean Water Act (33 U.S.C. § 1345); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);

(2) Any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA;

(3) The Clean Air Act;

- (4) The Toxic Substances Control Act; and
- (4) The Marine Protection, Research and Sanctuaries Act.

LOCAL LIMITS. Effluent discharge limits applicable to industrial users of the Control Authority's system developed by the Control Authority in accordance with 40 C.F.R. pt. 403.5(c).

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

MILLIGRAMS PER LITER or PPM. A weight to volume ratio; the milligrams per liter value multiplied by the factor of 8.34 shall be equivalent to pound per million gallons of water.

NATIONAL CATEGORICAL PRETREATMENT STANDARD, PRETREATMENT STANDARD or STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317), which applies to industrial users. This term includes prohibitive discharge limits established pursuant to § 403.5.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act which will be applicable to the source is the standards are thereafter promulgated in accordance with that section, provided that:

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

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

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

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

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

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

1. Any placement, assembly or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment.

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

NINETY-DAY COMPLIANCE REPORT. A report submitted by categorical industrial users within 90 days following the date for final compliance with the standards. This report must contain flow measurement (or regulated process streams and other streams), measurement of pollutants and a certification as to whether the categorical standards are being met.

NON-CONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product or finished product.

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERIODIC COMPLIANCE REPORT. A report submitted at least twice annually by each significant industrial user regulated under the local pretreatment program which indicates the nature and concentration of pollutants in the effluent which are limited by applicable pretreatment standards. In addition, the periodic report must indicate a record of measured or estimated average maximum daily flows for the reporting period.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state and local government entities.

pH. A measure of the acidity or alkalinity of a solution specifically the logarithm (base 10) of the reciprocal of the hydrogen ion concentration, expressed in standard units (SU).

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes discharged into waters and possessing the characteristics of wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, toxicity or odor).

POLLUTION. The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

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

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

PRETREATMENT STANDARDS or STANDARDS. Prohibitive discharge standards, categorical pretreatment standards, local limits and daily maximum limits.

PROCESS WASTEWATER. Any water which, during manufacturing or processing, comes into direct contact with or results from the production of or use of any raw material, intermediate product, finished product, byproduct or waste product.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 51.025 of this chapter.

PUBLIC SEWER. A sewer controlled by the city.

PUBLICLY OWNED TREATMENT WORKS or POTW. A **TREATMENT WORKS**, as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned by the city. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in § 502(4) of the Act, being 33 U.S.C. § 1362, which has jurisdiction over the indirect discharges to, and the discharges from, a treatment works.

REGULATED WASTESTREAM. An industrial process wastestream regulated by a national categorical pretreatment standard.

REPRESENTATIVE SAMPLE. A 24-hour composite sample consisting of at least 12 parts where the discharge is continuous. Where the discharge is not continuous, the sample shall be representative of all discharges occurring in a 24-hour period. Grab samples shall be collected for pH, cyanide, total phenols, sulfides, oil and grease, total petroleum hydrocarbons, and volatile organics analyses.

SAMPLING PORT. A manhole or other approved device installed in the building sewer specifically designed to facilitate sampling of the wastewater discharge.

SANITARY SEWER. A sewer that conveys wastewater, and into which storm, surface and ground waters or unpolluted industrial wastes are not intentionally passed.

SELF MONITORING. Sampling and analysis performed by the industrial user to ensure compliance with the permit or other regulatory requirement.

SEPARATOR. A receptacle designed to remove oil and grease from wastewater by separation, usually by simple flotation or by chemical addition where the oils or grease are soluble or emulsified. For the purpose of this Ordinance, the term shall apply to oil separation units employed for vehicle wash facilities

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

SEWAGE. Human excrement and gray water (gray water originates from household showers, dishwashing operations and the like).

SEWER SERVICE CHARGE. The charge made on all users of the public sewer whose wastes do not exceed in strength the concentration values established in this chapter.

SHALL. Mandatory (*MAY* is permissive).

SIGNIFICANT INDUSTRIAL USER.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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

SLUDGE. The settleable solids intentionally separated from liquid waste streams during treatment typically under quiescent conditions, and the unintentional accumulation of solids in tanks and reservoirs associated with production and manufacturing processes.

SLUG DISCHARGE CONTROL PLAN. A plan designed to prevent the uncontrolled discharge of raw pollutants or materials, (e.g., a dairy spill of milk may disrupt a small POTW and would have to be reported even though milk is not a "pollutant") into the POTW. Every significant industrial user is required to be evaluated, at least every two years, for the necessity of instituting a control plan.

SLUG LOAD or SLUG. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 51.025 or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

STATE. State of Texas.

STANDARD INDUSTRIAL CLASSIFICATION or SIC. A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

STORM SEWER. A sewer which carries storm and surface waters and drainage but excludes domestic sewage and industrial wastes.

STORM WATER. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snow melt.

STORM WATER RUNOFF. That portion of the rainfall that is drained into the storm sewers or conveyed by surface flow to man-made or natural drainage courses.

SURCHARGE. The charge in addition to the sewer service charge which is made on those users whose wastes are greater in strength than the concentration values established as representative of normal domestic wastewater or are greater in flow.

SURCHARGE LIMIT. A base limit for the conventional pollutants (BOD, COD, TSS or TDS), which when exceeded will result in a surcharge. Where surcharge limits are expressed in units of mass, the daily discharge is the total mass discharge over the course of the day. Where surcharge limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

TIME PROPORTIONAL COMPOSITE SAMPLE. A sampling method which combines discrete sample aliquots of constant volume collected at constant time intervals (e.g., 200 ml samples collected every half hour for a 24-hour period). This method provides representative samples only where the sample stream flow is constant, or where the volume is manually adjusted based on stream flow variation prior to being added to the composite sample container.

TOTAL DISSOLVED SOLIDS or **TDS.** The total matter dissolved in water, wastewater or other liquid which is not removable by normal laboratory filtering.

TOTAL SUSPENDED SOLIDS or **TSS.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquid, and which is removable by laboratory filtering.

TOXIC POLLUTANT. Those pollutants or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism either directly from the environment or indirectly by ingestion through the food chain, will, on the basis of information available to the Administration of the EPA, cause, death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in organisms or their offspring. The pollutants which have been identified as toxic are listed at 40 C.F.R. pt. 122, Appendix D.

TRANSPORTER. A person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code §312.142.

USER or **INDUSTRIAL USER.** A source of indirect discharge.

WASTEWATER. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER TREATMENT PLANT or **TREATMENT PLANT.** That portion of the POTW which is designated to provide treatment of municipal sewage and industrial waste.

§ 51.006 INTERPRETATION.

(A) **SHALL** is mandatory; **MAY** is permissive or discretionary.

(B) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

§ 51.007 RIGHT TO ASSESS.

The city may adopt reasonable charges and fees for reimbursement of costs setting up and operating the city's Pretreatment Program.

GENERAL SEWER USE REQUIREMENTS**§ 51.025 DISCHARGE TO PUBLIC SEWERS PROHIBITED.**

- (A) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.
- (B) In cases where, in the opinion of the Control Authority, the character or volume of the wastewater from a manufacturing, commercial or industrial facility or other premises is such that it will damage the system or cannot be treated satisfactorily in the system or violates this chapter in any manner, the Control Authority shall have the right to require disposal of such waste otherwise and prevent it from entering the POTW.

(C) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

(1) Any liquids, solids, or gases, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire, explosion or be injurious in any way to the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, perchlorates, bromates, carbides, hydrides, sulfides and any other substances which the city, the state or the EPA has notified the user is a fire hazard or a hazard to the system. Prohibited wastestreams shall include, but are not limited to, wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test methods specified in 40 C.F.R. pt. 261.21;

(2) Pollutants which will have any corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW, or discharges with pH lower than 5.5 or greater than 10.;

(3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in sanitary sewers or other interferences with the proper operation of the POTW or solids greater than 1/2-inch in any dimension;

(4) Any pollutant, including oxygen demanding pollutants (BOD , COD, etc.)and total dissolved solids, released in a discharge at a flowrate and/or concentration which, either singly or by interaction with other pollutants, will cause pass through or interference with the POTW;

(5) Any wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the POTW resulting in interference, or wastewater which causes the temperature at the introduction into the POTW to exceed 140°F(40°C);

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

(7) Any free or emulsified fats, waxes, oils or greases containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0° –65°C) or any combination of free or emulsified fats, waxes, oils or greases, if, in the opinion of the control authority, it appears probable that such wastes:

- a. Can deposit grease or oil in the sanitary sewers in such a manner as to clog the sewers;
- b. Can overload skimming and grease handling equipment;
- c. Are not amenable to bacterial action and will therefore pass through to the receiving water without being affected by normal sewage treatment processes;
- d. can have deleterious effects on the treatment process due to excessive quantities

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

(9) Any trucked or hauled pollutants;

(10) Noxious or malodorous liquids, gases, solids or other wastewater which either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, prevent entry into sewers for maintenance or repair, or creates any other condition deleterious to structures or treatment processes or requires unusual facilities, attention or expense to handle the materials;

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

(12) Wastewater containing any radioactive wastes of isotopes except in compliance with applicable state or federal regulations;

(13) Storm water, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water and unpolluted wastewater unless specifically authorized by the Control Authority;

- (14) Sludges, screenings or other residues from the pretreatment of industrial wastes;
- (15) Medical wastes, except as specifically authorized by the Control Authority in a wastewater discharge permit;
- (16) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (17) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW;
- (18) Septic tank waste; and
- (19) Any wastewater that causes a hazard to human life or creates a public nuisance.

(D) *Prohibited substances.* Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW, and a user shall not discharge or cause to be discharged plastics, paper, non-biodegradable oils or other non-biodegradable materials. Penalty, see § 51.999

§ 51.026 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, pts. 405-471 are hereby incorporated.

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

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

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

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

§ 51.027 LOCAL LIMITS.

(A) The following pollutant limits are established to protect against pass through and interference.

(B) No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

<i>Pollutant</i>	<i>mg/l</i>
Aluminum	*
Arsenic	.60
Cadmium	.20
Chromium	5.0
Copper	.60
Cyanide	.30
Lead	.30
Mercury	.01
Molybdenum	*
Nickel	2.0
Selenium	*
Silver	.10
Thallium	*
Zinc	2.0
Total Phenols	2.0
Oils and Grease	100.0

*Note: No technically based local limits for these constituents have been developed at this time. This section reserved for future use.

(C) The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for “total” metal unless indicated otherwise. The Control Authority may impose mass limitations in addition to, or in place of, the concentration-based limitation above. Penalty, see § 51.999

§ 51.028 CITY’S RIGHT OF REVISION.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

§ 51.029 SPECIAL AGREEMENT.

The city reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 C.F.R. pt. 403.15. They may also request a variance from the categorical pretreatment standards from the EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by the EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 C.F.R. pt. 403.13.

§ 51.030 DILUTION PROHIBITED.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Control Authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. Penalty, see § 51.999

§ 51.031 DISCHARGE TO MANHOLES.

No wastes, including any liquid, solid or septic tank wastes which are generated at residential, commercial or industrial facilities, shall be discharged to the sanitary sewer by means other than a permanent sewer connection to the public sewer system including, but not limited to, manholes, clean outs and inspection ports and in accordance with the provisions contained in this chapter without permission of the Control Authority. This includes wastes which are transported via truck, rail or other transportation means. Penalty, see § 51.999

§ 51.032 DIRECT DISCHARGES.

Unless authorized by the Texas Commission on Environmental Quality, no person shall deposit or discharge any wastewater, industrial waste or polluted liquid on public or private property, into or adjacent to any natural outlet, natural watercourse, storm sewer, street, gutter, drainage ditch or other area within the jurisdiction of the city. Penalty, see § 51.999

§ 51.033 VANDALISM.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in §§ 51.160 *et seq.* and 51.999.

PRETREATMENT OF WASTEWATER**§ 51.050 PRETREATMENT FACILITIES.**

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 51.025 within the time limitations specified by the EPA, the state, or the Control Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing the facilities and operating procedures shall be submitted to the Control Authority for review, and shall be acceptable to the Control Authority before the facilities are constructed. The review of the plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

§ 51.051 ADDITIONAL PRETREATMENT MEASURES.

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

(B) The Control Authority may require any person discharging into the POTW to install and maintain, on his or her property and at his or her expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(C) Grease traps, interceptors, oil separators, or holding tanks shall be provided for the proper handling of wastes containing grease, oil, flammable wastes, sand and other pollutants which may be harmful to the building drainage system, the public sewer or the POTW treatment works, except that such interceptors shall not be required for residential users except apartment buildings. All interception units shall be of type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. The interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at his or her expense in accordance with the provisions of this chapter.

(1) Holding tanks shall be provided for waste oils and other objectionable waste that is

prohibited from being discharged into the sanitary sewer. The holding tanks shall be constructed to prevent leakage and splashing and shall be equipped with secondary containment to prevent spills during operation and cleaning. The tanks shall be maintained to preclude odor and other nuisances and shall not be connected to the sanitary sewer or in any other way allowed to be discharged to the sanitary sewer.

(2) The following types of establishments **may** be exempted from the requirements of this division:

- (a) Private living quarters;
- (b) Bars and clubs serving drinks only and where no food is provided;
- (c) Snow cone and shaved ice stands, provided no other type of food is prepared;
- (d) Grocery or convenience stores without food preparation, meat cutting or packaging, delicatessens or bakeries;
- (e) Day care centers which primarily serve microwaved dishes, using single service items;
- (f) Confectionery stores which sell, exclusively, unpackaged sweets, confections, nuts, ice cream, yogurt, and variety food items;
- (g) Produce markets; and
- (h) Mobile food establishments in a vehicle or trailer designed to be easily movable and not discharging to the sanitary sewer.

(D) Any establishment not specifically exempted by this chapter or other ordinance which prepares food for on-site or off-site consumption shall be equipped with an adequately-sized grease trap or interceptor.

(1) Such pretreatment facilities shall be protected from rainwater and runoff. Drainage from areas exposed to rainwater or runoff shall not be connected to the sanitary sewer.

(2) Sand interceptors shall be provided for the pretreatment of wastewater from carpet cleaning and water extraction operations.

(a) Facilities operating vehicles specifically designed for carpet cleaning and extraction operations shall maintain a sand interceptor at the place of business and shall discharge wastewater from the operation through the interceptor at a rate which will assure efficient removal of the non-biodegradable sand and grit.

(b) Such pretreatment facilities shall be protected from rainwater and runoff. Drainage from areas exposed to rainwater or runoff shall not be connected to the sanitary sewer.

(c) Such wastewaters shall not be discharged onto public or private property, into any street or gutter or storm drain, into any natural or manmade waterway or into the sanitary sewer at any residence. The wastewaters shall not be discharged into any sanitary sewer without pretreatment.

(E) Vehicle wash facilities, including but not limited to automatic and hand wash facilities, detail shops, hand wash bays in service stations and other facilities, and similar installations shall be equipped with sand interceptors and oil separators and shall discharge to the sanitary sewer except where an appropriate direct discharge permit has been issued by the appropriate regulatory agency(ies).

(1) Such pretreatment facilities shall be protected from rainwater and runoff. Drainage from areas exposed to rainwater or runoff shall not be connected to the sanitary sewer.

(F) Work areas of machine shops or of any facility or part of a facility which manufactures, rebuilds, repairs, overhauls, or maintains motors, transmissions, hydraulic systems, or similar machinery and areas where fluids are changed shall not have floor drains or other devices draining into the sanitary sewer.

(1) Areas like those described above shall be physically separated, either by berm, separate building, or other suitable method, from any area having drains connected to the sanitary sewer.

(2) Drainage from areas like those described above shall be discharged into a holding tank or shall be absorbed with suitable absorbent and shall be properly disposed.

(3) Floor cleaning wash water from areas like those described above shall be excluded from the sanitary sewer except where pretreated to within the specifications of this chapter or other applicable ordinance.

(G) Steam cleaning and chemical cleaning facilities shall not discharge to the sanitary sewer unless a facility or process is provided that will consistently produce an effluent that is in compliance with this chapter or other applicable ordinance, particularly in regard to grease, oils, organics, and other chemicals.

(H) Where pretreatment or flow equalization facilities are provided for any waters or wastes, these facilities shall be maintained in satisfactory and effective operation by the owner or operator at his or her expense.

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

§ 51.052 MONITORING REQUIREMENTS.

(A) Where required by any permit or order or otherwise ordered by the Control Authority, the non-domestic user shall obtain representative samples of a wastewater discharge or proposed discharge for analysis. Specified analyses shall be conducted no less frequently than as outlined in the permit or order or other document issued by the Control Authority.

(1) Specific pollutants for which to analyze shall be determined by the Control Authority.

(2) A qualified testing laboratory who adequately demonstrates acceptable quality control/quality assurance shall be employed to conduct analyses. This may be demonstrated through a state, professional or federal program or association.

(3) Analyses may be conducted by qualified persons on-site only with prior written approval of the Control Authority. On-site laboratories conducting monitoring for compliance with this chapter shall be subject to the same requirements as commercial or contract laboratories

(4) All costs of monitoring shall be borne by the user.

(B) The Control Authority may conduct sampling and analyses of the discharge of any non-domestic user where deemed necessary to assure compliance with this chapter or other applicable ordinance. The Control Authority may randomly sample and analyze the discharge from any non-domestic user and conduct surveillance activities in order to identify, independent of information supplied by the user, occasional and continuing compliance or noncompliance with the provisions of this chapter or other applicable ordinance.

(C) All costs of analyses, including shipping charges, if any, of samples collected by the Control Authority shall be billed to the user.

(D) All sampling and analyses shall be conducted in accordance with procedures outlined in 40 C.F.R. pt. 136 and amendments thereto, except where a particular method for analysis is prescribed in 40 C.F.R. for a federal category or subcategory or where specified in a permit or other document issued by the Control Authority. For analysis of pollutants not listed in the Code of Federal Regulations, the method shall be determined by the Control Authority.

(E) The Control Authority may require any non-domestic user to install a suitable sampling port in the building sewer to facilitate observation, sampling, and measurement of the wastes and flows. Sampling ports shall be readily accessible to the Control Authority

(1) Sampling ports shall be easily accessible and safely located and shall be constructed in accordance with plans approved by the Control Authority. Sampling ports shall be subject to inspection by the Control Authority prior to use.

(2) An appropriate sampling port shall be installed in the building sewer immediately downstream from the pretreatment facilities if they exist, or immediately downstream from the regulated process if no pretreatment exists.

a. The sampling port shall be equipped with an access cover not less than 24 inches in diameter, with a flow channel not less than four inches in width and 12 inches in length.

- b. Sampling ports shall be installed and maintained by the owner or operator at his or her expense.

(3) (a) Sampling ports shall be constructed to exclude entry and exit of waters not discharged through the building sewer, i.e., to prevent infiltration/inflow and exfiltration/exflow.

(b) The Control Authority may require the installation of a sampling port in the tank of any vehicle used to deliver transported waste to the Mineola POTW. The sampling port shall be readily accessible and shall facilitate sampling of the tank contents without causing the discharge of any of the contents of the tank.

§ 51.053 TENANT RESPONSIBILITIES.

Where an owner of property leases to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this chapter.

WASTEWATER DISCHARGE PERMIT ELIGIBILITY

§ 51.070 WASTEWATER ANALYSIS.

When requested by the Control Authority, a user must submit information on the nature and characteristics of its wastewater prior to commencing their discharge. The Control Authority is authorized to prepare a form for this purpose and may periodically require users to update this information. If a user fails to complete any form identified as required by the Control Authority, the user will be in violation of this chapter and subjects the user to the sanctions set out in §§ 51.160 *et seq.* and 51.999.

§ 51.071 DISCHARGE PERMITS REQUIRED.

(A) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Control Authority, except that a significant industrial user that has filed a timely application pursuant to § 51.072 may continue to discharge for the time period specified therein.

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

(C) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 51.160 *et seq.* and 51.999. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law. Penalty, see § 51.999

§ 51.072 EXISTING CONNECTIONS.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the Control Authority for a wastewater discharge permit in accordance with § 51.071, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the Control Authority. Applicable surcharges for existing connections will be effective upon the effective date of this chapter.

§ 51.073 NEW CONNECTIONS.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging wastewater into the POTW must obtain the permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with § 51.070, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

§ 51.074 EXTRA-JURISDICTIONAL USERS.

(A) Any significant industrial user located beyond the city limits shall submit a wastewater discharge permit application in accordance with § 51.075 and obtain a wastewater discharge permit before connecting to the POTW.

(B) The Control Authority may require other users located beyond the city limits to submit a wastewater discharge permit application in accordance with § 51.075 and obtain a wastewater discharge permit before connecting to the POTW.

§ 51.075 PERMIT APPLICATIONS.

(A) *Information required.*

(1) All users required to obtain a wastewater discharge permit must submit a permit application. The Control Authority may require all users to submit as part of an application, the

following information:

- (a) All information required by § 51.115(B);
- (b) Description of activities, facilities and plant processes on the premises, including the types of waste generated and a list of raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (c) Number and type of employees, and hours of operation
- (d) Each product produced by type, amount, process or processes, and rate of production;
- (e) Type and amount of raw materials processed (average and maximum per day);
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points or discharge;
- (g) Time and duration of discharges;
- (h) The location for monitoring all wastes covered by the permit
- (i) Any other information as may be deemed necessary by the Control Authority to evaluate the wastewater discharge permit application; and
- (j) Permit application must be signed by an authorized representative in accordance with § 51.126.

(2) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(B) *Permit decisions.* The Control Authority will evaluate the data furnished by the user and may require additional information. Following receipt of a complete wastewater discharge permit application, the Control Authority will determine whether or not to issue a wastewater discharge permit subject to the terms and conditions provided herein. The Control Authority may deny any application for a wastewater discharge permit.

WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

§ 51.090 DURATION.

(A) A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit.

(B) A wastewater discharge permit may be issued for a period of less than five years, at the discretion of the Control Authority.

(C) Each wastewater discharge permit will indicate a specific date upon which it will expire.

§ 51.091 CONTENTS.

(A) A wastewater discharge permit shall include the conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW. Wastewater discharge permits must contain:

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

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with § 51.093 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(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 sample type based on federal, state and local law;

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. The schedule may not extend the time for compliance beyond that required by applicable federal, state or local law; and

(6) Requirements to control Slug Discharge, if determined by the Control Authority to be necessary.

(B) 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) Limits on the instantaneous, daily and monthly average and/or maximum concentration mass or other measure of identified wastewater pollutants or properties;

(3) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices, designated to reduce, eliminate or prevent the

introduction of pollutants into the treatment works;

(4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or non-routine discharges;

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

(6) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

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

(8) A statement of compliance that the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

(9) A statement that the permittee shall indemnify the city against fines or other penalties imposed by regulatory authorities on the city for violations of the city's permit caused by fault of the permittee; and

(10) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this chapter and state and federal laws, rules and regulations.

§ 51.092 MODIFICATION.

The Control Authority may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(A) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

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

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

(D) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel or the receiving waters;

- (E) Violation of any terms or conditions of the wastewater discharge permit;
- (F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. pt. 403.13;
- (H) To correct typographical or other errors in the wastewater discharge permit;
- (I) To reflect a transfer of the facility ownership or operation to a new owner or operator;
or
- (J) Upon request of the permittee for just cause, provided the request does not create a violation of any applicable requirements, standards, laws or rules and regulations. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, notification of planned changes or anticipated noncompliance, does not stay any permit condition.

§ 51.093 TRANSFER.

(A) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 60 days advance notice to the Control Authority, and the Control Authority approves the wastewater discharge permit transfer.

(B) The notice to the Control Authority must include a written certification by the new owner or operator which:

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

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

§ 51.094 REVOCATION.

(A) In addition to any other enforcement action provided for by this subchapter, the Control Authority may revoke or deny reissuance of any permit issued under this subchapter for one or more of the following reasons:

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

(2) Failure to provide prior notification to the Control Authority of changed conditions pursuant to § 51.118;

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

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

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

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

(B) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

§ 51.095 REISSUANCE.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 51.075, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

COMPLIANCE REPORTING

§ 51.115 BASELINE MONITORING REPORTS.

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

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

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner, and contact information.

(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 classification of the operation(s) carried out by the user. The 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 wastestream formula set out in 40 C.F.R. pt. 403.6(e).

(5) *Measurement of pollutants.*

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

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Control Authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average 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 § 51.122.

(c) Sampling must be performed in accordance with procedures set out in § 51.123.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, including whether pretreatment standards are being met on a constant 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.*

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (the events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine months.

(c) The user shall submit a progress report to the Control Authority no later than 14 days following each date in the schedule and final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule, and justified by 40 C.F.R. pt. 403.12(c).

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

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 51.126.

§ 51.116 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to the pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in § 51.115. For users subject to equivalent mass or concentration limits established in accordance with procedures in 40 C.F.R. pt. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 51.126.

§ 51.117 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the Control Authority 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. All periodic compliance reports must be signed and certified in accordance with § 51.126.

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

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in § 51.122, the results of this monitoring shall be included in the report.

§ 51.118 REPORTS OF CHANGED CONDITIONS.

Each user must notify the Control Authority of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of his or her wastewater at least 90 days before the change.

(A) The Control Authority may require the user to submit the information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.075.

(B) The Control Authority may issue a wastewater discharge permit under §§ 51.090 *et seq.* or modify an existing wastewater discharge permit under § 51.092 of this chapter in response to changed conditions or anticipated change conditions.

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

§ 51.119 REPORTS OF POTENTIAL PROBLEMS.

(A) 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 user shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following the discharge, the user shall, unless waived by the Control Authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property, nor shall the notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

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

(D) Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility affecting the potential for a slug discharge

§ 51.120 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Control Authority as the Control Authority may require.

§ 51.121 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation:

(A) The user must notify the Control Authority within 24 hours of becoming aware of the violation.

(B) The user shall repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation, unless the user is already sampling on a monthly frequency, or if the Control Authority samples between the user's initial sampling and when the user receives the results of the sampling.

(C) The actions described in divisions (A) and (B) above are not required for BOD and TSS monitoring when the surcharge limit is exceeded.

§ 51.122 ANALYTICAL REQUIREMENTS.

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

§ 51.123 SAMPLE COLLECTION.

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

(B) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

(C) Samples shall be taken at monitoring points specified by the Control Authority, and the locations shall not be changed without notification to, and the approval of, the Control Authority.

(D) All costs of sampling and monitoring shall be borne by the user.

§ 51.124 TIMING.

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

§ 51.125 RECORD KEEPING.

(A) Any user subject to record keeping requirements established in this section shall retain records of all information resulting from activities required by this chapter or other applicable ordinance or regulation for a period of not less than five years.

(1) The user shall, upon request, make available for inspection and copying by the Control Authority, the Texas Commission on Environmental Quality, or the United States Environmental Protection Agency, all records of information obtained pursuant to any activities required by this section and any records of information obtained pursuant to activities undertaken by the user independent of such requirements.

(2) Periods of retention shall be automatically extended for the duration of any litigation concerning the user or the city or where the user has been specifically notified of a longer retention time by the Control Authority, the Texas Commission on Environmental Quality, or the United States Environmental Protection Agency.

(3) Pollutant Analysis reporting shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; and analytical techniques or methods used; and the results of such analyses.

(B) Non-domestic users shall maintain records of inspection, pumping and cleaning, and other maintenance activities of grease traps, interceptors, catch basins, holding tanks, including waste oil receptacles, and separators for a minimum of five years. These records shall be made available to the Control Authority upon request for inspection and copying.

(1) Inspection records shall minimally contain the date the facility was inspected, who inspected the facility, the specific condition of the piping and other structures of the facility, and a description of any repairs recommended by the inspector and subsequently made to the facility.

(2) Pumping, cleaning and disposal records shall minimally include the date the facility was cleaned, who cleaned the facility, the type and amount of material removed, who disposed the removed materials, the disposal site for the removed materials, an approved completed waste manifest which includes generation, transport and disposal information, and any other information as required by federal, state, or local regulations governing such operations.

(3) Repair and maintenance records shall include a description of the maintenance or repair, the date of the maintenance or repair, and who performed the maintenance or repair. All repairs shall be made by a licensed plumber.

(4) Holding tank disposal records shall minimally contain the date the facility was serviced, the specific type of waste disposed, the amount of waste removed, the name of the person or firm who serviced the facility and the method of final disposal.

(C) Non-domestic users shall maintain records of the cleaning of building sewer lines made necessary by excessive grease buildup. These records shall minimally contain the date and by whom the lines were cleaned, the known or suspected cause of the buildup, and actions taken to prevent recurrence.

§ 51.126 CERTIFICATION REQUIRED.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the 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 fines and imprisonment for knowing violations.

§ 51.127 FALSIFYING INFORMATION.

Knowingly making any false statement on any report or other document required by this subchapter or knowingly rendering any monitoring device or method inaccurate, is a crime and may result in the imposition of criminal sanctions and/or civil penalties.

§ 51.128 ACCIDENTAL DISCHARGES/SLUG CONTROL PLANS.

(A) At least once every two years, the Control Authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Control Authority may require any user to develop, submit for approval and implement a plan.

(B) An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Control Authority of any accidental or

slug discharge, as required by § 51.119; and

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

COMPLIANCE MONITORING

§ 51.140 RIGHT OF ENTRY; INSPECTION AND SAMPLING.

(A) The Control Authority shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder.

(B) Users shall allow the Control Authority ready access to all parts of the premises for the purposes of inspection, sampling, record examination and copying, and the performance of any additional duties.

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

(2) The Control Authority, state or EPA shall have the right to set up on the user's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure accuracy.

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

(5) Unreasonable delays in allowing the Control Authority access to the user's premises shall be a violation of this chapter.

(6) The Control Authority or duly authorized representative will observe all safety

rules applicable to the user's facility during inspections and sampling events.

§ 51.141 SEARCH WARRANTS.

If the Control Authority has been refused access to a building, structure, property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City Attorney shall petition the Municipal Court Judge of the city to issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. The warrant shall be served at reasonable hours by the Control Authority in the company of a uniformed police officer of the city. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant

§ 51.142 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the Control Authority's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Control Authority, that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any request must be asserted at the time of submission of the information or data by stamping the words "confidential business information" on each page containing the information. When requested and demonstrated by the user furnishing a report that the information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES and state discharge and/or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other *EFFLUENT DATA* as defined by 40 C.F.R. pt. 2.302, will not be recognized as confidential information and will be made available to the public without restriction.

51.143 Publication of Industrial Users in Significant Noncompliance

- (A) The Control Authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the industrial users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- (B) An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:
- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all measurements taken during a 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 33% or more of all the measurements for each pollutant parameter taken during a 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 Control Authority 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 under paragraph 40 C.F.R. pt. 408.8 (f)(1)(vi)(B) of this section to halt or prevent a discharge;
 - (5) Failure to meet, within 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 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; and
 - (8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation of implementation of the local pretreatment program.

ADMINISTRATIVE ENFORCEMENT REMEDIES**§ 51.160 NOTIFICATION OF VIOLATION.**

When the Control Authority finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standards or requirement, the Control Authority may serve upon that user a written notice of violation. Within 30 days of the receipt of this notice, and explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Control Authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

§ 51.161 CONSENT ORDERS.

The Control Authority may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. The documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. The documents shall have the same force and effect as the administrative orders issued pursuant to §§ 51.163 and 51.164 and shall be judicially enforceable.

§ 51.162 SHOW CAUSE HEARING.

The Control Authority may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Control Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the actions and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 14 days prior to the hearing. The notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

§ 51.163 COMPLIANCE ORDERS.

When the Control Authority finds that a user has violated, or continues to violate, any

provisions of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

§ 51.164 CEASE AND DESIST ORDERS.

(A) When the Control Authority finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Control Authority may issue an order to the user directing it to cease and desist all the violations, and directing the user to:

(1) Immediately comply with all requirements; and

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

(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

§ 51.165 EMERGENCY SUSPENSIONS.

(A) The Control Authority may immediately suspend a user's discharge, after informal notice to the user, whenever the 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.

(B) The Control Authority may also immediately suspend a user's discharge, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with

the suspension order, the Control Authority may take the 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 Control Authority may allow the user to recommence his or her discharge when the user has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in § 51.166 are initiated against the user.

(2) 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 Control Authority prior to the date of any show cause or termination hearing under §§ 51.162 and 51.166 respectively.

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

§ 51.166 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in § 51.094, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of 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 § 51.025.

(B) The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 51.162 why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to, or a prerequisite for, taking any other action against the user. Penalty, see § 51.999

SUPPLEMENTAL ENFORCEMENT ACTION

§ 51.180 PERFORMANCE BONDS.

The Control Authority may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement, unless the user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the Control Authority to be necessary to achieve consistent compliance.

§ 51.181 LIABILITY INSURANCE.

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

§ 51.182 WATER SUPPLY SEVERANCE.

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence at the user's expense after he or she has satisfactorily demonstrated its ability to comply.

§ 51.183 INCREASED MONITORING AND REPORTING.

When a user has demonstrated a history of noncompliance, the Control Authority may increase surveillance of that industry, including but not limited to, additional self monitoring and reporting.

§ 51.184 PUBLIC NUISANCES.

A violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Control Authority. Any person(s) creating a public nuisance shall reimburse the city for any costs incurred in removing, abating, or remedying said nuisance and shall be subject to the provisions of the City Code, if any, governing such nuisances.

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 51.200 UPSET.

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

treatment facilities, lack of preventive maintenance, or careless or improper operation.

(B) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (C) below are met.

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

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

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

(3) The user has submitted the following information to the Control Authority orally within 24 hours of becoming aware of the upset with a written submission provided within five days:

(a) A description of the indirect discharge and cause of noncompliance;

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

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

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

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

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

§ 51.201 PROHIBITED DISCHARGE STANDARDS.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in § 51.025 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

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

§ 51.202 BYPASS.

(A) For the purposes of this section:

(1) **BYPASS** means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

(B) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of divisions (C) and (D) below.

(C) (1) If a user knows in advance of the need for a bypass, he or she shall submit prior notice to the Control Authority, at least 10 days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times and, if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

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

occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (C) above.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in division (D)(1) above.

INDUSTRIAL SEWER RATES

§ 51.220 SEWER SERVICE RATES.

When a user's wastewater discharge is acceptable for treatment by the city's POTW, the user shall provide payment for sewer service which covers the costs of receiving, handling and treating the wastewater. Rates for service shall be as approved by Council.

§ 51.221 METERING.

In the event that any user discharging to the city's POTW is supplied partially or entirely by water not supplied by the city, and the water so supplied is not completely measured by a city water meter, or a meter acceptable to the Control Authority, then the total amount of water so used and supplied shall be otherwise measured or determined by the Control Authority in order to determine the fair and reasonable charge to be made for sewer service provided. The user may install and maintain a meter acceptable to the Control Authority for that purpose. In the interest of equity, the Control Authority may require the discharger to provide an acceptable measuring device at a location accessible for reading and checking to determine the quantity of waste being discharged.

§ 51.222 RATE REVIEW.

Sewer rates shall be reviewed periodically and shall be adjusted as necessary in accordance with state and federal regulations for the determination of the rates.

§ 51.223 SURCHARGE RATE; SURCHARGE.

(A) A User exhibiting none of the characteristics of wastes prohibited in §§ 51.025 and 51.026 other than a BOD, COD or TSS concentration in excess of “normal” domestic sewage shall be required to pretreat the wastewater to meet the requirements of “normal” domestic sewage. However, such wastewater may be accepted for treatment if all the following requirements are met:

- (1) The wastewater will not adversely impact the POTW.
- (2) Upon authorization to discharge, the user pays a surcharge over and above the existing sewer rates through a surcharge based on the following equation:

$$\text{Surcharge} = (\text{Volume}) \times [(\text{BOD}/300 + \text{TSS}/300 + \text{COD}/500)] \times (\text{Surcharge Rate})$$

Where:

Surcharge = calculated in dollars

Volume = calculated in thousands of gallons/month

BOD= Result based on 24-hour composite sample or flow proportioned composite sample if available. If analytical result is less than 300 mg/l, the value is zero.

COD = Result based on 24-hour composite sample or flow proportioned composite sample if available. If analytical result is less the 500 mg/l, the value is zero.

TSS = Result based on 24-hour composite sample or flow proportioned composite sample if available. If analytical result is less than 300 mg/l, the value is zero.

Surcharge Rate = The city’s cost of treating BOD and TSS based on the previous fiscal year as determined by the City Council. The surcharge rate shall be reviewed annually and shall be adjusted to reflect any increase or decrease in the city’s cost based on the previous fiscal year’s experience. For the current period, this rate is per thousand gallons.

(B) The purpose of a surcharge is to recover the city’s cost of treating excessive BOD, COD and TSS concentrations and to encourage users to reduce these loadings in their discharges. Once established, a surcharge shall be in full force and effect for a minimum period of three months unless otherwise specified by the Control Authority.

- (1) The volume of wastes shall be determined by the same method used to calculate the volume on which the regular sewer service charge is based.
- (2) Sampling locations shall be representative of users discharge prior to the service

line connection to the POTW in accordance with § 51.160 of this chapter.

(3) BOD, COD and TSS concentrations shall be determined from actual samples collected and analyzed in accordance with §§ 51.121 and 51.122.

(4) At a minimum, the user shall sample and analyze their discharge quarterly for determination of the BOD, COD and TSS concentration discharged based on a 24-hour composite sample. The user shall provide a copy of these results to the Control Authority in the months of March, June, September and December. These results shall be used for the determination of the surcharge for the period specified.

§ 51.224 BILLING OF SURCHARGE.

Surcharges shall be included as a separate item on the user's regular bill for water and sewer charges and shall be paid monthly in accordance with existing practices. Surcharges shall be paid at the same time the sewer charges of the person become due and payment for sewer services shall not be accepted without payment also of surcharge. User's failing to pay all charges will be subject to enforcement actions as found in §§ 51.160 *et seq.* and 51.999.

GREASE TRAPS, INTERCEPTORS, SEPARATORS, HOLDING TANKS AND TRANSPORTED WASTE

§ 51.240 EXISTING FACILITIES.

- (A) Existing grease traps/interceptors must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with this chapter, unless specified in writing and approved by the POTW
- (B) In any circumstance where, in the opinion of the Control Authority, the existing grease trap, separator, or interceptor or the absence of a grease trap, separator, or interceptor poses a serious threat or an ongoing problem to the sanitary sewer, is a public nuisance, or poses a threat to public health or to the environment, the Control Authority may require the grease trap, interceptor, or separator be installed or replaced, or cleaned on a more stringent compliance schedule.
- (C) If a food establishment or any other facility that is not required to have a grease trap, interceptor, or separator shall cease operation or undergo any major remodeling, major changes, or major alterations, then that establishment or facility shall be required to comply with this subchapter before receiving a C.O. (Certificate of Occupancy). Major remodeling, major changes or major alterations shall mean that 20 percent or greater of the area if the establishment or facility is to be remodeled or repurposed.
- (D) Existing facilities which will be expanded or renovated to include a food service facility where such a facility did not previously exist, shall be required to design, install, operate,

and maintain a grease trap/interceptor in accordance with locally adopted plumbing codes or other applicable ordinances. Grease traps/interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.

- (E) Any planned changes to a user's operations or system, including menu changes, which might increase FOG, non-biodegradable sand or grit must be reported to the Control Authority at least 90 days before the change.
- (F) All grease trap/interceptor waste shall be properly disposed of at a facility in accordance with federal, state or local regulation.

§ 51.241 NEW BUSINESS.

New businesses, new facilities, new owners required by this chapter or other ordinance to maintain a grease trap, interceptor or separator shall install the unit prior to receiving a certificate of occupancy or commencement of discharge to the sanitary sewer.

§ 51.242 REQUEST FOR DETERMINATION OF NEED.

(A) The non-domestic user may request a determination from the Control Authority whether a new or upgraded grease trap, interceptor or separator will be required for his or her facility. The Control Authority may approve alternate treatment technologies for some types of wastes normally treated by a separator.

(B) Where a user requests his or her facility not be required to install a grease trap, interceptor or separator, the Control Authority may require data demonstrating the user is able to comply with the limitations outlined in this chapter or other applicable ordinance. The user may be subject to periodic monitoring to demonstrate continued compliance, at the user's expense

(C) Where a user requests the use of alternate technology, the Control Authority may require data demonstrating the user is able to comply with the limitations outlined in this chapter or other applicable ordinance. The user may be subject to periodic monitoring to demonstrate continued compliance, at the user's expense.

(D) Approvals as outlined in divisions (B) and (C) above shall be made on a case-by-case basis.

(E) The decision of the Control Authority shall be final.

(F) All requests detailed in this section shall be submitted in writing to the Control Authority.

§ 51.243 GENERAL SPECIFICATIONS.

(A) Specifications outlined in this section shall be considered minimum requirements only.

It shall be the responsibility of each user to have a grease trap, interceptor, or separator designed and installed and maintained that will produce an effluent in compliance with the requirements of this chapter or other applicable ordinance.

(1) Grease traps, interceptors, and separators shall meet or exceed the more stringent of specifications and requirements set forth in this section and other applicable local, state, or federal requirements.

(2) An existing grease trap, interceptor, or separator which is upgraded or replaced shall meet or exceed the specifications set forth in this section and other applicable local, state, or federal requirements.

(3) Where a non-domestic user required under this section to have a grease trap, interceptor, or separator will occupy an existing building, the grease trap, interceptor, or separator shall meet or exceed the requirements in this section and other applicable local, state, or federal requirements.

(B) Grease traps, interceptors, and separators shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and capable of withstanding the traffic load where installed.

(C) Grease traps, interceptors, and separators shall be installed outside the building wherever possible; any exception must meet the approval of the Health Department and the Control Authority. Where it is impossible to locate a grease trap outside the building, the trap shall be located in a mechanical room or other separate area where no food is stored or prepared.

(D) Grease traps, interceptors, and separators shall be located so as to be readily and easily accessible for cleaning and inspection of the pretreatment device and shall be equipped with easily removable covers.

(1) Manhole rings and covers, not less than 24 inches in diameter, shall be installed in the lid of each compartment to facilitate easy access for cleaning and inspection. The manholes shall be placed so that all internal piping is accessible for maintenance and inspection. The cover shall be at or near, but not below the finished grade.

(2) Where an existing interceptor or separator is located inside a vehicle wash bay, the first chamber shall be preceded by a grated catch basin with openings not greater than 1/2-inch in diameter or shall be equipped with a grated cover with openings not greater than 1/2-inch in diameter so that no solid material greater than 1/2-inch may enter the chamber. The cover on the secondary chamber shall be water tight. Where the interceptor or separator is preceded by a grated catch basin, all covers on the separator shall be watertight.

(E) Grease traps shall have a total liquid capacity of not less than 750 gallons. Interceptors shall have a total liquid capacity of not less than 50 gallons per fixture unit. Separators shall have a total liquid capacity of not less than 500 gallons. Grease traps and separators shall be constructed with a minimum of two compartments.

(1) The primary compartment shall have a detention time **at peak flow** of not less than 15 minutes.

(2) The secondary compartment shall have a detention time **at peak flow** of not less than five minutes.

(F) Plans for new grease traps, interceptors, and separators or modifications to existing grease traps, interceptors, and separators shall be submitted to the Control Authority and the Code Enforcement officer.

(1) Plan and specification submittals shall include a description of plumbing fixtures draining to the trap, interceptors, and separators, device specifications and manufacturer details, site plans that clearly identify the location of the trap, interceptors, and separators and the calculations used to determine the proposed capacity.

(2) The Control Authority shall be in agreement with the Code Enforcement officer for approval of the final plans prior to the issuance of any required plumbing or construction permits and subsequent construction.

(G) Grease traps, interceptors, separators and sampling ports shall be installed in accordance with the City's most recently adopted version of the International Plumbing Code, and with the requirements contained in all applicable local plumbing codes, and must be installed by a licensed plumber. Completed grease traps, interceptors, and separators shall be subject to inspection by the Control Authority prior to connection to the sanitary sewer.

§ 51.244 GREASE TRAP SPECIFICATIONS.

(A) All liquid waste lines in food preparation and dishwashing areas, except lines from rest room facilities, cooling unit condensate, ice maker, and soft drink dispenser drain lines, shall discharge through the grease trap.

(B) The minimum size of grease traps shall be determined according to the Uniform Plumbing Code, Appendix H (Grease Interceptor Sizing Worksheet), but shall, in no case, have a total liquid capacity of less than 750 gallons.

(1) Number of meals x Waste flow x Retention x Storage = Size Requirement
Per peak hour (a) rate (b) time (c) factor (d) (liquid capacity)

(a) Number of meals served at peak operating hour = Seating capacity x Peak Factor

1. Peak factor for a fast food restaurant is 1.33; and
2. Peak factor for all other food service is 1.00

(b) Waste flow Rate:

1. With Dishwasher – 6 gallon flow

2. Without Dishwasher – 5 gallon flow
 3. Single Service kitchen – 2 gallon flow
 4. Food waste disposer – 1 gallon flow
- (c) Retention time:
1. Commercial kitchen waste/dishwasher – 2.5 hours
 2. Single service kitchen/single serving – 1.5 hours
- (d) Storage factor:
1. Fully equipped commercial kitchen, 8 hour operation – 1
 2. Fully equipped commercial kitchen, 16 hour operation – 2
 3. Fully equipped commercial kitchen, 24 hour operation – 3
 4. Single service kitchen – 1.5

(2) The Uniform Plumbing code includes a built-in safety factor that can yield very large grease traps size specifications. At this time, the City is not requiring traps larger than 2,000 gallons. However, the decision to use a trap smaller than that specified by the formula and calculations above is to be addressed in the plan submission.

(C) The primary chamber shall occupy 3/4 of the total liquid capacity of the trap.

(D) The dividing wall between each chamber shall completely divide the chambers (shall extend top to bottom) except where the specific design of the separator provides for underflow, in which case, the wall shall not be greater than 12 inches from the bottom, between the chambers rather than the flow traveling through a pipe.

(E) Grease traps are to be installed at a minimum distance of 10ft. from sinks and dishwashers to allow for adequate cooling of the wastewater. Water temperatures must be less than 120°F prior to entering grease interceptor.

(F) Grease traps shall be equipped with double cleanouts on the outside of the trap in both the influent (prior to the trap) and effluent (after the trap) pipes.

(G) The influent shall enter each chamber below the static water level in accordance with the specifications outlined in this section. The effluent shall discharge from below the static water level of the chamber in accordance with the specifications outlined in this section.

(1) The influent line into all chambers shall terminate no greater than 18 inches from the bottom of the chamber.

(2) The effluent from all chambers shall discharge from the lower 12 inches of the chamber.

(3) There shall be no openings in any influent or effluent pipe that will allow liquid to enter or exit the chamber at any point other than the intake or discharge point of the pipe.

(4) The static water level shall be maintained throughout the entire trap.

(H) Large capacity, passive, outdoor grease traps as specified in this section are the preferred method of grease retention. However, in large industrial applications, situations where archeological or historical circumstances prevent the disturbance of the ground or a structure, or where there is an existing commercial establishment as of the effective date of this section that has no outside wall adjacent to the foundation within 25 feet of its premises or there is another obstacle that in the opinion of the Control Authority prevents the installation of a standard grease trap, then the user may propose alternate treatment technologies.

(1) Alternate treatment technologies may include but are not limited to dissolved air floatation, system baffling, active devices, automated grease removal, electronic alarms and shut offs or any combination of devices and procedures that in the opinion of the Control Authority protect the public health, the integrity of the POTW and is capable of producing an effluent in compliance with the established maximum allowable discharge limit.

(2) Proposals for the installation of alternate treatment technologies shall be made in writing and shall contain specifications and calculations necessary to demonstrate treatment capabilities. The proposal shall be signed by the user's registered professional engineer.

(3) Alternate treatment technologies shall be approved by the Control Authority in writing prior to the commencement of installation. Approval by the Control Authority in no way endorses the design, device, or its performance, or relieves the user from the responsibility to meet maximum allowable discharge limits.

(4) Installed alternate treatment technologies shall consistently produce an effluent in compliance with applicable standards as demonstrated by analytical data. Additional treatment, where required to meet the maximum allowable discharge limit, shall be installed at the user's expense. Any additional treatment shall be approved prior to installation.

(I) The Control Authority may, at its sole discretion, allow existing users with existing under-sized grease traps a trial period specified by the Control Authority in which to demonstrate that the use of best management practices, housekeeping procedures, and increased maintenance of the grease trap will cause the existing grease trap to consistently produce an effluent in compliance with established limitations.

(1) The user shall maintain records of procedures, training, and exceptional maintenance necessary to demonstrate the conditions of the trial period are being met.

(2) The user shall have an appropriate sample port before any trial period may begin.

(3) At least six analyses shall be required within the trial period to demonstrate consistent compliance. Samples shall be collected at random times by the Control Authority. All costs for sampling and analyses shall be borne by the user.

(a) A user who has demonstrated consistent compliance during the trial period may be allowed to continue to operate with the existing treatment device.

(b) A user who has not been able to demonstrate consistent compliance shall be required to install a properly sized treatment device.

§ 51.245 INTERCEPTOR AND SEPARATOR SPECIFICATIONS.

(A) Automatic car or truck washes and coin-operated wash bays, drive-in or drive-through wash bays, hand wash bays and other areas where vehicles are washed shall be equipped with an interceptor and a two-stage separator. The interceptor and the separator shall function as separate units.

(1) An adequately-sized interceptor shall be provided for the removal of sand, grit and other objectionable solids from the waste stream.

(2) An adequately-sized, two-stage separator shall be provided for the removal of oil and grease from the waste stream.

(3) Interceptors and separators shall be minimally sized in accordance with the specifications outlined in this section. Minimum sizing for any interceptor or separator may be increased at the discretion of the Control Authority.

(B) Interceptors shall have a minimum detention time of not less than five minutes. The minimum size shall be in accordance with the specifications outlined in this section.

(1) Interceptors may be located inside the wash bay and may be equipped with a grated cover provided the openings in the cover are not greater than 1/2-inch. When located inside the wash bay, the Control Authority may require a larger capacity interceptor be installed to facilitate efficient sand and grit removal. Covers shall be easily removable for cleaning and inspection.

(2) Where located outside the wash bay, the interceptor shall be equipped with solid, watertight covers on each chamber and shall be preceded by a catch basin, located inside the bay, equipped with a grated cover with openings not greater than 1/2-inch. Covers shall be easily removable for cleaning and inspection.

(3) The inlet and outlet lines shall be designed and installed to provide uniform flow and stilling in the interceptor and to preclude sand from passing through the interceptor.

(a) Where a down pipe is provided at the inlet, the pipe shall extend into the interceptor a distance not less than 1/3 from the static water level to the bottom.

(b) The discharge pipe shall extend into the interceptor a distance not less than 1/3 from the static water level to the bottom.

(C) Separators shall be located outside the wash bay and shall be equipped with solid,

watertight covers on all chambers. Covers shall be easily removable for cleaning and inspection. The influent shall enter each chamber below the static water level in accordance with the specifications outlined in this section. The effluent shall discharge from below the static water level of the chamber in accordance with the specifications outlined in this section.

(1) The influent line into all chambers shall terminate no greater than 18 inches from the bottom of the chamber.

(2) The effluent from all chambers shall discharge from the lower 12 inches of the chamber.

(3) There shall be no openings in any influent or effluent pipe that will allow liquid to enter or exit the chamber at any point other than the intake or discharge point of the pipe.

(4) The static water level shall be maintained throughout the entire trap.

(D) Minimum sizing for interceptors shall be 50 gallons per fixture unit (F.U.) draining into the interceptor, but not less than the minimum sizes outlined below:

<i>Interceptors</i>	<i>Minimum Size</i>
Manual hand wash bay or portable washer	50 gal./F.U., but not less than 50 gal./bay
Coin-operated self service wash bays	50 gal./F.U., but not less than 50 gal./bay
Automatic (drive-in and drive-through)	50 gal./F.U., but not less than 50 gal./bay

(E) Minimum sizing for separators shall be 150 gallons per fixture unit draining into the separator, but not less than the minimum sizes outlined below:

<i>Separators</i>	<i>Minimum Size</i>
Portable washer	Greater of 500 gal. or 150 gal./F.U.
Single coin-operated wash bay	Greater of 500 gal. or 150 gal./F.U.
Manual hand wash, single-bay only	Greater of 500 gal. or 150 gal./F.U.
2 - 4 coin-operated or manual hand wash bays	Greater of 1,000 gal. or 150 gal./F.U.
More than 4 coin-operated or manual hand wash bays	Greater of 1,000 gal. + 200 gal./bay >4 or 150 gal./F.U.
Drive-through wash bay	Greater of 500 gal./bay or 150 gal./F.U.

(1) The primary chamber of the separator shall occupy 3/4 of the total liquid capacity of the separator.

(2) The dividing wall between each chamber shall completely divide the chambers (shall extend top to bottom) except where the specific design of the separator provides for underflow not greater than 12 inches between the chambers rather than the flow traveling through a pipe.

§ 51.246 HOLDING TANK SPECIFICATIONS.

(A) Holding tanks shall be constructed and maintained to prevent discharge of waste cooking oils, motor oils and other oils and fluids that are prohibited from being discharged to the sanitary sewer.

(B) Holding tanks shall not be connected to the sanitary sewer or in any other way be allowed to discharge to the sanitary sewer.

(C) Holding tanks shall be provided with secondary containment and such containment shall be capable of containing not less than 110% of the capacity of the holding tank or the capacity of the largest tank plus water from a maximum 24-hour/10-year rainfall event if exposed to rainwater, whichever is greater.

(1) Secondary containment shall be constructed so as to control spills or splashes during operation and maintenance and leaks.

(2) Secondary containment shall not be connected to any sanitary sewer drain or storm drain and shall not be allowed to drain onto public or private property or to the waters of the United States.

§ 51.247 OPERATION AND MAINTENANCE.

(A) Grease traps, interceptors, separators and holding tanks shall be operated in a safe and secure manner at all times.

(B) Areas surrounding grease traps, interceptors, separators and holding tanks shall be maintained to facilitate immediate access to the unit for cleaning and for inspection by the Control Authority at all times.

(C) Grease traps, interceptors and separators shall be maintained in continuously efficient operation by the owner or operator at his expense and shall produce an effluent in compliance with this chapter or other applicable ordinance.

(D) A user shall not remove any downpipes or otherwise alter a grease trap, interceptor or separator in any way which may allow oil, grease, sand, or other objectionable materials to pass through the device into the sanitary sewer.

(E) Where the utilities must clean associated public sewers caused by inappropriate operation or maintenance, inadequate design or installation, or inappropriate alteration of a grease trap, interceptor or separator, costs of such cleaning may be billed to the user.

(1) In a case where several users are discharging to the same sewer line, all the users shall be equally liable except where the user provides written proof his or her discharge could not have been a contributing factor.

(2) Proof shall consist of demonstration of adequate sizing and installation, appropriate cleaning (as documented by manifests and inspection documentation) and valid analysis of a sample of the discharge collected within one week of the sewer cleaning activities. Analysis of samples collected after sewer line cleaning will be accepted only where the grease trap, interceptor or separator has been properly maintained and was not cleaned within 30 days of the sewer cleaning activities.

(F) Hazardous wastes, such as acids, strong cleaners, pesticides, herbicides, paint, solvents, or gasoline shall not be disposed of in a manner in which they would enter the trap, interceptor or separator.

(G) A user shall not increase the use of water or in any other way attempt to dilute the waste stream in lieu of adequate treatment.

(H) The addition of hot water or the use of emulsifiers, chemicals, or other agents or devices that may cause oil, grease, or sand to pass through a treatment facility or into the sanitary sewer collection system is strictly prohibited.

(I) Areas surrounding a grease trap, interceptor, separator or holding tank shall be kept clean and free of grease and odors and other materials at all times.

(1) Materials shall not be splashed, spilled, allowed to overflow, or otherwise placed on the area surrounding a grease trap, interceptor or separator.

(2) In the event materials are spilled, splashed, overflowed, or otherwise placed on the surrounding area, the generator or owner shall assure the materials are cleaned from the area and properly disposed.

(J) Grease traps, interceptors, separators and holding tanks shall be fully evacuated of all contents during cleaning. If the capacity of the trap, interceptor, separator or holding tank is greater than the capacity of the transport vehicle where full evacuation is not possible in a single load, then the transporter and the generator shall assure the contents are fully evacuated within a twenty-four (24) hour period, in accordance with 30 Texas Administrative Code §312.143.

(1) No liquid waste shall be returned to the trap, interceptor, separator or holding tank after or during cleaning, either from the same or other trap, interceptor, separator or holding tank. Gray water removed from the trap, interceptor, separator or holding tank shall not be discharged into the collection system at any point and neither shall any grease, solids, liquids, or any other matter be disposed of in any sanitary sewer line, any portion of the POTW, or any location other than a facility that is authorized by law to receive such wastes.

(2) During cleaning, grease residue shall be removed from piping and walls and the piping and walls shall be inspected to assure the integrity of the device is maintained.

(K) Materials removed from traps, interceptors, separators and holding tanks shall be utilized by industry, recycled, or disposed at a facility designated by or acceptable to the generator where the owner or operator agrees to receive the wastes and the disposal facility has documentation showing the facility meets all requirements of the state. All wastes shall be disposed in a suitable manner in accordance with applicable federal, state, and local laws.

(L) Users required to maintain grease traps, interceptors, separators, or holding tanks shall establish a system of training designed to provide employees with appropriate instruction on the proper use of those facilities.

(1) The training system shall provide employees at all levels of responsibility with a complete understanding of the operation and maintenance of the pretreatment device and the relation between appropriate waste disposal and efficient operation of the pretreatment device. The system should include:

- (a) The importance and methods of good housekeeping practices;
- (b) Acceptable waste disposal practices including proper disposal of different types of wastes;
- (c) Procedures for preventing prohibited discharges; and
- (d) The proper response to and notifications in case of spills or other accidental discharges.

(2) Periodic training sessions shall be conducted to assure the employee understands the essential elements of the system. New employees shall be trained immediately upon employment.

§ 51.248 GREASE TRAP TREATMENT PRODUCTS.

- (A) A person commits an offense if the person introduces, or causes, permits or suffers the introduction of any surfactant, solvent or emulsifier into a grease trap. Surfactants, solvents and emulsifiers are materials which allow the grease to pass from the trap into the collection system, and include but are not limited to enzymes, soap, diesel, kerosene, terpene, and other solvents.
- (B) It is an affirmative defense to an enforcement of § 51.248 (A) that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.
- (C) Bioremediation media may be used with the Control Authority's approval if the person has proved to the satisfaction of the Control Authority that laboratory testing which is appropriate for the type of grease trap to be used has verified that:
 - (1) The media is a pure live bacterial product which is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, and or water temperatures of 160⁰F(71⁰C) .
 - (2) The use of the media does not reduce the buoyancy of the grease layer in the grease trap and does not increase the potential for oil and grease to be discharged to the sanitary sewer.
 - (3) The use of the bioremediation media does not cause foaming in the sanitary sewer.
 - (4) The BOD, COD, and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD, and TSS which would be discharged if the product were not being used and the grease trap was being properly maintained. pH levels must be between 5.5 and 10
- (D) All testing designed to satisfy the criteria set forth in § 51.248 (C) shall be scientifically sound and statistically valid. All tests to determine oil and grease, TSS, BOD, COD, pH and other pollutant levels shall use appropriate tests which have been approved by the Environmental Protection Agency and the Texas Commission on Environmental Quality and which are defined in Title 40, Code of Federal Regulations, Part 136 or Title 30 Texas Administrative Code §319.11. Testing shall be open to inspection by the Control Authority, and shall meet the Control Authority's approval.
- (E) All costs of testing shall be borne by the user whether or not the product is accepted for use.
- (F) If a product is accepted for use, each user shall obtain written permission from the Control Authority to use the product.
- (G) The Control Authority may revoke permission to use such products where the effluent from the trap or basin in which the product is used fails to meet the requirements of this chapter.
- (H) Use of accepted grease trap treatment products shall not relieve the user of minimum cleaning requirements set forth in this chapter.

§ 51.249 INSPECTION AND CLEANING SCHEDULES.

- (A) Each user shall be responsible for the costs of installing, inspecting, pumping, cleaning, maintaining and operating its trap, interceptor or separator. Since the owner or operator is liable for the condition of their pretreatment devices, they may want to witness all cleaning/maintenance activities to verify that pretreatment devices are being fully cleaned and properly maintained.
- (B) Inspection, cleaning, and other necessary maintenance of facilities shall be conducted as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap, interceptor or separator; to ensure the discharge is in compliance with the provisions of this chapter or other applicable ordinance, but not less than once every 90 days.

(1) The trap, interceptor or separator shall be cleaned as often as necessary, up to and including daily, to assure compliance with this chapter or other applicable ordinance.

(2) In no case shall the accumulated grease, oil, or sand be allowed to occupy twenty-five (25) percent or more of the wetted height of the trap, interceptor or separator, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases.

(C) The physical condition of the trap, interceptor, or separator (piping, internal walls, sidewalls, etc.) shall be inspected by the user each time the facility is cleaned. Repairs, if needed, shall be made prior to further use.

(1) Repairs or modifications shall be approved by the plumbing inspector in agreement with the Control Authority and shall not be made without the appropriate city permits.

(2) Inspection shall be conducted by the plumbing inspector after repair and prior to refilling or use. A copy of the Inspection Tag issued by the plumbing inspector shall be maintained on-site by the User

(3) Documentation of repairs shall be submitted to the Control Authority within thirty (30) days of the date of repair or earlier if specified in a Notice of Deficiency or other Control Authority issued document.

(D) Grease traps, interceptors, and separators shall produce an effluent in compliance with this chapter at the user's pumping schedule. Schedules inadequate to produce such effluent shall be upgraded to as often as necessary, up to and including daily, or the trap, separator, or interceptor shall be upgraded. Upgraded traps, separators, or interceptors shall meet all requirements set forth in this chapter or other applicable ordinance.

(E) A user shall have any trap, interceptor, or separator cleaned when ordered to do so by the Control Authority. Failure to comply within 48 hours after the request shall be cause for the Control Authority to precipitate the cleaning with cost plus \$50.00 administration fee added to user's next utility bill.

(F) Users shall maintain a record of cleaning and other maintenance, as referenced in

§51.125 for a period of not less than 5 years.

- (1) Each pump-out must be accompanied by a trip manifest
- (2) Persons who generate, collect and transport pretreatment device waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest shall include:
 - (a) Name, address, telephone number, and TCEQ registration number of transporter;
 - (b) Name, signature, address and phone number of the person who generated the waste and date collected;
 - (c) Type and amount(s) of waste collected or transported
 - (d) Name and signature(s) of responsible person(s) collecting, transporting and depositing the waste;
 - (e) Date and place where the waste was deposited;
 - (f) Identification (permit or site registration number, location and operator) of the facility where the waste was deposited;
 - (g) Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;
 - (h) The volume of waste received; and
 - (i) A consecutive numerical tracking number to assist transporters, waste generators and regulating authorities in tracking the volume of waste transported.
- (3) Manifests shall be divided into five parts and records shall be maintained as follows:
 - (a) One part of the manifest shall have the generator and transporter information completed and be given to the generator at the time of waste pickup;
 - (b) The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest;
 - (c) One part of the manifest shall go to the receiving facility
 - (d) One part shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste;

- (e) One part of the manifest shall be returned by the transporter to the person who generated the wastes within fifteen (15) days after the waste is received at the disposal or processing facility. A copy of the completed manifest shall be kept at the business address of the trap.
- (f) One part of the manifest shall go to the Control Authority within thirty (30) days of the collection event.

§ 51.250 CLEANING SCHEDULE EXTENSIONS.

(A) The user may apply to the Control Authority for an extension of the required cleaning frequency set forth in this chapter. A user who wishes to apply for a cleaning schedule extension shall notify the Control Authority, in writing, of the intent to apply for an extension.

(B) The Control Authority may grant an extension on a required cleaning frequency on a case-by-case basis where the user has demonstrated, with defensible analytical results, the specific trap will produce an effluent in consistent compliance with this division if an extension is granted.

(C) The notification of intent to apply for an extension shall include:

(1) Facility information:

- (a) The name and address of the facility;
- (b) Name and telephone number of the facility contact;
- (c) Normal business hours; and
- (d) The type of business;

(2) Treatment unit information:

- (a) The type of treatment unit and the capacity, in gallons;
- (b) A brief description of the treatment unit;
- (c) The time(s) of day the greatest hydraulic and organic loadings to the treatment unit normally occur;
- (d) The date of the most recent cleaning and inspection of the unit;
- (e) A statement of the physical condition of the unit; and

(f) Where applicable, the name of any treatment products used and a copy of the Control Authority's approval letter for the use of the product;

(3) A proposed sampling schedule, including:

(a) The date(s) the user proposes to collect the samples;

(b) The times each sample will be collected;

(c) The name and telephone number of the person who will collect the samples, including qualifications;

(d) The name and telephone number of the laboratory which will analyze the samples; and

(4) Other information as may be requested by the Control Authority.

(5) All reports, applications and other related data submitted to the Control Authority shall include a certification statement signed by the facility's Authorized Representative, as outlined in §51.126.

(D) The user shall obtain approval of the proposed sampling schedule prior to initiation of the sampling and analyses. The user shall certify the sampling schedule will be carried out as submitted or as approved. The Control Authority shall reserve the right to modify a sampling schedule as deemed necessary.

(E) The user shall be required to provide analytical results for not less than four oil and grease analyses for samples collected during peak flow periods through the unit during the normal working hours of a 24-hour period.

(1) Samples shall be collected at an approved sampling port and shall be collected by a qualified person properly trained in the collection and handling of wastewater samples.

(2) Samples shall be collected 70 to 75 days after the most recent cleaning.

(3) Samples shall be analyzed, separately, by a reputable laboratory using approved analytical procedures.

(4) The user shall submit a written request for a cleaning schedule extension, including:

(a) A copy of the cleaning and maintenance records for the treatment unit for the previous 12 months; and

(b) A copy of the laboratory analytical reports, including quality control data and appropriate chains of custody.

(c) A signed certification statement as outlined in §51.126

(5) Incomplete or unverifiable results shall not be considered.

(F) The Control Authority **may** grant extensions to the cleaning schedule as follows:

(1) A 30-day extension may be granted where the average oil and grease concentration of the analyses is less than 70% of the concentration limit and no single concentration exceeded 80% of the concentration limit.

(2) A 60-day extension may be granted where the average oil and grease concentration of the analyses is less than 55% of the concentration limit and no single concentration exceeded 65% of the concentration limit.

(3) A 90-day extension may be granted where the average oil and grease concentration of the analyses is less than 40% of the concentration limit and no single concentration exceeded 50% of the concentration limit.

(4) In no case shall an extension greater than 90 days be granted.

(G) Extensions granted shall begin on the date the samples for which results were submitted were collected as documented on the chain of custody.

(H) Where an extension has been granted, the unit shall consistently produce an effluent in compliance with the terms of this chapter or other applicable ordinance. The Control Authority shall reserve the right to collect and analyze samples of any user's discharge and may revoke, without notice, any extension where the Control Authority believes it is in the best interest of the proper operation of the POTW.

(1) Where an extension has been granted and any sample analysis indicates an exceedance of the oil and grease limitation by 25% or more, the user shall immediately clean and inspect the trap and shall return to the original cleaning schedule. Where the user has been required to return to an original cleaning frequency, the user shall be required to submit a new request for extension if desired.

(2) Where an extension has been granted and any sample analysis indicates an exceedance of the oil and grease limitation by any magnitude but less than 25%, the user shall immediately clean and inspect the trap and shall increase the established cleaning frequency by at least 30 days.

(3) Where an extension has been granted and the utilities must clean associated public sewer lines and the stoppage is traceable to or known or suspected to be caused by the user's facility, the user shall immediately clean and inspect the trap and shall return to the original cleaning schedule. The user will be required to submit a new request for extension if desired.

§ 51.251 SELF CLEANING.

(A) Grease trap self-cleaning operators must receive an annual permit from the Control Authority prior to removing grease from their own grease trap(s) located inside a building, provided:

- (1) The grease trap is no more than 50 gallons in liquid/operating capacity;
- (2) Proper on-site material disposal methods are implemented (e.g. absorb liquids into solid form and dispose into trash);
- (3) The local solid waste authority allows such practices; and
- (4) Grease trap waste is placed in a leak proof, sealable container(s) located on the premises and in an area for the transporter to pump-out; and
- (5) Detailed records on these activities are maintained.

(B) Grease trap self-cleaning operators must submit a completed self-cleaning request to the Control Authority for approval. The written request shall include the following information:

- (1) Business name and street address;
- (2) Grease trap/interceptor operator name, title, and phone number;
- (3) Description of maintenance frequency, method of disposal, method of cleaning and size in gallons of the grease trap/interceptor; and
- (4) Signed statement that the operator will maintain records of waste disposal and produce them for compliance inspections.

(C) Self-cleaners must adhere to all the requirements, procedures and detailed record keeping outlined in their approved application, to ensure compliance with this ordinance. A maintenance log shall be kept by self-cleaning operators that indicates, at a minimum, the following information:

- (1) Date the grease trap /interceptor was serviced;
- (2) Name of the person or company servicing the grease trap/interceptor;
- (3) Waste disposal method used;
- (4) Gallons of grease removed and disposed of;
- (5) Waste oil added to grease trap/interceptor waste; and
- (6) Signature of the operator after each cleaning that certifies that all grease was removed, disposed of properly, grease trap/interceptor was thoroughly cleaned, and that all parts were replaced and in operable condition.

(D) Violations incurred by grease trap self-cleaners will be subject to enforcement action including fines and/or removal from the self-cleaner program.

§ 51.252 INSPECTION, ENFORCEMENT

- (A) All non-domestic users are subject to the compliance monitoring set out in §§ 51.140 *et seq.*
- (B) In the event that any non-domestic user has violated or is violating any provision of any applicable pretreatment standard or requirement the Control Authority is authorized to pursue the enforcement actions set out in §§ 51.160 *et seq.* and 51.999.

§ 51.999 PENALTY.

(A) *Consent decree.* When the Control Authority finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard of requirement, the Control Authority and the industrial user may petition the State District Court or County Court at Law for a consent agreement for the actions required to attain compliance with the wastewater discharge permit, order or other requirement imposed by this chapter.

(B) *Injunctive relief.* When the Control Authority finds that a user has violated a pretreatment standard or requirement, or continues to violate the provisions of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may petition the State District Court or County Court at Law through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) *Civil penalties.*

(1) A user who has violated, or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a civil penalty of up to \$5,000 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.

(2) The city may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

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

(4) Any person discharging a pollutant which results in the imposition of penalties by any person or regulatory authority on the city shall be liable for the penalties and any other costs incurred thereby.

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

(D) *Criminal prosecution.*

(1) A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or other order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than \$2,000 per violation per day.

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3) A user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation files, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$2,000 per violation per day.

(4) The city is entitled to pursue all other civil and criminal remedies to which it is entitled under the authority of statutes or other ordinances against a person continuing prohibited discharges or violating any other provision of this chapter.

(E) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The city reserves the right to take all, or any combination of these actions against a noncompliant user. These actions may be taken concurrently.